What New Litigators Can Do To Win Their First Trial

Law360, New York (April 29, 2015, 7:36 PM ET) -- Litigating your first case is terrifying. Are you prepared? Will the judge and jury take you seriously? Will you ask the right questions? Will your witnesses do well on the stand? Will you win? Here, more than 45 veteran attorneys give new litigators advice on how to handle their first trial.

**Michael Adams, Rutan & Tucker LLP**

“Young lawyers sometimes focus on what makes them lawyers — their understanding of the law — when trying a case, which is important to making sure your evidence gets in and your claims or defenses survive. But keep in mind that in a jury trial your goal is to persuade people who typically are not lawyers. Tell a good story. Focus on plot, characters and theme. A trial is the process of asking a jury to choose between competing stories. Make sure yours is the most compelling.”

**Roger N. Behle Jr., Foley Bezek Behle & Curtis LLP**

“Advice: Be yourself in front of the jury. Do not attempt to be what you 'think' the jury expects a trial lawyer to be. You will be much more effective without trying to adopt a persona inside the courtroom that is untrue to who you are outside the courtroom. Be yourself.”

**Martis Alex, Labaton Sucharow LLP**

“There’s no substitute for knowing all of the facts and the law. You never want the jury to see any doubt, hesitation, or that you are surprised. As part of your trial prep, prepare your adversary’s case — then figure out how to beat it. Don’t try to fool the jury — they will
see through you, and any loss of credibility could be fatal to your case. Remember, the jurors’ eyes are on you at all times. Your facial expressions and body language speak as loudly as your words. Finally, relax. You are well prepared, you believe in your case — show the judge and jury why they should agree with you.”

Robert J. Anello, Morvillo Abramowitz Grand Iason & Anello PC

“You can’t over-prepare for trial! Oddly, you should start with your summation. It is your ultimate road map to the evidence which you must address. Also, practice your opening and summation before a nonlawyer to confirm that you are speaking English — not legalese. Most importantly, be nervous enough to consider everything that could possibly go wrong. Years ago, I praised a young lawyer who was assisting me at trial and had just completed his first-ever witness examination. He abashedly confided that he had spent the night before vomiting. I advised him to always maintain that level of anticipation. He did, and went on to become a federal prosecutor. After his first high-profile victory, I asked whether he had vomited. His answer was a smirk followed by 'What do you think?’”

Jonathan R. Bass, Coblentz Patch Duffy & Bass LLP

“Be scared, but don't be intimidated. Your opponent may have tried a few cases, but that doesn't mean she has the better side of this one. Be open about your inexperience, rather than trying to conceal it. The judge is your friend in your first trial, so accept her helping hand with grace. And simplify your case as much as possible, or more so. A good case will benefit from being stripped down to its core. Layers of complexity won't improve a bad one, and you'll have made your job harder than it needs to be.”

Rachel Black, Susman Godfrey LLP

“Be confident: Own the courtroom. Use a strong voice. Present yourself as though you have been in trial a thousand times. Be prepared: Test any technology you're planning on using to ensure that your presentation is smooth and uninterrupted by technology glitches. Be respectful: Juries watch the way you interact not only with witnesses and the judge, but also with your staff and opposing counsel. Act professionally toward everyone in the courtroom. Be honest: Be upfront about any weaknesses in your case. By explaining and reframing any weaknesses, you can take the wind out of your opponent’s sails.”
Robert L. Blank, Rumberger Kirk & Caldwell PA

"Overprepare. Prepare for every contingency. Research all legal issues. Study all jury instructions; ensure you understand them and why each side requested them. Investigate every witness’s background. Proofread direct examination and cross-examination outlines multiple times. Rehearse your opening statement. Relax. Getting to trial does not happen often so embrace the opportunity. Remember it is just a room with furniture and people — nothing you cannot handle because you know your case. Picture yourself wherever you are comfortable talking to people; transform that method of communication to the courtroom when you explain your case to the jury. Be yourself and have fun.”

Lisa Bondurant, Womble Carlyle Sandridge & Rice LLP

"Be ultraprepared. Anticipate a jury pool different from your ideal jury and decide how you will select it; expect your adversary’s opening statement to be excellent and give thought to how you will respond; assume a witness will go off script, and understand that evidentiary rulings will not always go your way. Practice your closing remarks. Also, visit the courtroom where the case will be tried. Observe the judge and become familiar with how she runs her courtroom. Finally, be mindful of your dress and demeanor in the courtroom and outside. The jury can form impressions at any time.”

