

- › Please be on time
- › No judge wants to referee a fight between counsel
- › Refrain from chewing gum or taking gulps from a water bottle in court

By Judge Victoria Gerrard Chaney

Pet Peeves from the Bench

No matter how well educated or well trained, otherwise capable attorneys can display behavior in the courtroom and carelessness in their pleadings that will alienate the court staff and, even worse, the judge. Perhaps you are thinking, “Oh, that characterization of attorneys does not apply to me at all.” I would advise you to think again. You may perceive your opponents as the only ones who act in an aggravating manner, but perhaps you too are not immune from being an annoyance to judges and the court staff.

An informal poll of my colleagues on the bench to ascertain what, if anything, were their pet peeves about the attorneys who appear in their courtrooms was enlightening. I received an earful.

Tardiness. When I was in school, tardiness rated a demerit. Although that custom is probably a relic of another era, the reasoning behind it was sound. Walking into a courtroom after a session has begun is disruptive. Invariably, everyone in the court stops to stare at the newcomer, who often must climb over others to reach the empty seat farthest from the aisle. Even more irritating, however, is the tardy attorney for whom the on-time attorneys and the court are waiting. Please be on time. Your lateness is an inconvenience for your fellow attorneys, courtroom staff, and the court.

Incivility. No judge wants to referee a fight between counsel. All too often, attorneys will stand up in court and spout “he said” “no, she said” comments at each other. We judges are not interested in a blow-by-blow description of an acrimonious exchange between counsel. We are ready to help parties solve a legal problem. Judges do not seek to expend time and energy brokering a treaty to end internecine warfare between counsel. Keep your comments before the judge restricted to the matter at

hand. This will allow the judge to concentrate on the fundamental issue instead of a sideshow. You will be remembered by the judge for your professionalism rather than for your unflattering antics.

It is important to work cooperatively with opposing attorneys in scheduling events. Asking a judge to set a schedule for depositions, including locations and exact start times, is a waste of the court’s time.

Lack of brevity. Be concise and to the point. Catch the judge’s attention immediately at the beginning of a brief. An unfocused argument is frequently a losing argument. How can a reader ferret out the important points of your case if your writing wanders in circles? A succinct argument captures the judge’s notice and has a better chance of being successful.

Also, when you compose your papers, remember that if you bury the legal issue within a mountain of extraneous hostile verbiage, the full impact of your argument will be blunted. It is needlessly time consuming to have to wade through surplusage to uncover the nugget of an argument. This unfortunate tactic can be extremely exasperating for the judge.

Casualness. A certain decorum must be maintained in court. This is contrary to the informality that characterizes so many interactions in Southern California. A courtroom is not a place to chat with your friends. The staff has a lot of work to do and does not appreciate the distraction of loud laughter and gossip. Please keep your voice low so you can avoid disturbing a hearing in progress.

Attorneys should address each other by their last name rather than a more casual appellation. In court and on the record, counsel should refer to opposing counsel as Mr. Smith or Ms. Jones, rather than Joe or

Sue. Never address a witness whom you are examining by their first name, unless the witness is 16 years old or younger. You must never speak to a juror during voir dire by his



or her first name.

It is improper to address a question directly to the opposing counsel while on the record. The appropriate procedure is to request that the judge pose the inquiry to opposing counsel about an issue.

Within the last few years, it has become fashionable for counsel to pause during proceedings to take a swig from a bottle of water—an ever-constant presence in briefcases. Unscrewing a water bottle, tipping it toward the heavens, and gulping may be acceptable after a jog or in your car but not in the courtroom, especially while addressing the judge on the record or arguing to the jury. If you are thirsty and must take a sip of water, have a cup or glass available.

Please refrain from chewing gum or sucking on candy or lozenges in court. Not only is it an unpleasant sight to watch someone opening and closing their mouth while gnawing on a wad of gum, it also is more difficult for the gum chewer to articulate clearly.

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Remember that the court and the court reporter need to hear and understand every word you say.

