

Pointers for Appearing in Unfamiliar Courts

BY JUDGE NATHAN TOD YOUNG

When I was first asked to write an article focused on practice pointers for attorneys appearing in rural courts, I have to admit that I was somewhat taken aback. At first blush, and in spite of the Local Rules of Practice for the Rural Justice Courts, my thought was that those of us who practice or preside in judicial districts outside of Clark or Washoe counties do not see ourselves as fungible “ruralites” for whom one manner, process, or solution fits all. It sounded just a bit like I was being asked to solve the questions posed in “How Do You Solve a Problem Like Maria,” substituting the rural courts of Nevada for the role played by Julie Andrews.

After considering the subject a bit, I came to understand that the rural courts, like Maria, needed to be embraced for who they are and respected for the differences they represent. Ultimately, I could see that the real subject presented by the request was to offer some pointers for attorneys who will be appearing in courts where they

do not regularly practice. For although we all operate under the same general rules, such as our state and federal constitutions and the Nevada Revised Statutes, processes and procedures vary somewhat throughout the 11 different judicial districts (see, the various Rules of Practice for the courts across the Silver State). Indeed, it is not difficult for attorneys to note differences between various departments within the same judicial district operating under the same local rules.

So, knowing that things may be different as an attorney’s practice expands beyond the familiar, what can an attorney do to manage those differences? As a starting point, let me suggest that there are certain basics that apply whether you have appeared in a court 100 times or never. I mention them here because they are at the core of professionalism and effective advocacy. And, where a court may be less familiar with you, they are critical to the impression you make on the court. They are also true whether you are appearing in person or via a remote system.

Be on time.

It is never a good look to keep the court waiting. It also does not help with opposing counsel’s view of your professionalism. If you have to travel to a new judicial district, figure out how to get there and how long it takes. Are you flying? How far is the airport from the courthouse? Flying from Las Vegas to Reno will certainly get you closer to Fallon, but you still have quite a drive from the airport. Figure it out. Know these things personally. It will not help to blame a secretary because you did not know the details of your journey. It takes a while to get to Hawthorn or Battle Mountain. The judge may be impressed, but not

favorably, if you explain that your GPS calculated the travel time incorrectly. If something out of the ordinary happens and you are going to be late, make certain the court staff is notified and given your expected arrival time.

Be prepared.

Again, nothing special about rural practice here, but we all know how many times you get the chance to make a first impression. Know your case; know your client; know your options. Counsel table in the courtroom is not a place for those things to come together. Know whether the court has a secure and private location for you to meet with your client. If it is a criminal case, be aware of the process required to meet with a client in custody. Are the courthouse and jail in the same building? Will your client be transported to the courthouse? When? As a security measure, law enforcement will seldom discuss when prisoner movements are scheduled, but it is less difficult to get information from a custodial agency about when is the best time to meet with an inmate. Do you need an appointment to see the client in custody? Is there a cutoff time prior to court? Does your client or witness require special considerations such as an interpreter or medical device? Have you informed the court so that appropriate measures are taken and you can avoid unnecessary delays or continuances?

Part of being prepared is knowing and following the local court rules. From a macro view, the law is a complex system of rules designed to govern the chaos of human interaction. Reaching down to the more local level, rules of the

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various judicial districts and individual courts are intended to allow the court to operate with less chaos and more order. You may be assured that the local practitioners know those rules, because the local judiciary enforces them to help maintain order within that part of the system for which they are responsible. It is a fundamental part of preparation to have read and familiarized yourself with local rules before filing your first document or making your first appearance. It will not be an excuse or make a favorable impression to say “Well, that’s not how we do it in ...”

Part of being familiar with local rules includes the process for filing pleadings. Many jurisdictions have electronic filing systems, but that is not yet true across the state. Counsel should be familiar with the local court filing procedures and requirements. The same goes for requirements concerning the pre-marking of exhibits.

Be yourself.

On the less-substantive side of things, there are many actions that counsel can take to make their and their client’s experience in unfamiliar courts more positive. First and foremost, be yourself. Putting on a front or attempting to be someone you are not has never been a recipe for success. We know how that worked for Cyrano de Bergerac in the affairs of his heart. It works no better in concerns of the court.

For example, I have chuckled to myself many times about an episode I witnessed occurring at a rural courthouse. It was a law-and-motion day in the local district court. The courtroom was on the second floor of the courthouse and large plate-glass windows faced the street from the waiting area outside the courtroom where attorneys and their clients would gather before court. Suddenly, one of the deputy district attorneys standing near the window called out, “Hey, you guys ought to see this.”

Most of the attorneys waiting in the area walked over to the window and looked down at the front of the courthouse and the street below. A stretch limo had pulled up to the curb and several men were getting out. These were attorneys and their clients, and each of them was wearing a bolo tie and what can only be described as brand-new cowboy boots and hats. They had driven from Las Vegas in the limo and were then ready to go to court in what I can only guess they believed was the local customary courtroom attire.

Now, I assure you that there is nothing wrong with bolo ties and cowboy boots if that is how you dress for a formal occasion such as a court appearance. I have known many fine lawyers and judges for whom that is standard fashion; however, when you are trying to be someone that you are not, it becomes nothing more than a costume. Of course, the judge treated them well and the case moved forward, but those attorneys that morning became the butt of jokes, rather than the object of professional admiration. Riding and roping have never been a requirement of the rural courts. Professionalism always has.

The men and women who work as clerks in the courts across this state, whether urban or rural, are absolutely essential to court operations. If you should find yourself appearing in a less-populous part of the state, you are also likely to find that there is a greater opportunity to interact with the clerks. While they may all be busy, take the time to introduce yourself. They will appreciate it and can be great resources for a stranger in a strange town. They know where to get lunch or a cup of coffee. They can direct you to resources for copies, notaries, or other temporary professional help. For many of those same reasons, it may be worthwhile to contact attorneys in the town where you will be appearing. They may be helpful if an emergency occurs, or if you need a quiet office. They may also be able to advise you about the judge’s procedures, preferences, and peccadillos that appear nowhere in local rules of practice.

Finally, enjoy the experience. Nevada has a rich and varied history, so be sure to take the time to understand where you are and that spot’s place in history. Appearing in the remaining old courthouses across the state and the new ones that are slowly replacing them adds your name to that legacy.

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