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Behind the judge's curtain again: five more tips from a former clerk

The first installment of this two-part series ("A sneak peek behind the judge's curtain," Oct. 14) provided the first five tips designed to help attorneys put their best foot forward in court.

A quick recap of those first five tips: 1. Master the rules and the court's standing orders; 2. Take time to learn what you can do to make life easier for the judge; 3. Use your time before the judge and the pages in your motions wisely; 4. Be courteous to everyone, even when it is hard to be; 5. Never make misrepresentations to the court.

The final five tips are designed to further enhance your ability to develop a reputation for excellence. By mastering these 10 tips, you will ensure that you are known as an effective, professional and prepared advocate.

No. 6: What you think is an "emergency" rarely is

Attorneys file motions seeking emergency relief more often than they are warranted. The filing of such motions forces the court to divert judicial resources away from other matters to deal with the motion on an emergency basis. True emergencies are rare.

A quick way to tarnish your reputation as a lawyer is to demonstrate the inability to discern what is and is not an urgent situation. Attorneys who file emergency motions in situations that are clearly not urgent are viewed as lacking in judgment — or worse, as abusing the judicial process. File emergency motions only when they are absolutely necessary.

No. 7: Just because you can file something doesn't mean you should

It is important to think strate-

gically about the motions you file. Attorneys sometimes file motions, such as motions to dismiss or motions for summary judgment, when there is little chance of success. A significant percentage of summary judgment motions are denied, and the same is likely true for motions to dismiss.

At times, attorneys file motions simply because they can, not because they should. Think about the chances of success, the judge's history of granting such motions and the strategic benefits or detriments that come with filing the motion, even if the chances of success are not strong.

Keep in mind that you risk losing credibility with the judge if you file a motion in a knee-jerk fashion when it is plain that there is little chance of success. Also be mindful of this rule when it comes to filing motions for sanctions. These motions should be reserved for only the most egregious circumstances.

No. 8: Use disparaging adjectives sparingly

Not every argument or point your opponent makes is absurd,

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beyond the pale or outrageous. Use disparaging adjectives infrequently and reserve them only for arguments or statements that truly warrant them.

Judges are far more responsive to arguments that explain in a clear and concise manner why the opposing party's position is wrong than arguments that are strewn with adjectives that disparage the position advanced by the other side.

You will be in a far stronger position if you avoid telling the judge that opposing counsel's position is absurd, but instead show him why the opposing party is wrong.

No. 9: Come to settlement conferences with full settlement authority

Read and reread the judge's orders on settlement conferences. Judges have different requirements in this area and the failure to follow the requirements precisely can waste the judge's and client's time and will almost certainly anger the judge. Do not show up to a settlement confer-

ence without having someone either present or available by phone that is authorized to make settlement decisions.

While some judges require that a party with full settlement authority be present at the conference, it is always important to have someone available at least by telephone that can make settlement decisions, even if the judge's standing order is silent on this point. It is extremely frustrating when a judge sets aside time to conduct a settlement conference and brings the parties to a preliminary agreement, only to be told by counsel that they do not have settlement authority.

Be respectful of the judge's time and come prepared to settle if a reasonable compromise can be reached.

No. 10: Be prepared for whatever issues might arise

Any time you are in court, it is critical to be well prepared for anything that might arise, particularly when you are appearing before a judge with whom you are not familiar.

You may go to court for a status hearing, only to have a judge start to ask substantive questions about a pending motion. It goes without saying that you must be prepared to a heightened degree for anything that is actually on the court's calendar for that hearing, but it is wise to be prepared to discuss anything that is going on in the case, even if it is not set for hearing that day.

Be prepared to deal with any issue that might be raised. Your preparation will be noticed and valued by the court.

By following the above tips, you will put your best foot forward in court. Both your client and the court are sure to value your preparation and professionalism.