We are a society that has become addicted to cell phones and Blackberries, lest we be out of touch for even a brief time. The cheerful tones of cell phones and Blackberries are disruptive in the middle of a tense argument to the court or the cross-examination of a witness. Even more annoying are those who insist on answering their cell phones and conversing in low tones in the middle of a proceeding. Turn cell phones and Blackberries off before entering the courtroom. Some judges issue sanctions for the transgression of a ringing cell phone.

Insufficient preparation. Little is more frustrating to a judge than asking an attorney a question only to be greeted by a blank stare. Know your case and the reason for the hearing. If the hearing is to set a trial date, have the schedule with you for all attorneys who will be handling the case during trial. You also should know when your experts or important witnesses will be unavailable. This is the better course than having to prepare and argue a motion for a continuance in the future. If an important but unanticipated decision needs to be made, ask permission to take a brief break and call someone if you do not have authority to bind another attorney or your client.

Reading from the pleadings in court. When you argue a motion, do not simply read verbatim from the pleadings. The judge already is familiar with the written argument. The purpose of the hearing on the motion is to respond to the judge's questions and to counter the statements of opposing counsel.

Failure to adapt to the needs of the court reporter. The court reporter is an integral part of the judicial process. If you want the court reporter to capture a complete and accurate record of your argument or questions to a witness, there are certain cardinal rules to keep in mind. Do not speak too fast. Make sure you speak at a volume loud enough to be heard by both the judge and the reporter. Since a reporter can only record one person talking at a time, wait until the other person has completed his or her statement before responding. Speaking at a measured pace and with a clear voice is the best way to ensure that your words will be recorded accurately.

In sum, remember the golden rule. Treat the court, court staff, and your opposing counsel as you wish to be treated—with respect and dignity. ■

By Nancy A. Kaiser

What to Expect When You Go to Court

As a new attorney, knowing what to expect when you go to court will help you prepare more effectively and feel more confident. In turn, you will seem like an old pro before the judge, opposing counsel, and your client.

Before going to court, find court locations and maps on the Los Angeles Superior Court's Web site at www.lasuperiorcourt.org. Most California counties also have their own court Web sites. Look up your case number on the court's calendar after making sure your hearing is listed; the hearing may have been calendared incorrectly by you, your firm, or the court. If the court decides to be "dark" that day with little or no notice, your hearing needs to be rescheduled. While you are online, investigate how your judge runs the courtroom. You can find Los Angeles Superior Court judicial profiles on the Los Angeles County Bar Association's Web site at www.lacba.org under Know Your Judges.

When preparing for a court appearance, bring your firm's most current pleading file, an extra copy of the pleadings that were filed for the hearing, your notes, a legal pad and several pens, and possibly a proposed order.

The court's case file should be in the courtroom unless you are appearing on an ex parte matter, but sometimes a filed pleading does not make it to the court file. Likewise, a copy of the filed pleading may be missing from your firm's case file. Before leaving the office, ensure all relevant pleadings to the hearing have been fastened into your file, especially a proof of service if you represent the moving party.

Bring your calendar and a copy of the

lead attorney's calendar for the next few months. The judge expects you to know all relevant individuals' schedules to set a date for a hearing, a continuance, or other event.

Bring a map, the department phone number where you will appear, at least two busi-

- › **Preparing for the details involved results in a less stressful experience**
- › **The less stressed you are, the more likely you will do a better job**

ness cards, and no less than \$20 in your wallet; parking lots and court cafeterias require cash. Do not forget a charged cell phone; you may need to call the court clerk, your office, your client, or an expert. Camera cell phones are not permitted in courthouses.

Arrive early. Allow extra time for traffic, getting lost, standing in the courthouse security line, finding the courtroom, and meeting with your client, if expected. After you find your courtroom, if you are too early, you can buy a cup of coffee, relax on a bench outside the courtroom, and review your notes and the case file before you have to perform.

Being late to court is risky. You may not be able to check in until there is a break. If the

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