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A sneak peek behind the judge's curtain

As attorneys, so much of what we seek to accomplish for our clients turns on our ability to successfully represent them in court. To do this, we must first develop an understanding of how to build and maintain a sound reputation with the judges and their chambers.

As a former law clerk to a federal magistrate judge, I witnessed all too often how attorneys diminish their effectiveness by making a series of common mistakes that negatively impacted their case and their reputation with the bench. Judges and law clerks become familiar with which attorneys are prepared, trustworthy, reliable and respectful advocates — and which are not.

The reputation attorneys build will follow them for the duration of their career. Mastering these tips will not guarantee a favorable outcome for your clients, but it will go a long way toward ensuring that your strengths as an attorney are not overshadowed by shortcomings that harm your reputation and your advocacy. This is Part 1 of a two-part series.

No. 1: Master the rules and the court's standing orders

This is a very basic tip, but if you talk to any judge or law clerk, he or she will tell you the same thing — many attorneys appear before the court without knowing the local rules or the rules stated in the judge's standing orders. Numerous mistakes are made simply because attorneys do not take the time to read and master

these rules. These mistakes often cause inconvenience for judges and their staff. The consistent failure to read and follow the rules ultimately diminishes an attorney's credibility.

No. 2: Take time to learn what you can do to make life easier for the judge

The local rules and standing orders outline the minimum requirements that an attorney must follow if his or her goal is to stay in a judge's good graces. The next step up the ladder is taking the time to learn what judges prefer when it comes to issues not addressed in the rules and orders.

For example, when you are citing a deposition transcript in support of a summary judgment motion, does the judge want the entire transcript of each deposition cited or would he or she prefer the cited pages and some additional pages for context?

Attorneys who have appeared before the judge in the past are often a valuable resource regarding judicial preferences that are not set forth in any of the rules.

No. 3: Use your time before the judge and the pages in your motions wisely

Judges have many cases on their calendars and anything you can do to promote efficiency will be appreciated and noticed.

This means being prepared in court, being succinct in arguments and using the time you are given wisely.

It also means applying these same principles to your written work product. With respect to each case cited and each



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argument made, examine how much the case or argument advances the ball.

If the answer is marginally, leave it out. In briefs and in arguments, use the initial pages or minutes to outline the key information and reasons that the judge should rule in your favor. If, within the first two pages of a brief or the first five minutes of an argument, you do not provide the judge with a sound understanding of your key facts and arguments, you are already behind the game.

No. 4: Be courteous to everyone, even when it is hard to be

Few things irritate judges more than having to referee nasty personal conflicts that find their way into motions and arguments.

Learn to be polite and professional at all times, even if your opposing counsel is not. Don't

waste the judge's time or diminish your own professionalism with personal attacks on other attorneys or witnesses.

Take the time to build a decent working relationship with opposing counsel and work out as many disputes as you possibly can. Extend to other attorneys professional courtesies so that the judge does not have to field opposed motions asking for things like a short extension of time.

Of all the people, it is critically important to be courteous to, put the judge and their staff at the very top of your list. If you are rude to the judge's law clerk or courtroom deputy, rest assured that this information is going to be communicated to the judge, who will not be pleased. Be polite, patient and professional. Zealous advocacy and courtesy are not mutually exclusive.

No. 5: Never make misrepresentations to the court

Be honest in every representation you make to the court. Never sacrifice your credibility by saying something that is not accurate. Misrepresentations, even small ones, are rarely forgotten and once a judge feels you are not credible or trustworthy, there is no way to walk back the damage you will have done to yourself and your client.

Remember that a lack of credibility will not only hurt you in this case, but also in everyone that comes after. Your reputation for trustworthiness is one of your most valuable commodities, so don't let that reputation be tarnished by making misrepresentations to the court.