

Friday, April 28, 2017

NJAJ'S RISING STARS: SOME OF THE BEST TRIAL LAWYERS SHARE SECRETS OF THEIR SUCCESS

9:00 AM--COURTROOM TACTICS FOR THE NEW LAWYER

BY: KATE CARBALLO, ESQ
DAVIS, SAPERSTEIN & SALOMON, P.C.

I believe that as trial lawyers a large portion of a successful case outcome depends on not only what happens outside the Courtroom; (case selection, client preparedness, choosing experts, etc) but also on what happens in the Courtroom. Every time you appear before a Judge on any matter (whether you are covering for someone or if it is your file) you have to think of that next case that you will appear before him/her on. And how your behavior, and how you handle the case now, can hurt or help your clients in the future.

- I. Why your reputation before the Court is so important?
 - a. Because it helps out clients in the long run. How?
 - b. We care, because that judge may be deciding a crucial motion for Summary Judgment, or discovery motions,
 - c. You need an adjournment request on a trial but its late..
 - d. Presiding Judge decides which Judge your case should be assigned out to trial!!
 - e. Let's not forget, Judges Talk!! You don't want to be known as that "lawyer" who is always late, or who is never prepared, who doesn't know his/her file. This can make your/your client's life very difficult.

- II. Why do we care what the Judge thinks? So many times they are just pushing their agenda anyway, especially if they used to work for defense.
 - a. Point is to build a relationship and understanding so that ultimately that Judge's opinion can help you resolve the case or issues in the case (in your favor) How?
 - b. If you've build that respect, they are more than happy to help you.

- III. What do I need to do to gain a favorable reputation before the Court?
 - a. This is what has worked for me thus far: **Preparedness, Professionalism, Punctuality, & Passion**
 - b. **Know your law firm's reputation- and work at improving it!**
 - c. Apply each of the 4P's to specific instances of how to handle hearings like:
 - i. Motions:
 1. Know when to shut up
 2. Make your record
 3. Avoid discovery Motions

ii. Settlement Conferences

1. Speak first and speak firm.
2. Concede to the weakness in your case, but point out why its an important case. Don't argue a strain is a permanent injury, but explain that it was so severe that your client lost several days of work. Remember Economic loss is always compensable- limitation on lawsuit or not.
3. Don't let the judge "strong-arm you" into settlement, but you have to be firm in your belief and position and have it supported by facts. You will be respected even though you disagree for being an advocate and knowing your case.

iii. Trial Call

1. Presiding Judge can dismiss our case for a number of reasons, including if we're late. Again, Punctual, Prepared, Professional
2. Conducting ourselves consistent with the Court's objective- which is to move cases- but that's not to say settle cases for the sake of it. But if you are known to be reasonable, and not afraid to try a case, the Court will work with you.

- *For the sake of brevity I might just give specific examples of instances where I believe the way I handled a situation with the Court helped my client in the future.*