Thomas Branigan, Bowman and Brooke LLP

"Don't lose.”

Dave Carothers, Carothers DiSante & Freudenberger LLP
“A good trial lawyer will know his/her battleground before a battle begins. Start by learning about the judge and courtroom before a trial. Observe the judge and listen to how he/she manages his/her calendar — this will give you insights on how to shape your presentation, what will get the judge’s attention and what may cause him/her ire. Also be attentive to the judge’s staff — especially the court’s clerk — and how the courtroom operates, including jury selection and audiovisual equipment. These important details will tell you how the judge wants counsel to manage the trial so you can focus on strategizing for a successful client outcome.”

Tim Crudo, Coblentz Patch Duffy & Bass LLP

“Two words: short and simple. That goes for opening, direct and cross-exams, and closing. Even — and especially — for long trials, distill your documents and witnesses to what is essential and use those to drive home your (short and simple) theory of the case. Evidence is a two-edged sword, and a good trial lawyer will know how to turn yours against you. And at some point you lose a jury if you keep hitting it over the head with the same point. So figure out what you really need and cut out the rest. Less really is more.”

Mayanne Downs, GrayRobinson PA

“Practice your opening and closing before a lawyer you trust AND a layperson. Laypeople are good at catching our lawyerisms. Handwrite the elements you must prove and tape them to the front of your trial notebook or legal pad. Check the elements off only when you’re positive the record contains the proof necessary to establish them. Predict the outcome of your trial, in writing, and see how you do. There’s a certain purity and opportunity to learn when you put yourself on that line — which lawyers hate to do, by the way. Have an evidence cheat sheet handy. Think ahead about how you’ll get your proof in, what objections you’ll meet and how to overcome them. Do the reverse for your opponent’s case. Desensitize your jury about your bad facts. Make sure that when the jurors hear something negative, they hear it from you. You’ll build trust with them, and have a chance to shape the facts the best you can. Jettison hackneyed phrases from your voir dire, opening and closing. Don’t say, 'Now here’s the rest of the story' or similar, tired retreads. Develop your own language to tell your client’s story.”

John Durrant, Paul Hastings LLP
“In a trial, you are on stage in a drama that is very real. You are one of the lead actors, and the judge and jury are the audience. There will be disappointments in even the best trial. It is important to react appropriately, particularly when you encounter the inevitable setbacks. Aim to be a 'happy warrior.' Fight for your client zealously, but take adverse rulings in stride and smile. Avoid objecting at every opportunity; weigh the need to object with the need to be a reasonable advocate who has no fear of the truth.”

Scott Freedman, Walsworth

“First and foremost, when you are trying your first case, start by creating an immediate, friendly, cordial relationship with the judge and courtroom staff. Always listen to the judge and never, never interrupt him or her when they are speaking. It’s important that you earn the judge’s respect. When the judge respects you, this extends to your client. Never talk directly to opposing counsel during any oral argument and always direct your argument to the judge. Be friendly with the department clerk, the court reporter, as well as the court bailiff. Fostering a good environment with the people who are running the trial can yield priceless dividends.”

Glenn Forbis, Harness Dickey

“A trial is like a Broadway play and your role as lead trial counsel combines the duties of writer, producer, director and one of the lead characters. Your case should have a theme and your presentation should be a concise and simple 'story.' Juries are not good at understanding the nuances of complex technologies and arcane patent claim language, but they are great at understanding a good story. Most importantly, maintain your poker face and never let them see you sweat. When unexpected things happen at trial — and they will — you should look like whatever happened was totally part of the original script. From the moment the jury walks into the courtroom, the curtain is up. And juries see everything.”

Ronald L. M. Goldman, Baum Hedlund Aristei & Goldman PC

“Everyone will tell you: Preparation is key. Know the facts and law applicable to your case inside out. Learn from the masters, but be yourself. Copy no one. Prepare persuasive themes. Test them with friends and family — focus groups are also great. Tell a persuasive story, both in argument and in trial presentation. In a jury trial, know the law of voir dire, and rehearse asking good open-ended questions. Tell the jury it’s your first trial: You will never have another chance to do that. Know that butterflies and jitters are normal. Use the adrenaline they produce.”
Justo Gonzalez, Stokes Lawrence

“Experienced trial lawyers are praised for their ability to ‘think on their feet.’ That seemingly innate gift is the result of thorough preparation and organization. Know your case. Know the other side’s case as well as you possibly can. In addition to your trial notebooks with each witness’ separate tab and the exhibits you plan on using with that particular witness, prepare a notebook of the evidentiary objections that your preparation tells you might come up and how you might respond to them. You can’t be too prepared and you can’t be too organized.”

