

**FOR WHAT IT'S WORTH**

By: Chester Brost

As the pinnacle of the riding season unfolds, and the threat of terrorist attack is elevated, I only hope that the majority of the readers of this publication are indeed free. For those that are not, stay strong, and for those that are in limbo awaiting the outcome of what could be a life altering decision made by a jury of twelve of your "peers," well, I thought I would tell you that what you do "off" the stand matters, too.

Most lawyers, (well, most paid lawyers, anyway) make it a point to thoroughly prepare you to perform well on the witness stand. In most cases your lawyer will work with you on how to relax during your testimony, how to handle "loaded" or confusing questions, and how to keep your composure during rigorous cross-examinations.

However, most "successful" trial lawyers go even further. They know what you need to be prepared for than just your performance on the stand. Experienced lawyers know that for every one minute you spend on the witness stand, you will spend at least ten minutes in full view of the jury while seated at the counsel table.

They also know that studies and practical courtroom experience teach that jurors get much of the information they base their decision on, not from evidentiary presentation on the stand, but from impressions based upon their observations of you at other stages of the process.

Preparing yourself on how to behave when your not on the stand is therefore an important part of trial preparation. Although each attorney may have his or her own way of preparing you for the "non-testimonial" aspects of your trial performance. There are some simple rules that you should follow before any trial.

**Dress For Success**-Most jurors feel jury service is an important event in their lives and take their duty very seriously. They generally respect the legal system and fully expect any party to dress in a manner appropriate to the situation. You should wear what you would wear for any other important occasion-church service, a wedding, or a job interview, for example. Oh, and I do NOT mean your GOOD leathers and CLEAN jeans. Though you need to be yourself don't overdress either. If you don't own a suit or a sport coat you're not going to be at ease in a three piece suit that was purchased for the occasion. If his is the case you would be more likely to project genuineness and sincerity before a jury, if you neatly dressed in an open collar shirt and a sweater.

The bottom line is this: Whatever you wear, it must be something that does not distract the jury or yourself from the job at hand. You might also want to lose the 18 inch beard and ponytail, too.

**Keep A Poker Face**-Some defendants think that they need to help "sell" their case by reacting while seated at counsel table to what a witness says on the stand. They believe (probably because of the exposure to dramatizations of trials on television [mass media psychological condition in other words]) that they should use facial expressions, body language, or even gestures to register disagreement, shock, or anger with what is happening on the stand. However, under no circumstances should you display any emotions in response to witness testimony. Jurors are likely to misinterpret any non-verbal communications you may try to make from the counsel table. Veteran trial lawyers know that a downcast shake of the head meant by you to say to the jury "How can the witness be so untruthful?" may in fact have been read by the jury as you saying "Oh no, I hoped that information would never come to light!"

You are therefore best advised to cut down the risk of such misunderstanding and to show no reaction to any evidence adduced. Just remember: keep a poker face.

**Don't Play Lawyer**-You may be tempted to pass notes or whisper to your lawyer with suggestions or comments while the jury is in the box and while a witness is testifying. Never initiate this type of communication in the jury's presence unless absolutely necessary. The reason is two-fold. First, you may distract your lawyer at a crucial time. Second, and even more important, is that jurors are laymen who realize that they share that laymen's status with the defendant, and will identify best with a defendant who remains in the role of someone who is in court not by choice, but because of factors beyond their control.

**Your Always On Camera**-Most jurors try to be attentive and listen to the evidence being given from the stand, but, there is no requirement that the juror keep his attention riveted on the witness stand at all times. On the contrary, it is very likely that at any given time one or more jurors may have their eyes on what you are doing at the counsel table. Just as jurors may misinterpret non-verbal communications, they also may judge you, either consciously or unconsciously, based upon the types of "unintentional" communications from a person that signals boredom, arrogance, or disrespect for the system. Try to remember not to do anything at counsel table or anywhere else in the courtroom, dozing, slouching, chewing gum, that you would not do on the witness stand.

**The Trial Starts When You Leave Home**-If you aren't in the County seat awaiting your trial, you need to avoid contact with jurors. There may also be a chance that you make contact with a juror before they have been selected. This contact may take place in the parking lot of the courthouse, the elevator on the way up, or even at the drinking fountain. Comments borne of nervousness, apprehension, or anger made in the presence of a stranger/soon-to-be juror, may color the listener's impression of you or of the merits of the case and may come back to haunt you later. Even though the juror may not connect the comments with the person who said them until well after the selection process is over, once the connection is made the jury may end up deciding the case on the basis of that comment, which is not only inadmissible but your lawyer doesn't even know it's within the jury's knowledge. So just remember that the trial starts when you leave home.

Only a client who has been instructed by their lawyer how to act both on AND off the stand will be thoroughly prepared for trial. This is just for What It's Worth.

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