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So this is what the courthouse looks like

Get the lay of the land well before trial call


Cooper

By Miles B. Cooper

The lawyer, running on the late side for trial call, ran from the garage. He looked across the street and saw a line. This was no ordinary security line. It stretched from the front door, down the block, past the government offices, and disappeared around the corner. After a 40-minute wait and a frantic call to the department, he reached the security station. "Is it *always* like this?" he asked the deputy as he took off his belt.

"Yep. Ever since the budget cuts."

Physical plant

Courthouses vary. There are historic courthouses, run-down courthouses, and brand-spanking-new courthouses. Some brand new courthouses have terrible elevator planning. Some historic courthouses have historic (bad) wiring. One outlet might work, another might have voltage fluctuation insignificant for a laptop but enough to cause distracting flickers from a projector.

A month or so before trial, visit the courthouse. Ask at the front about the security line. In some places it is so bad that front-of-the-line treatment is given to lawyers. That's a dilemma. Use it and risk juror hatred for cutting. Don't use it, and risk running late (and having an angry judge.) If one must cut, make sure the jury knows the judge requires it.

Know where the stairs are and if one can use them without getting locked out. Stair climb times are certain. Elevator wait times vary, particularly if a 50-person jury panel is headed somewhere. Going down a flight of stairs to use the restroom during breaks reduces juror encounters. Plus it provides a space to call the office, a witness, or an expert.

Obtain some empty department time. Plug in equipment. Not just a laptop. Test the projector and speakers. Ask if there's a preferred screen location. And use the time to get to know the staff.

The power behind the court

Judges hold tremendous power. But who has the judge's ear? The staff. The clerk, bailiff, research attorney, and court reporter work together regularly. They have purchase with the judge. Lawyers moving through the department are "them" to the department's "us." Unfortunately, some of us let our stress and frustration bleed out. Don't do that with the staff. It will not only be remembered; it will be reported to the judge.

Instead, find out how to make their lives easier. If it is a direct calendar department, ask about the clerk's preferences. The clerk is the best resource to answer questions about the department. Does the judge have "local" (read department-specific) local rules? Are pre-marked exhibits acceptable? Does the clerk want the exhibit list done a particular way and would the clerk like an electronic copy in Word format (answer, usually, is "yes" and "yes.") Does the judge allow jury questionnaires? If so, do the lawyers need to bring clipboards and pens or does the court have them? Any other best practices for this department that a lawyer should know?

Shorthanded

Pay attention to the court reporter. With the tremendous gutting the court budgets suffered a few years ago, the first step is determining whether the court has one. Most don't anymore. Here, the clerk remains a good resource. Ask if the court has a list of its laid-off reporters or preferred reporters. Many judges prefer seeing their longtime reporter. And while most court reporters are great, not all are comfortable with the courtroom setting. Accurately reporting jury selection, in particular, requires uncommon skill. Side note: never waive reporting during jury selection. Waiving it guarantees the one issue for appeal will come from something said – and not recorded – during jury selection.

Court reporters can also provide important feedback. Checking in on speaking speed during opening, cross, and closing is important. Faster than 150 words per minute, and the information is flowing faster than jurors can process it. For loyal readers, yes, this was covered in a column in 2012 (but don't they teach us to repeat things?)

Master calendar

Master calendar counties take a bit of extra effort. Since one does not know where one will be assigned, added preparation is needed. Trial services – companies that offer insight on one's chances of getting out to trial – are helpful. But that knowledge is not granular. The Thursday before trial call, walk the courthouse. Check in with the department's clerks – in particular the departments where one's client might need to challenge the judge. Is that judge in the midst of a two-month asbestos trial? Good. Has the clerk heard rumblings of mid-trial settlement talks? Bad. The last thing one wants is to challenge one judge only to learn that a worse one, who was in trial, is suddenly open.

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Outro

Back to our late lawyer. The next day he showed up an hour earlier. He didn't cut in line. Knowing the issue put him near the front of the line when the court opened, making both he and the judge happier.

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