

## TOP TEN JUDGE TIPS:

Here are my **Top Ten Judge Tips** on handling court appearances and arguing your case like a pro:

**Tip #1: Go visit the Court you will be appearing in *before* the hearing date** (if Wednesday is Motion Day, then go to Court the Wednesday before).

Public speaking causes great anxiety for a lot of people. So, my first tip goes directly to the nervousness of being in this strange environment that has none of the charms of a tv law show.

- a. Spend an hour or two in the court to watch the ebb and flow and how the judge manages her courtroom. Look to answer the following: How does the court call its cases? Where should you sit. How much time does the court grant you to talk. If you are representing yourself, how does the judge handle people without attorneys and what can you do for her to receive your argument.
- b. Watch how the judge runs her court. Is she hands on? Or does the judge depend on the court clerk to do everything? If you see everything going through the staff, get friendly with them and, while not getting in their way, tell them you have something coming up and would like their advice. Everyone loves to be asked for their opinion on things. Listen and learn. Knowledge and understanding of what is to come always eases anxiety.
- c. Remember, the staff holds a lot of the power. They can make or break how the judge receives your case. Kind words to them might mean a kind word from them to the judge about your case. Be polite and very respectful. Compliment the Court for having an efficient staff if you like. Winning can depend on the strangest things so don't be afraid to compliment.

**Tip #2 (kind of #1): Watch how everybody else operates and what works or what to avoid:**

Watch the flow of litigants in and out of the courtroom. Does the Bailiff (uniformed person with the gun and bored look) control the courtroom or is she barely awake? Watch others make mistakes and learn from that. Remember, judges are really just people you meet the first time:

**What is the first impression you give the judge you want something from?** Smile, dress beyond casual (but don't look like a million bucks though if you are claiming you cannot pay hundreds or thousands). Does the Judge get impatient easily? Unfortunately, most judges aren't happy dealing with unrepresented litigants. It slows their court down having to explain everything (not a bad thing for them as that is their job, to serve the voters). What really bothers them is anyone (including) lawyers that don't keep their arguments short and sweet. So, "**Keep It Simple Stupid (KISS)**." It is the kiss of death for your case if you go on and on and have no point.

**Tip #3: So, Have a Point Already.**

Only parents like to be read to. The judge won't hear you if you sound like you are reading your argument and one question from the court, you lose your place. **Know your case.** Lawyers will read from the brief the court already has. Boring as hell. I will kick them in the ass when it is my time to talk and I will tell the judge, "Judge, I am going to talk from the heart, I am not going to read to you." BIG TIP:

a. Know your case, dammit; and b; keep eye contact with the court and be yourself. This is not story time. So, write this on a piece of paper to lean on when arguing your case in court. Lean on it but don't depend on it:

**Write down:**

**The Plaintiff has the Burden of Proof. This is true and warns the court you don't have to do anything.**

**(1), Tell the Judge exactly what you want straight up front and how the other side did not meet their burden of proof.**

**(2) Refer to or show the support of why you should win and then repeat the request. A brief (make it brief) showing what supports your case should be filed if allowed and in your argument, refer to a page of the brief as you again, say what you want and how that page supports your request.**

**(3 sort of (2)) Point out what the other side has not done or has not supplied and again say why this means you should be granted a win (repeat what you want).**

**(4) Conclude with asking what you want *again* as it relates to the proof and the lack of proof from Plaintiff and say, "Your honor, Plaintiff has not met the burden of proof here."**

**Tip #4 Arguing the Case:**

**Have a theory of the case** and a request for the court to go your way and ask for that straight out of the gate. Make it the first thing you say about the case and repeat that as much as you can. For example, "May it please the Court. This case is about how the debt collector is suing me for a debt and an amount they have no proof I owe them" is a good theory or attention getter for most debt cases with debt buyer cases. Then go back to that in other ways but don't stray. **KISS** it. You have about 30 seconds to a minute before the court starts looking at her shoes. Judges are human too.

**Make your point early and often.** Have support for argument too. "Your honor, as you can see, the Plaintiff does not own the debt as there is nothing attached to the lawsuit proving I owe the debt to (debt buyer)." If you have done your homework by visiting the court, you may have seen other litigants arguing your case facts the previous week. **So, take notes on the arguments the judge is receptive to.** Do your homework. Its sucks, but that is why it is called "work." Remember, **The Harder you Work, the Luckier You Get.** So put the work in for a greater chance of success.

**Tip #5. Quick tip on Motion and Brief Writing.**

Generally, in State Courts, there is no rule requiring you to write an upfront preliminary statement of why you should win the Motion. There is also no rule generally *prohibiting* a preliminary statement. So, **with the average attention span in mind**, say right up front in the Brief what you want in your motion and supporting brief. Then when sending in my brief, **I attach pink post it notes to the page** (so it sticks out of the brief) to what I really want the judge to notice. That will call attention to your finer points. If the other side is less focused and going on a tangent, the judge will stay in the pink and go your way as it is easier than listening to the bedtime stories of the other person.zzzzzzzzzzzzzzzzzzzzz.

