



Staff privileges

Meet the staff who control the courtroom



Cooper

BY MILES B. COOPER

The lawyer, opposing a summary judgment motion, answered the judge's question. Earlier, the lawyer had noticed an individual with a notepad quietly sit down in the witness box as their line had been called. The lawyer recognized the individual from past visits. One of the department's two research attorneys. As the lawyer distinguished this case from the ones cited by the defense, the lawyer noticed the research attorney's head nodding in agreement. The lawyer briefly made eye contact before stating the specific page of the specific case that was far more similar to this situation. The lawyer saw the research attorney write down the citation. When the judge took the case under submission, the research attorney got up and left.

But we are initiated...

To the uninitiated, the judge seems to be in charge of the courtroom. The judge certainly plays an important role (yay to the Decider!). But the staff's influence cannot be underestimated. Today we examine a typical civil courtroom's staff positions. An overarching theme: Be nice. Some lawyers tend to demean staff. Other lawyers, stressed about the court appearance, may display poor behavior upon initial arrival. The staff's unwritten departmental rules can exacerbate this. They typically expect attorneys to know these unwritten rules whether the lawyers have been there before or not. Practice judo law with them. The more condescending the staff, the nicer your response. Court staff can subtly influence outcome. You want them as allies, not enemies.

Court attendant

Back in the day, sheriff's department bailiffs staffed most courtrooms. Most civil departments have since replaced bailiffs with court attendants for budgetary reasons. Civil court cases are generally *civil*, with family law a notable exception. That leaves the attendant to keep order in the department. The attendant usually checks people in, makes sure folks aren't doing anything inappropriate, and usually knows how to operate courtroom technology.

Most attendants are outstanding and knowledgeable. They are the best ones to first ask about departmental rules. Can one use a laptop in the gallery? Can one bring in water? Is there anything in particular about exhibits or screen setup that the judge prefers? Attendants are also the ones most likely to be difficult. Like Paul Blart the mall cop, there are a select few who revel in exercising limited power over those who enter their domain. The best way to escalate this: Engage rather than comply. Once you demonstrate compliance this personality type tends to relax some. If you engage, your stay will be miserable.

Clerks

Clerks control what the judge sees and, most importantly in trials, the exhibits. This includes how many sets of exhibits are

needed, whether they are pre-marked, and the marking and admission of evidence. Clerks also tend to be reachable by phone for procedural questions. Is this direct calendar judge a stickler for trial continuance motions, as in most urban counties, or willing to sign a simple stipulation and order, as in many rural counties?

The best way to keep a clerk happy? An exhibit list in the clerk's preferred format instead of the pleadings-format most lawyers submit. Offer to email the Word version and you'll get an ally. The best way to upset a clerk? Inadvertently walk out at the end of the day with a marked exhibit. The clerk is responsible for the evidence. At the end of the case, the clerk sorts the admitted and the non-admitted. They tend to do this very well, but most will appreciate it if you ask to verify that the right items are going into the jury room.

Court reporters

Court reporters used to be a given. Now one needs to check to see if the department supplies one, or if you need to make your own arrangements. If you think you'll want a daily – a copy of a day's proceedings – talk to the reporter in advance. It can be hard for one reporter covering the entire proceedings to prepare dailies. But if you give advance notice, the reporter will usually have a solution. Another pointer: Speak 50 percent slower than you think you need to when reading from a document. The reporter will greatly appreciate you, and your transcript is more likely to be correct.

Research attorneys

Research attorneys deconstruct the lawyers' briefs, conduct independent research, and write bench memos. They have tremendous influence over judicial decision-making. Research attorneys appreciate lawyers who make the research easier. Brevity helps. So do pin cites. Research attorneys are more likely to have been on law review in law school. As a result, they'll subconsciously place greater faith in papers without typos and with proper citation format over those who are more cavalier.

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Back to our lawyer. A few weeks later, the lawyer received the order denying summary judgment. In the first paragraph? The specific case and specific page the lawyer had pointed out to the judge – and perhaps more importantly to the research attorney.

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