

Reflections on My First Year on the Bench

by Elizabeth A. Starrs

Having been on the Denver District Court bench for almost sixteen months now, I have been asked about the transition from bar to bench, as well as thoughts I have on what makes an effective practitioner. In that regard, I have some observations that I will share with you. I also include some information about Denver's domestic docket, where I spent my first year as a judge. As might be imagined, there were adjustments to make and insight gained by having a different role in the courtroom.

Adjustments From Bar to Bench

I became a judge after approximately thirty-two years in private practice. I had never worked for the government before. I had been my own boss for at least twenty years. Obviously, I had to make some adjustments!

First off, when I was interviewing for my staff, I introduced myself as "Liz Starrs"—as I had always done. However, between interviews, I was taken aside by Kelly Boe, the District Administrator for the Denver District Court, who told me that I no longer had a first name. I would from now on be called "Judge," and I had to get used to it. Well, I'm still not used to it, but I am getting there.

Another thing I am adjusting to is the limited flexibility during my work day. In the private sector, I could work late at night to make up for any personal time I took during the day. As a judge, I usually don't have that luxury: the courthouse is open from 8:00 a.m. until 5:00 p.m. and, most days, I am here working. So, my free time is extremely limited. I have to plan weeks in advance to schedule routine appointments. For example, after thirty years with the same dentist, I had to find a new one who offered evening and weekend appointments.

At the moment, I have a domestic docket. My staff must respond to the continual daily flow of people coming to our counter. More than 70% of the litigants in the cases assigned to my courtroom are representing themselves and need some direction. Although we, of course, can't give them legal advice, my staff wants

to assist them as best they can. You might be surprised how often most of the information needed is purely logistical, including where to find the *Pro Se* and Self Help Center (Room 368 in the City and County Building). See the Appendix to this article charting the 2013 numbers of *pro se* parties by district.

One adjustment that has been easier than I anticipated is dealing with *pro se* litigants. I thought I would have a difficult time with them, but I have not. I find that they often get to the core of the problem quickly. That is not always true with counsel.

Being on the bench, I now spend most of my day negotiating and putting some semblance of order into people's lives. Rather than making me more cynical, my new role has made me more compassionate, I think. Real people. Real problems. I find it very rewarding to assist people in this way.

Observations on Effective Advocacy

Now that I am on the bench, attorneys ask me what counsel can do to be effective advocates. Based on my first year, I have five suggestions for practitioners.

➤ **Prepare.** My primary observation from sitting on the bench—and something I would like to emphasize—is that it is very important for the lawyer to be prepared and to have gone over all the details with his or her client before getting to court. That sounds obvious (or it did to me as a practitioner), but it is a significant and continuing issue. I understand that you may think there are not enough hours in the day to prepare. But you must, and for every client. I have seen things go very badly for a party when counsel is not prepared and the client (and lawyer) is blindsided. "The devil is in the details." Having your client consider these "details" ahead of time can make all the difference in the outcome of a case.

➤ **Listen.** The court usually does not help you directly, but if you listen to the judge's questions, you may get a clue that the judge wants or needs certain information to rule. You also should listen to your witnesses.



About the Author

Elizabeth A. Starrs has served as a judge on the Denver District Court bench since September 7, 2012. Before that, she was in the private practice of complex civil law in Denver (1983–2012) and in Boston (1980–83).

Judges' Corner is published quarterly to provide information Colorado judges would like to disseminate to attorneys. If you would like to suggest topics or write an article for this Department, please send an e-mail to Coordinating Editor Stephanie Dunn, Colorado Court of Appeals Judge, at stephanie.dunn@judicial.state.co.us.

➤ **Take notes.** The judge may rule from the bench and then ask you to draft a written order. You are not going to be able to do that effectively if you don't take your own good notes. (One lawyer actually called my judicial assistant asking for *my* notes!) If you always take detailed notes, you will save the inherent delay and expense to your client of ordering a transcript.

➤ **Read.** When I was a practicing lawyer, I studied the Rules of Civil Procedure and the Rules of Evidence all the time. Even though I knew the rules and could recite many by heart, there was value to re-reading the language of the controlling law with the facts of a particular case in mind. So, too, when you practice in front of a judge who is making the decision: read and re-read the rules pertinent to the case at hand. And don't forget the forms. Sometimes, the forms themselves contain information you have overlooked. In some instances, they actually can serve as a helpful checklist.