Drew Hansen, Susman Godfrey LLP

“Have fun. This is why you went to law school. You didn’t go to law school to review documents or write memos; you went to law school to argue in court and examine witnesses. And after this trial, you’ll have more trial experience than plenty of ‘litigators’ many years your senior. Enjoy yourself!”

Michael Hurst, Hermes Sargent Bates LLP

“Know your judge/courtroom. Know the law. Always speak to potential jurors using his/her last name. Don’t worry about wrong answers, as much as developing rapport with the jury pool. Don’t lose your personality during the voir dire process. Humor in the right circumstances works and communication with the potential jury pool is only achieved if they see you as person during the process of selection. Be respectful of time and don’t waste it just because it has been granted by the court. Always be respectful of the judge and the court during the voir dire process.”

David A. Jones, Strasburger & Price LLP

“Envision your closing argument before the trial begins. That will help you keep your case focused. In your closing, show the jury the key documents and the most important testimony, weaving your argument around them. This way, you aren’t telling them a story, you are demonstrating why your side should win through the evidence. Talk about the jury instructions too. Great vengeance and furious anger are fine rhetorical tools, but the jury has to answer
specific questions full of unfamiliar terms to make its decision. You need to explain why they should answer those questions your way.”

Aviva Kamm, Stokes Lawrence

“Embrace the bad facts. Sometimes the facts that scare you most are the ones which end up bringing the picture into focus for the fact-finder. Instead of avoiding these facts, get comfortable with them and find a way to incorporate them into your narrative. At worst, you gain credibility because you are not hiding anything. At best, these facts may fall into place and help you win the case.”

J. Scott Kirk, Rumberger Kirk & Caldwell PA

“Prepare. Prepare. Prepare. Make sure that you have thought out every question for every witness and that you have anticipated every potential argument. Then expect that it will not go as planned and be ready for it. Be yourself and be sincere. When you make that mistake and it doesn’t go the way you want, relax and try not to show it. As the judge that taught me in law school used to say, ‘If a witness drives a dagger into your heart, you turn and face that jury as if you placed that dagger in your heart every morning.’”

Leslie M. Kroeger, Cohen Milstein Sellers & Toll PLLC

“Preparing for trial starts the moment your client calls. While the majority of cases are never decided by a jury, you should always assume it will. Your focus has to be on the evidence you develop. How will you present it? What witnesses do you have to authenticate it or testify about it? What will your jury think of it? Focus on the key elements of proof needed which will come from your jury instructions. Draft those early and review often. As you develop the case, and see your evidence fill in those elements of proof, you should feel much more confident as you move closer to trial.”

Elizabeth Latif, Day Pitney LLP
“Be the most prepared person in the courtroom. Your level of preparation is directly related to your success at trial. In your opening argument, be careful not to mention evidence that may not be admitted or a witness who may not end up testifying. Anticipate your opponent’s cross-examinations and arguments. Put yourself in their shoes and examine the weak spots in your case. Tailor your questions and arguments accordingly. Front your witness’s weaknesses on direct. It will take the sting out of cross-examination. Practice your opening and closing arguments in front of an audience.”

Gary Lawson, Strasburger & Price LLP

“Early on, try and see the problem through the eyes of your client's adversary. To prove the value of this, try looking at a singular object with both eyes open, and then with only one eye and you will see that what you and your clients perceive is often a matter of perspective. If you learn the other side's perspective you may have a better chance of prosecuting or defending, or god forbid, settling the case. Most importantly, rarely can you do too much research and preparation.”

