

JUDGES' TOP 10 PET PEEVES*

2007 Judicial Professionalism Symposium, 4th Circuit

1 Not Being on Time

- When lawyers are late to court or unprepared. It “delays the train schedule.”

2 Failing to Identify Yourself

- Beginning your argument in court without first identifying yourself, who you are representing, and the motion under consideration. Even a judge’s best friend should go through the ritual.

3 Forgetting to Inform the Judge or JA

- Faxing or electronically filing a motion to opposing counsel the night before an early morning hearing without providing the judge with a courtesy copy.
- Failing to provide the judge with a courtesy copy of an “emergency motion” in state court (because it is likely that the motion will not be seen as quickly as necessary since all motions are sent up from the clerk’s office in a stack of files that all look alike).
- Failing to notify the judge’s JA that a case has been resolved, especially when it affects the court’s calendar, so that someone else can be given that time.

4 Providing Incomplete Information

- Sending or dropping off a proposed order with no cover letter, no identification of the hearing that it relates to and/or failing to mention whether the proposed order was run by opposing counsel prior to submitting it to the court.
- Failing to candidly describe all relevant fact and case law.**

5 Improper and Unprofessional Manners at Court Appearances

- Speaking over each other or over the court.
- Continuing to argue after a ruling is made.

- Reacting emotionally to a ruling, as if an adverse ruling were a personal affront. It is not. “If, for some reason, the case is indeed personal to you, you are too close to the issue to be the attorney for the client.”
- Using sarcasm in arguments and comments to each other or to the court.
- Directing your arguments to each other rather than to the court.
- Making improper or distracting gestures (e.g., holding up a hand while opposing counsel is arguing a motion, huffing and puffing, rolling your eyes, etc.).
 - When litigants, witnesses or lawyers in chambers and courtrooms:
 - Chew gum;
 - Dress inappropriately (wearing flip-flops, tank tops, shorts, etc.);
 - Dress informally or disheveled;
 - Fail to turn off their cell phones; and
 - Set a drink/cup on the podium in court.

6 Ineffective Presentation of Argument

- Failing to answer the question posed by the judge. “Oftentimes, a lawyer is so busy thinking about what he is going to say next, he forgets to listen to the question being asked.”
- Making arguments irrelevant to the analytical framework at issue.
- Poorly drafting motions. “They tend to suffer.”

7 Disparaging Another Lawyer Before the Judge

- Sending the judge copies of letters about their complaints toward each other and, likewise, airing personal arguments about each other in front of the judge. A lawyer must not disparage another lawyer in front of a judge.

8 Failing to Confer or Agree with Opposing Counsel

- Failing to “confer” with opposing counsel regarding attempts to resolve discovery matters prior to setting a hearing on a motion to compel. It is inappropriate to send

letters to the judge indicating that counsel has conferred when, in fact, it is evident that no attempt was made to confer as required (*i.e.*, in person or on the phone).

- Agreeing to an amount of attorneys’ fees at a hearing, but later sending a proposed order reflecting a different amount, with a cover letter claiming that a copy was sent to opposing counsel. This is not proper notice.
- When jurisdiction is reserved in a QUADRO and a lawyer appears *ex parte*, it is improper to request the judge to enter an order prior to the parties’ agreement and without their signatures confirming that they have agreed.

9 Failing to Limit Discovery in Accordance with the Rules

- Failing to limit discovery requests more precisely as to time, scope, and the appropriate number of questions. A lawyer should avoid being over-broad or vague.
- Only ask for what you are entitled to, and only object to things that you are not required to provide.

10 Using Improper Verbiage in a Proposed Order

- Submitting a proposed order on a matter that did not require a hearing, yet reciting in the proposed order that the matter “came on to be heard” when it actually never did.

**The “Judges’ Top 10 Pet Peeves” were prepared by Caroline C. Emery, Esquire, Past President of the Jacksonville Bar Association, for the 2007 Judicial Professionalism Symposium for which the Fourth Judicial Circuit won the 2007 Florida Bar Professionalism Award. We thank Caroline for allowing us to use the “Judges’ Top 10 Pet Peeves.”*

***Added by the ABOTA Committee on Professionalism, Ethics, and Civility*