

First Appearance in the Court



- ✓ You have your very first court appearance.
- ✓ You're nervous and you don't know what the heck you are doing.
- ✓ For those who practice in small firms or in a solo practice, your first appearance in court is often by yourself. How do you avoid looking like a newbie?
- ✓ Whether it's a simple case management conference, a motion to compel, or a summary judgment hearing, here are our tips that you will help you to be prepared for your first court appearance.
- ✓ And no, I'm not going to tell you to be on time, be respectful, or dress appropriately. Those are a given. If you screw those up, the ship may have already sailed on the whole "you-look-like-you-know-what-you-should-be-doing" thing.

The Day before the Hearing:



1. Check the court calendar and/or tentative ruling.

- ✓ Most courts have an online calendaring system that will show whether a hearing is still on calendar, whether a tentative ruling has been issued, and whether a hearing is required. Some courts will have a telephone option for tentative rulings.
- ✓ For basic case management conferences, you just need to know that the matter is still on calendar. Generally, for other hearings, if a tentative ruling is issued, you must advise the court and opposing counsel if you plan to appear at the hearing, usually by 4 p.m. on the day before the hearing. If you don't, and the other party does not appear, you will not be allowed to argue. If you don't want to contest the tentative ruling, then you don't have to appear unless opposing counsel advises they plan on appearing. If no one appears, then the tentative ruling is adopted. If the tentative says "hearing required," you must appear.

2. Familiarize yourself with the local rules.

This goes hand in hand with the first tip. Every court is just a little bit different. So go online, check the local court rules, and make sure you follow the directions, especially with respect to tentative rulings.

3. Find out about the judge.

Just as every court is a little bit different, judges also have their own way of doing things. Ask the partners or more senior associates in your firm for any insight. Attorney list-serves are also a great resource.

4. Review the file.

Being prepared is a must. Take time the day before to review the file and familiarize yourself with the case and its details.

At the Hearing:



1. Check the calendar list/Cause List.

When you arrive at the court, there will usually be a hearing list just outside the courtroom or inside the courtroom. Find your case and note what line number you have been assigned. The judge usually calls the cases by line number so you will have an idea of how long you will be waiting.

2. Check in with the Office clerk.

Next, advise the clerk that you are present for your hearing. They may have you sign in, or take your business card. Ask if they need anything else from you. They can direct you where to sit (or you can tell by where all the other attorneys are sitting). It goes without saying (but I will anyway), be polite in your interaction with the court and its staff. If the clerk is busy, wait patiently.

3. Check in with opposing counsel.

If you see opposing counsel on your case, check in to let them know you have arrived. If you have not met them in person, you can ask the clerk if they have checked in yet, or wait until you hear them check in. Introduce yourself. Common courtesies go a long way to building rapport and collegiality.

You can also see if there is anything you need to discuss before the hearing. If you are there for a contentious summary judgment hearing, there will likely be little to discuss. On the other hand, touching base before a case management conference may be a good opportunity to discuss calendaring any upcoming items.

4. Speak deliberately and slowly.

You may be nervous, but do your best to slow down your speaking to a measured pace. Not only with the court reporter thank you (if there is one in this time of budget cuts), but a calm and deliberate voice will exude more confidence and command more attention in the room than a frenetic one.

5. Answer the question that is asked.

Very often the judge will begin by asking one of the attorneys a question. Address that question. Do not launch into a diatribe on the details of your case. In the case management context, the judge does not want to hear extraneous information, particularly with 40 plus more cases to hear that morning. In a law and motion hearing, the judge has communicated to you where he or she believes the issue lies, so this is your chance to convince the judge that your position is correct.

6. Own any mistakes.

If, god forbid, you are in a case management conference and are dealing with an issue where your office has dropped the ball by missing a deadline or some other infraction, do not make excuses. The court does not want to hear it. Own the mistake, apologize, and advise that it won't happen again. It is painful to watch an attorney flounder for excuses as to why a deadline was missed, or worse, blame their assistant or secretary, and then watch the judge rip them apart for it. Unfortunately, mistakes do happen, but if they do, own it and move on.

7. Never EVER use the phrase "with all due respect."

I wish I could remember what MCLE class taught me this one, but when you think about it, it is so very true. Saying "with all due respect" is essentially saying "f*&% you." You are basically saying to the judge, "You are wrong, but I'm saying I will give you the respect I am required to give, which by saying this is not very much, and I'm going to follow it with a statement that is probably going to insult you." Don't do it.

8. Know when to shut up.

Best advice ever received. If the judge never asks you a question during your law and motion hearing, do not, I repeat, do not start talking. Know when you are ahead and keep your mouth shut.