

## Basic courtroom etiquette

By: F. Dennis Saylor IV and Daniel I. Small    November 10, 2016

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It's pretty clear that our society is becoming substantially less formal and often substantially less polite. Nonetheless, your conduct in the courtroom should not follow those trends. You should try to be as courteous as possible, and you should know and observe basic courtroom etiquette at all times.

This is more than simply observing good manners. Courtroom etiquette has evolved in part to ensure that the procedure is orderly and fair. More than that, it ensures that all participants are appropriately respectful: respectful of the jury, the judge and the judicial process itself.

Being respectful also goes a long way toward being respected.

Here are 20 basic rules of courtroom etiquette:

- 1) Act with decorum and dignity, regardless of the temptations or provocations.
- 2) Adopt a polite and somewhat formal tone.
- 3) Refer to the judge as "your honor," not "judge."
- 4) Refer to your opponent as "Mr. \_\_\_" or "Ms. \_\_\_," not "my brother" or "my sister," and not "John" or "Jane."
- 5) Always stand when speaking (including when making objections).
- 6) Be courteous to your opponent.
- 7) Be courteous to the witnesses.
- 8) Don't interrupt your opponent unless absolutely necessary (for example, to protect a privilege or preserve an objection).
- 9) Don't talk over your opponent.
- 10) Don't talk over a witness. If nothing else, it's frustrating to those trying to listen.
- 11) Don't speak directly to your opponent when court is in session; speak to the judge.
- 12) Don't stand too close to the jury. Respect the jurors' personal space.
- 13) Don't approach a witness without requesting permission or acknowledging the authority of the court.
- 14) Don't engage in distracting behavior; don't sigh, roll your eyes or shake your head if you don't like a witness's testimony.
- 15) Wear moderately conservative clothing.
- 16) Never bring food into the courtroom.
- 17) Never chew gum.
- 18) If you need water, drink out of a cup — never a plastic bottle. That "snap, crackle, pop" sound can be annoying.
- 19) Turn off your cellphone.
- 20) Never, ever show up late.

Again, the modern world seems to be trending rapidly in the opposite direction from these rules. For instance, take the rules against interrupting the witness or your opponent. In the political world, such rudeness is endemic. In the 2012 debate, for example, Vice President Joe Biden interrupted Paul Ryan at least 82 times, and the most recent presidential debates have featured an almost continuous string of interruptions and discourtesies from the candidates. But that doesn't make it a good idea, and certainly not in the courtroom.

It's not always easy to stay in line. Most lawyers, of course, are professional and courteous, even while zealously representing their clients. But chances are at some point you'll come up against someone who is discourteous, improperly pushes the envelope, or simply cheats.

Or maybe it's someone you just can't stand. If you try a case against someone like that, you have to keep your emotions in check — no matter what. It will not help you or your client if you break the rules.

Or maybe you'll wind up trying a case in front of a judge who you think has made some serious errors, or whom you dislike. Do what you need to do to preserve your objections, and do your best to win if you can. But don't let a flicker of your displeasure show. The judge certainly won't like it and may react in ways that won't help. And if members of the jury notice, they probably won't like it, either.

In short, be courteous and observe courtroom etiquette. Do it because you respect the court and the judicial process. Do it because it's the right thing to do. And do it because you're that kind of person, and the judge and jury should know and appreciate that.

*Previous installments of Tried & True can be found here. Judge F. Dennis Saylor IV sits on the U.S. District Court in Boston. Prior to his appointment to the bench, he was a federal prosecutor and an attorney in private practice. Daniel I. Small is a partner in the Boston and Miami offices of Holland & Knight. He is a former federal prosecutor and teaches CLE programs across the country.*

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10 Milk Street, Suite 1000,

Boston, MA 02108

(800) 451-9998