Samuel J. Louis, Strasburger & Price LLP

“Being organized is very important: creating file folders for key witnesses, legal issues and trial briefs for those issues, jury selection, opening statements and closing statements. Understand the strengths and weakness of your case and be prepared to address them. If possible, ask senior lawyers to listen to give you pointers on jury selection and critique your opening statement. Obtain a copy of the court’s local rules so that you will know what the court expects regarding the presentation and admission of documents, objections to evidence and orderly procession of the trial. If you have an opportunity, visit the courtroom in advance of your trial and observe the decorum of the court. Prepare in general questions to ask your witnesses and consider potential objections to statements of your witnesses. However do not be so committed to your questions that it gives the impression that everything is rehearsed and not natural. It will take time to determine and develop a comfortable style for conducting direction examination of witnesses. Most importantly, listen to what is being said by the witnesses. Rarely in trial does everything go according to plan regarding witness testimony. It is important to listen and adjust your questions to ensure that key testimony is given by witnesses and becomes part of the record. Review the rules of evidence in advance and understand how certain rules apply to documents and statements you seek to admit and how they impact offers and submissions by opposing counsel. Lastly, be passionate about your case and have fun.”

Joan Lukey, Choate Hall & Stewart LLP
“There are no accidents when it comes to success at trial. It requires intense preparation and perseverance from the case’s onset through the trial and appeal. And you can’t do it alone. The best trial lawyers surround themselves with great teams — smart colleagues who can help you develop a winning trial theme and strategy, but most importantly can spot weaknesses in your arguments before you go to trial. It’s critical to have strong filters for the arguments you’re planning to make in court. Before I have a jury trial — and when the case can bear the cost — I mock key portions, such as opening statement, closing argument and key cross-examinations, so I have a good understanding of what works and what doesn’t. Doing this upfront exponentially increases your chances of success.”

Diana Manning, Bressler Amery & Ross PC

“Accept that you will be nervous; be yourself. Know your file. As long as you are well-prepared, you will be able to hold your own. Don’t worry if a ruling goes against you. Expect that things will go wrong. The ability to adapt is critical. For important pieces of evidence or testimony, plan to have alternate ways to get it admitted. Don’t stress about memorization, have organized notes to which you can refer. Treat everyone including your adversaries, their clients and witnesses, and court personnel with respect. And don’t forget to have fun!”

Brent Martinelli, Hermes Sargent Bates LLP

“Congratulations! Trying a case is an opportunity that many lawyers, especially young ones, are finding increasingly scarce. Here are some tips that I have found to be helpful: Be prepared. Not just your knowledge of case facts but also having witness lists in order and any accompanying exhibit(s) you seek to introduce. No one likes waiting for a lawyer to dig through his or her box of materials to find it. Relax. It’s OK to explain to the jury that it is your first trial — and ask that they don’t hold it against your client! It’s a good way to break the ice and show that you too are a person. Always maintain eye contact with the jury, even when they are entering and exiting the courtroom. Smile.”

Matthew L. Mazur, Dechert LLP
“Pay close attention to what is — and is not — happening in the courtroom. If you are well prepared, you will know more about your case than anyone else in the world. But don’t assume that what you know through investigation and discovery will be the exact same as the evidence presented at trial. Evidentiary rulings, unexpected testimony and lapses by your opponent inevitably create gaps between the evidence you anticipated and the evidence that the judge or the jury actually sees and hears. A lawyer who is able to make adjustments will have an edge at the end of the trial.”

William R.H. Merrill, Susman Godfrey LLP

“First, the evidence rules matter! Be prepared to present your case without evidence that may get excluded. Second, present a clear trial theme from opening to closing, and make sure that your theme fits closely to the evidence. Third, be ready to adapt. In every trial, there will be things that do not go your way. There will also be opportunities that you did not expect. Find a way to deal with the bad and take advantage of the good. Finally and most important, your credibility is key. Be candid and careful when talking to the jury.”

Brett Myers, Fox Rothschild LLP

“Spend time in the courtroom with the judge. Sit in on a few hearings or a trial to get a feel for the way the court operates. Become friends with the bailiff and court reporter. They can give you an idea of the way the trial day passes in the courtroom. You will have time during the breaks in trial to refocus your thoughts, but you really cannot prepare enough. Jurors love exhibits more than live testimony. Stay organized because the jury hates watching a lawyer dig through materials. Always have a witness ready to testify. Do not overestimate your effectiveness cross-examining a witness.”

