

Foundations for Courtroom Excellence

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In today's increasingly competitive legal market, a lawyer who excels at research, writing and developing case strategy is on the right track. The lawyer who knows the facts of her case and the law inside and out and who can write a great brief must be able to be equally as effective on her feet in the courtroom. All attorneys, especially, but not just litigators, must be able to stay calm (or at least appear that way) while thinking on their feet. Any attorney must clearly and effectively present her ideas to the judge and jury. We are all familiar with the standard rules to follow during oral presentations: establish credibility, do not talk too fast, speak confidently, articulate your words, keep the audience's attention, do not read from your notes. While we have all of these "rules" in mind, it is not always intuitive how to apply these rules while still keeping track of the content of your argument or presentation.

When presenting an argument to a judge or a jury, you want to be confident and collected. After all, the content of your message is only as good as your presentation. The youngest associate and the most senior litigator at the firm may have the same message, but nerves and lack of confidence can hinder the associate. The attorney who wants to step into the role of a great litigator can benefit from tips and methods used by stage actors. If the courtroom is your stage, here are some acting tips that we recently learned from an acting coach for how to play the part of the powerful, articulate, great attorney:

1. **Rule:** Focus the judge and jury on your key issues.

Tip: Identify the key phrases or words you need your audience to hear. Make sure that during your presentation, you repeat them, emphasize them, pause after them or give them an accompanying gesture. This will make them stand out as important and memorable.

Tip: Move. Do not be afraid to move around. Think about any CLE you attended - no matter how interesting the presentation is, it gets boring looking at someone talking from behind a podium for a long time. Use your platform. Walk towards the jury or even just to the side of your podium. It will break up your presentation and engage your audience.

Tip: What to do with your hands: Too much gesturing, squeezing or awkward placement of your hands is distracting and detrimental to your presentation. A 'go to' hand placement is place your hands about bellybutton level, fingertips touching, palms apart with your arms loose at your sides. This looks more natural than it might feel at first, and gives you very easy ability to gesture and return to a comfortable resting position.

- Rule:** Slow down. Preparation and practice are the foundation of any good presentation. However, the more you practice, the more familiar you become with the material. It is important to remember that on game day, your audience is hearing your presentation for the first time. Speak s-l-o-w-l-y to let their brain hear, process and comprehend your material. Simply telling yourself to ‘slow down’ or writing it on your notes does not work. These tips do.

Tip: Be comfortable with pauses. Expect that they will come, and know that they are not as long as you think. You don’t always have to have the answer ready. Even if you know the answer, pause. Make sure you have heard the question. If you don’t know the answer, the pause will help you formulate a better answer. Tape yourself a couple of times—what seems like an interminable pause is actually a short blip to the audience.

Tip: Make sure to fully enunciate the ends of your words. It will slow down your speech.

Tip: Hear the end of each sentence. Circle the periods. Pause so the listener can transition with you to the next sentence or thought. Remember, pauses are also necessary to convey the correct message. For example: these two sentences are different based on where the speaker pauses: “A woman, without her man, is nothing” and “A woman: without her, man is nothing.” A Beethoven concerto does not sound correct without the musical rests, your presentation does not either.

Tip: Do diaphragm exercises. When you start to run out of air, you speak faster and your sentence becomes really confusing and hard to follow. [Gasp!] You naturally speed up so you can try to fit everything in before you run out of air. One way to stop this is to expand your breathing capacity with diaphragm exercises. Try pursing your lips and pushing your air out so that it makes the sound like you are letting air slowly out of a balloon. Skilled actors can control their exhale for a minute or more. Attorneys we tested defaulted at around 10 seconds. So much for the people who say that attorneys are windbags.

- Rule:** Speak confidently and clearly. We recommend some warm ups before your argument or presentation.

Tip: Speak loudly and project your voice to the back corner of the room: Obviously, each situation dictates how loud you should speak, but the louder your voice, the more confident and authoritative you sound. Chances are, you are not speaking as loud as you think you are. To test this, get a partner and go to private room. Stand apart the same distance you would from the judge or jury. Talk a few notches louder than you normally would and see how your partner perceives it. When we tried this, the speaker thought she was yelling, but the partner thought it was a proper volume for a hearing or presentation.

Tip: Tongue twisters. Your tongue is a muscle and it needs to be loosened just like a runner loosens up her legs before a race. Try some tongue twisters as you walk or drive over to the courtroom. Our favorites include (say each at least 3 times each): (1) A regal, rural ruler; (2) unique New York; and, (3) toy boat.

Tip: Tape yourself speaking. Are you unintentionally making your statements sound like questions by raising your voice as you come to the end of a sentence? Many of us have a tendency to do that, and it makes our message seem less confident. Play with your tone and pitch as you end your sentences. Make statements come down in tone, and questions rise up.

Simply knowing the rules is not enough. They take practice and more practice. Investing the time and energy into these techniques may seem awkward and silly, and they probably will not feel natural at first. Take it from one of us (who shall remain unidentified) the benefits of these techniques cannot be understated. The nameless individual has a transcript from a judicial court reporter, which reads: “disclaimer: Ms. _____ was asked several times by this court reporter to slow down, and failed to do so. This transcript is the most accurate recording that could be made.” These tips have helped us improve our courtroom performances and have made disclaimers on transcripts a thing of the past.