➤ **Tell the judge what you want.** Let the judge know at every opportunity what you want. If you take the time to file a comprehensive Joint Trial Management Certificate, you can put in writing everything you want and why, thus dramatically improving your chances that you will get it. Cite to specific statutory sections or specific cases (and please use correct citations) that you think support your position. You are far more likely to prevail for your client if you do this.

The Domestic Docket in Denver

As you may know, Denver has specialized dockets: each Denver District Court judge is assigned to either a criminal, civil, or domestic docket.¹ Only a few other districts have specialized dockets, and most have mixed.² I have had a domestic docket since I started in September 2012 and will keep it through this year's Term Day,³ January 14, when I move to a criminal docket. Even though I am leaving "domestic" in January, I thought it might be useful to review what goes on in Denver. My experience is limited to Denver's domestic relations court, but I believe the basics are the same everywhere. Still, you should find out how your district and assigned judge handle these kinds of cases.

In Denver, we have four domestic relations judges (each of whom has between 250 and 330 open cases at one time), one full-time domestic relations magistrate (who has between 650 and 800 open cases at one time), and one part-time domestic relations magistrate. We also have two family court facilitators (FCFs), Melina Hernandez and Joel Borgman.⁴ Melina speaks fluent Spanish, so that is a big help. She does not—and may not—take the place of interpreters licensed by the state.⁵ If you need an interpreter for a court appearance, please let the judicial assistant or law clerk know as far in advance as possible, so that it can be arranged to have one present. Likewise, when you settle a case with an interpreter, please let the clerk know as soon as possible so the interpreter can be cancelled.

Denver went to mandatory e-filing in its domestic docket on January 1, 2013. On January 7, 2013, we switched from Lexis to the Integrated Colorado Courts E-Filing System, or ICCES/jPOD.⁶ As you know, every case filed is assigned a number. Any new case filed by a lawyer on or after January 7, 2013 was assigned a number with the prefix "30." So, the first domestic relations case filed by a lawyer in Denver on January 7, 2013 was given the case number 13DR30001; the second was 13DR30002, and so on. All cases filed by lawyers from January 1, 2013 through January 6, 2013 received a regular number (such as 13DR1, 13DR2, etc.). After January 7,

2013, the cases filed by *pro se* litigants, which are manually filed,⁷ are still numbered the way they were before that date.

Almost all cases now, regardless of whether there is a lawyer, and regardless of whether they are pre-decree or post-decree, have an Initial Status Conference (ISC). Usually, the FCF handles the ISC. When there are two lawyers involved at this stage of the proceedings, it varies from courtroom to courtroom whether the ISC is conducted by the judge or is given to the FCF. The FCF helps the parties identify the issues and the areas of agreement and disagreement, and answers questions about the process. Additionally, the FCF can help the parties reach a stipulation for temporary orders.

Denver also recently adopted Early Neutral Assessment (ENA). ENA is a voluntary and informal alternative dispute resolution process that was first developed by the Hennepin County Family Court program in Minneapolis. In Colorado, it was first started in Adams County.

ENA is a very useful tool to bring families together and allow parents to remain in control of parental responsibilities, while lowering the conflict that is so harmful to their children. The ENA sessions include only captioned parties, their attorneys (if they are represented), and two ENA team members. The two-person ENA teams each comprise a man and a woman—one a legal professional and the other a mental health professional. Currently, our ENA providers in Denver are Sue Waters and Victor Cordero, mental health providers who specialize in domestic relations; Steve Phillips, a retired Denver District Court judge; and Jackie Esquibel and Glenn Crow, both of whom are experienced domestic relations attorneys. ENA costs \$400 per party, but it can be paid for by the state, depending on whether the party qualifies.

Following the ISC, the case proceeds. If the parties want discovery, most discovery has to be pre-approved by the court. If the parties agree, and the discovery won't significantly extend the length of the case, it generally is allowed. Hearings on permanent orders typically last a half-day to a full day at most. In Denver, hearings for permanent orders usually are scheduled between ninety-two and 120 days after a petition is filed and served.