Rick Morgan, Buchanan Ingersoll & Rooney PC

“The best tip I can provide to young attorneys is know your judge. Learn about the judge presiding over your case — how he or she handles the voir dire process; how much time is typically allowed for opening statements; how does the judge handle objections. Observe him or her in person. Go online and research specific orders or contact the judicial assistant regarding how exhibits are handled. Most attorneys will be prepared with their outlines, understand the nature of the law, jury instructions, etc. But knowing the judge is paramount. Understand the judge’s priorities to help you formulate your own.”
David W. Morris, Bracewell & Giuliani LLP

“While there are many effective trial strategies, thorough preparation is crucial to successfully presenting your case at trial. Trial preparation must begin early in litigation, and should include outlining your arguments, learning your evidence — both the strengths and weaknesses — and preparing a game plan for presenting that evidence to the jury. Perhaps most importantly, trial attorneys must condense a mountain of evidence into a handful of key points. Communicate those points during your opening and craft the presentation of evidence to support those points so that when you close, you can show the jury how you were right all along.”

Patrick Mullin, Jackson Lewis PC

“Without question, the most important element of preparing for any trial is to work with your witnesses. Thoroughly prepare the witnesses who will testify on behalf of your client. Key witnesses cannot usually be prepared to give effective testimony in a single session. For important witnesses, at least two meetings should be scheduled prior to trial. The first meeting should involve a review of deposition testimony and declarations, the exhibits which will be used for direct and cross-examination and an explanation of how the witnesses’ testimony fits into the case. Your examination outline should be refined during this process, and consideration given to any issues which may arise in providing a firm foundation for admissible testimony. The second meeting should reinforce key points reviewed during the first meeting and include a dry run of both direct and anticipated cross-examination. These two meetings will prepare the witness for the final and often abbreviated meeting just prior to trial testimony, during which you should discuss only the key aspects of testimony and provide an orientation of the courtroom setting.”

Garret D. Murai, Wendel Rosen Black & Dean LLP

“One: Keep it simple. I know you’ve reviewed thousands of documents, taken dozens of depositions and know the timeline like it’s your own personal history. The jury, or judge, doesn’t care. What they DO care about is ‘substantial’ justice and they don’t want — or think they need — to hear all the details, to do so. Oblige them. Two: You need a theme. A mantra. A rally cry. They go by different names. But, in short, you need a succinct reason why you’re right — and they’re wrong. And you need to hammer on it. Repeatedly. And finally: Expect the unexpected.”

Michael Nicodema, Greenberg Traurig LLP
“Theme and storytelling. That's what young trial lawyers should focus on. The 'theme' is a memorable phrase that grabs the jury’s attention and tells them why your client should win. It should be the first thing you say in opening, and the foundation of your closing. The storyline should incorporate your theme, diffuse the other side’s best points, and be concise and flow logically. Theme and storyline development begin when you first get the case. It’s an iterative process, so don’t worry about getting it right on day one. The fun and challenge is in the journey.”

Tom Reuland, Laurie & Brennan LLP

“By the time you're at the courthouse steps, you already know the case more than anyone else around. Now, it's just a matter of convincing others that you're right. Voir dire becomes more important than some attorneys appreciate. While you need to show deference to the judge, the jury ultimately decides your case. Never underestimate how smart and observant jurors can be.”

Daniel Rhynhart, Blank Rome LLP

“Confidence is key. You need to be thoroughly prepared, but remember that trials are theater — even if you've never done one before, act like you have. An objection that is not loud, clear and assertive will never win. An opening or closing spoken softly from behind a podium will not persuade. Don't read from a script — write a few key topics on a note card and let your argument flow naturally. You have to show that you believe in your case in order for anyone else to believe in it.”

Lawrence P. Rochefort, Akerman LLP

"Review the rules of evidence in the jurisdiction where the trial will occur. Have a cheat sheet for foundational requirements for exhibits you intend to introduce and by all means spend time thinking about what exhibits you have to get into evidence. Likewise, have a cheat sheet for objections that you may use during the trial, both for witness questions and documents that may come into evidence. Think about areas of witness examination and exhibits that will come into play at the trial and where you will likely have to make or will likely receive objections. Giving these points some advance thought may help when you are in the heat of the trial."
Michael Rosen, Fish & Richardson PC

“Sloooooooowwwwww dooooooowwwwwwn. The first time I examined a witness at trial was also my witness’s first time testifying. Although we had prepared for months, we were so charged up that we both started speaking so quickly and stepping on each other so incoherently that the court reporter, the judge, and our first-chair attorney all intervened to slow us down. Eventually we heeded the message, got into a rhythm, and won the case. Lessons learned: Channel your enthusiasm, control your adrenaline, have a conversation … and enjoy the moment.”

