

HELPFUL HINTS

JUDGE GEOFFREY P. MORRIS

JEFFERSON CIRCUIT COURT, DIVISION ELEVEN

“A lawyer shall not: In a trial, knowingly or intentionally allude to any matter that the lawyer does not reasonably believe is relevant or that will not supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused.” SCR 3.4(e)(4)

1. **YOU SHOULD ASK YOUR QUESTIONS WHILE STANDING,** but you may move around the courtroom to wherever you feel comfortable. You may approach a witness to show or identify an exhibit. **REMEMBER TO SHOW THE EXHIBIT TO OPPOSING COUNSEL.** *Without permission of the Court otherwise as a tactical move, or to make a point you should get permission from the Court.* Keep in mind if you move from counsel table, you might not get to see yourself in action when reviewing the case on appeal (not that you're going to lose!).
2. **OBJECTIONS SHOULD BE MADE WHILE STANDING,** and you should state the grounds for your objection from counsel table (e.g., “Objection, leading the witness”). You should not make any statements to the jury regarding the grounds for your objection. Often counsel will object and indicate that the testimony could not be true for a variety of reasons. This is not a proper objection. (e.g., “Facts not within the witness' personal knowledge,” or “The testimony lacks foundation,” or “Hearsay”). When you are ruled against on an objection, you may ask permission to approach to argue further. If the ruling stands, it is the better part of practice not to argue with the judge. The fact that a witness' testimony is killing your case is not good grounds to approach.
3. **YOU SHOULD LOWER YOUR VOICE AT THE BENCH,** even through you want the jury to hear your side. Still, you should speak just loudly enough to insure the colloquy is heard on the videotaped record.
4. **EXHIBITS SHOULD BE MARKED FOR IDENTIFICATION.** After the exhibit has been authenticated by the witness, move for its admission at that time or before the witness leaves the stand. If there is an objection to the exhibit, you may approach the bench to state such. The Court does not need to view the exhibit prior to it being shown to the witness.
5. **DO NOT HAND EXHIBITS TO JURORS NOR SPEAK TO THEM INDIVIDUALLY** during the trial except in opening and closing statements. Oftentimes counsel will ask the jurors whether they can see an exhibit or hear a witness; this is not appropriate. Ask the Court for permission to publish exhibits to the jury, and the Court will generally allow it. If the exhibit is a document and has been testified to, the Court, as a general rule, will not permit it to be published. The same is true for relatively large photographs that have been testified to in court.
6. **ONLY WATER IS ALLOWED IN COURT,** and the Sheriff will have filled a decanter with water and provided a glass for witnesses. No food, chewing gum, coffee or soft drinks are permitted in the courtroom at any time unless you advise the Court of a medical condition that requires such.
7. **THE COURT ATTEMPTS TO ACCOMMODATE COUNSEL'S SCHEDULE,** but when a time has been set to resume trial, the Court expects counsel and parties to be present.
8. **BODY LANGUAGE OR FACIAL GESTURES (ROLLING EYES, ETC.)** which indicate disdain by counsel to either a witness, opposing counsel or the Court are unprofessional and inappropriate and will not be tolerated by the Court.
9. **COLLOQUY WITH YOUR OPPONENT IS NEVER PERMISSIBLE** unless you are showing an exhibit to him or her prior to its introduction. Address your remarks and disparaging comments toward and about your opponent only through the Court.
10. **ABOVE ALL, ENJOY AND HAVE A GOOD TIME.** As Judge John Potter said upon retiring, the trial lawyers are to the legal profession what the fighter pilots are the military and the brain surgeons are to the medical profession.