Parting Reflections on Public Service

When I agreed to write this article, I asked the two judges who most recently joined the Denver District Court bench before I did—Eric Elliff and Bruce Jones—for their comments about serving as judicial officers.⁸ All three of us agree the job is interesting, challenging, and rewarding. Judge Jones specifically stated he was impressed with the professionalism of the administrative staff and is thrilled with the collegiality of our bench. Judge Elliff and I concur wholeheartedly with these observations. Judge Elliff enjoys the variety issues and has a new appreciation for the judges on panels over the years who have talked about meritless dispositive motions. Now, suddenly, he calls the comments "a poignant reality." Judge Elliff also wants practitioners to know that he wakes up every morning looking forward to coming to work: there are always new issues and fun strategic curve balls that are good, healthy challenges. Every day is different, and he loves that!

In closing, I have to say that I am going to miss having a domestic docket when I rotate soon. However, I do look forward to the change. I love this job more every day and only hope that I can continue to serve the people of Colorado in this manner for several more years to come!

Notes

1. Denver is the only judicial district in Colorado that has its own probate court and its own juvenile court.

2. The Second, Nineteenth, and Twentieth Judicial Districts have specialized dockets; the Fourth, Seventeenth, and Eighteenth have split dockets (either two types of cases per judge, or some courtrooms have a specialized docket and others have a mixed one). All other judicial districts have mixed dockets.

3. CRS § 13-5-101 says that the state is divided into judicial districts and that terms of court shall be fixed by rules adopted by the district court in each district—except that at least one term of court shall be held each calendar year in each county within the district. Term Day for Denver was created many years ago and put into local rules. The rules were abolished

in 1988. Nevertheless, Denver has maintained the tradition of Term Day, which occurs on the second Tuesday in January.

4. Melina and Joel are both lawyers.

5. See Chief Justice Directive 06-03, "Directive Concerning Language Interpreters and Access to the Courts by Persons with Limited English Proficiency," amended June 2011, available at www.courts.state.co.us/Courts/Supreme_Court/Directives/CJD%2006-03%20amended%2006-11.pdf.

6. jPOD is the judicial counterpart of ICCES. Both were launched on the same day.

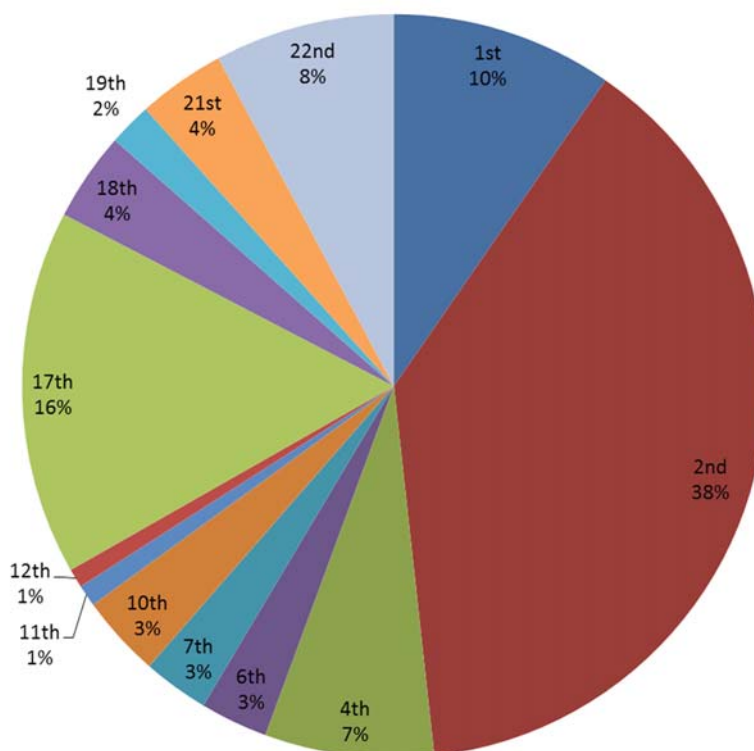
7. A filing clerk in Room 256 of the Denver City and County Building takes the paper filing, scans it into the system, and files it electronically.

8. Judge Elliff and Judge Jones started within a week of each other in January 2011. ■

APPENDIX

Pro Se Assistance by District for July 2013

Total Served = 4,139



District	Number of <i>Pro Se</i> Parties Helped in 7/2013 (in person and phone contact)
1st	397
2nd	1,590
4th	303
6th	121
7th	118
10th	147
11th	39
12th	34
17th	653
18th	159
19th	99
21st	157
22nd	322
Total	4,139