Garrett Sanderson III, Carroll Burdick & McDonough LLP

“A trial is a story, with the elements of the legal claims/defenses providing the framework upon which that story must be told. Regardless of the legal burdens of proof, the burden is on you to convince the jury it should side with your client. Develop your themes well before trial. Those themes should resound during opening statement, direct examination, cross-examination, and your closing argument. Lead and finish with a strong witness when presenting your case. Even though you rarely will win your case on cross, the jury should see your themes.”

Drew A. Stoller, Roig Lawyers

“The first time is always the hardest, but preparation is the most important aspect of any trial — and it all takes place before the trial itself. You must know both sides of your case, the judge, and your opponent. No matter how strong your claim or defense, if you are not prepared then a jury may very well mistake your unpreparedness with weaknesses in your client's case.”

Amelia Toy Rudolph, Sutherland Asbill & Brennan LLP
“There is no substitute for preparation. When preparing your direct and cross-examinations, consider each element of your case and the witness’s role in it. Structure your examinations so your points flow logically. Keep your questions short, one fact per question, so the witness and finder of fact can follow what you are asking. Where possible, tie your questions to documents or the witness’s deposition testimony so you can impeach or refresh recollections easily. Anticipate and prepare for substantive and evidentiary objections. Avoid form objections where possible, to minimize the chance of unwelcome interruptions. And focus only on what’s important!”

John van Loben Sels, Fish & Tsang LLP

“Start with the jury instructions for the claims your client is pressing or defending, whether you represent the plaintiff or the defendant. Jury instructions provide a roadmap of the essential elements and structure for the facts your client must prove, or disprove, at trial and will help you develop themes for opening and closing arguments. If the trial moves forward, consider omitting potential witnesses or exhibits, which do not help to establish, or defeat, an element from the instructions.”

Thomas Watson, Horvitz & Levy LLP

“Make a good record for an appeal in the event of an adverse outcome. Evidentiary objections at sidebar should be put on the record. If there’s an unreported jury instruction conference or the judge asks whether counsel agrees on the instructions, make a record of your objections and your proposed instructions that were refused. Object to any serious attorney misconduct and request an admonition. Know the jurisdictional deadlines for post-trial motions and an appeal. Finally, keep track of the exhibits — you may need them for the appeal and/or a new trial.”

Merritt Westcott, Winston & Strawn LLP

“Learn and gain confidence by presenting your case first to a nonlawyer friend. Ask what facts jumped out as good or bad for your case, or whether there were any glaring questions left unanswered after your presentation. Once in court, try to relax. The judge and jury don’t know it’s your first trial. Preparation helps. Know courtroom etiquette like when to stand, how to ask permission to approach, and what is and is not appropriate for an opening statement. And know your details, but keep the overall presentation in mind. Consider the picture you want the jury to see.”

Kimberly Wilson, Hermes Sargent Bates
“Be prepared. Know the technology available and have a backup plan. Many courts allow access to the courtroom when court is not in session. Take advantage of this to become familiar with the equipment and, if possible, also take witnesses to the courtroom who have never been to court before. Have a toolbox of things you may need for you and for witnesses and clients. Examples include: ibuprofen, granola bars, tape and highlighters. Have phone numbers of folks who can help in an emergency and include copy services, runners and at least one food delivery service on that list.”

Katherine Winchester, Ice Miller LLP

“Get to know the court's staff and make them your friends. They can make or break you when you have an emergency like needing a last-minute copy or a tutorial on how to run the e-presentation equipment. Don't forget that this is the client's day in court, not yours. Introduce them to the jury, along with any family members sitting behind them in the gallery. Let them have a say in final jury selection and at key points in the case — like whether to seek a settlement before the verdict arrives.”

John Zavitsanos, Ahmad Zavitsanos Anaipakos Alavi & Mensing PC

“A few basics: 1) Speak slowly; most lawyers talk way too quickly when nervous. 2) Be aware of your posture; the jury will be. 3) Don't make facial expressions; you can give the wrong impression. 4) Be super organized. It may be the single hardest thing to achieve in trial, but avoid shuffling papers and asking, 'What exhibit number was that?' 5) And most important — know your jury is smart. It's some kind of 100-year-old myth that the average juror has an 8th grade education. Don't be repetitive, treat the jury like you would people you know and respect.”

--Editing by John Quinn and Mark Lebetkin.