**Tip #6: Invest in the Judge.**

No, I don't mean to pay him anything. But if it is a big case or something you have a lot invested in, invest in the Judge by taking the time to learn everything you can about them. Research their background or listen to them in court when you visit for any references to outside interests. I was once scheduled to appear in a big case at the US Court of Appeals (one step before the Supreme Court) and the anxiety was terrible-it was a foreclosure case, and my client was losing their home. Speaking in public does not shake me up but this case was tough and in a serious court. Of the three judges listening to my case, I knew from my research that one was on my side and the other was pro-business (mortgage company Plaintiff). As is often the case in panel hearings, case evaluations or arbitrations, the neutral person is ***the swing vote that can make or break you.***

I learned everything I could about that judge who I thought would be the swing vote. I found a favorite quote of his from an obscure poem about the Grey Wolf that he relied upon in a few opinions. During my turn at the podium, I found a way to jam that reference (really took a lot to equate a house with the grey wolf) into my argument on a wrongful foreclosure case. The judge locked eyes with me for a second, and then I had his ears.

#### Tip #7 **Invest in the Bailiff.**

Watch the flow of litigants in and out of the court room. Does the Bailiff control the courtroom or is he barely awake? Sometimes the Bailiff is in charge of the entire courtroom. Also, who gets heard first? Be nice to the person and they could shepherd things your way to the judge. When does the court hear your type of cases on the morning docket? Know this.

**Be way too early.** Waiting your turn gives you time to watch the court further and see how the judge is ruling or feeling that day. If you notice she is really put off when the litigant has no focus or point (although some judges do let people talk and talk), that reaffirms what most attorneys know: **Tell the Judge what you want straight up front. Show the support why you should win and then ask for what you told him you wanted up front.**

Watch others make mistakes and learn from that. Does the Judge get impatient easily? Unfortunately, most judges aren't happy dealing with unrepresented people. It slows their court down having to explain everything (not a bad thing to service your voters and part of the job). What really bothers them is anyone (including lawyers) that doesn't keep their arguments short and sweet. So, "Keep It Simple Stupid." It is the kiss of death for your case if you go on and on.

#### Tip #8 **Always argue the next hearing or motion (ABC-Always Be Closing).** Wash, Rinse, Repeat.

I know, you are nervous about the current motion and now you have to worry about the next one???

When you tell the Judge your two or three points. "Judge this is a case where I am being sued for a debt I did not sign up for and where a debt buyer has no proof it has standing to sue me," you are introducing the Judge to what the whole case is about.

But you want the court to remember this point so you must keep repeating this as much as possible. Even to the Court staff when they ask why you are in court that day. If they are asking for your name or case number, you answer, "I am here because a debt collector is hassling me for a debt they can't prove I owe them." The staff person will then ask for the case number or name, but you just repeated your argument again. Judges have a lot of cases to manage. Sometimes they write notes to themselves right

on the court file. If you do this right, the next time you are in court the judge may actually reference your theory when identifying the case. "Oh yes, this is the case where "debt buyer" is falsely suing Mr. Smith." If the Judge does that, you have won the case way before the next hearing or appearance. It works! I wash, rinse and repeat my arguments all the time. **ABS-Always Be Closing.**

**Tip #9: You are going to lose once in a while.**

You are not going to win them all. How do you handle a loss? Don't let a loss damage your future appearances in the case or even other cases in front of the same judge. Ever watch a football game and the receiver who is paid millions of dollars, drops an easy catch and in response, he just smiles or laughs? Seems like they don't care. Why do they do that? Because they recognize you cannot change anything in the past so don't let it affect future catches. It can lead to a bad case of the drops and no more millions. If you lose your motion or an appearance does not go well, drop it. Don't get upset in front of the judge or get a bad attitude (by the way, I am guilty as charged-learn from my mistakes)- otherwise your anger management skills will be the theory of the case the judge remembers the next time and you will have a bigger hill to climb. Just suck it up for the good of the case and get back on point.

**Tip #10: Bullies.**

Judges are people too. In most cases, it takes a lot of hard work to get to the bench and harder work to stay there. The Court should always be treated with respect. No matter what, you treat the court politely and appropriately. However, if the court clearly steps out of being a neutral party or starts to be offensive, you do have a right to make a record of that. You have probably lost the case anyway. Get the actions of the judge on the record respectfully even if they start really getting your goat. You may need a good record down the road on appeal. Make a Record of the impact of their wrongful or over reaching behaviors.

But this tip is about Bullies. I have been in front of judges (mostly when I was a younger attorney) where the judge crushed attorneys in hearings like it was a sport and the courtroom would be filled with people there for the entertainment seeing another attorney getting crushed. There was one judge I would be scared to be in front of and that just made him bully me more. People would get to the court early for a seat to witness the poor attorney getting mauled and the Judge played the crowd. I would drive to the Court knowing I was going to get embarrassed. The anxiety was horrible. Then one day and at my wits end I thought, this is not a judge, this is a bully. I knew from being bullied as a kid there is only one thing that stops a bully: Bullying back.

Deep in a hearing I was getting killed by this guy as he mocked every argument I made. So, I went after the Judge the first opening I got (in a respectful way but he got it). I was biting and surgical. I had planned this and had money in my pocket for the bail I would need when he threw me in the clink. The bailiff woke up and stood, ready to help the judge. The Judge took one look at me and then, miracle of miracles, just went after my opponent the same way. He was actually the father and law of a friend of mine, and I found out he liked what I did. Some judges just want you to believe in your case and stand up for it. You are always arguing for the next hearing or case in that court in the current time in front of the court. He was still a bully. But, I had his respect from then on.

The Default procedure in Court is to show the Judge and his staff absolute respect. But, that you have to stand up for yourself and your case. Their previous story was extreme. But it is a battle in the courtroom rules of honor and respect fall to the wayside if you are treated with anything less than the respect and politeness you are showing the court. So, make a record.

These tips can work in any jurisdiction but follow the rules of your specific state prior to acting on any of this. It all is really about seeing that the court is made up of people like yourself who just want respect, like you. ABC and go win.