

## The Media's Impact on Jurors

April 9, 2012 By Noelle Nelson

The media has — for better or for worse — forever altered how most of the public views what goes on in the courtroom. This is often to the dismay of attorneys, because the media is loaded with misconceptions about how law is practiced. The media has also shaped juror perceptions of what a successful lawyer looks and acts like. Without conforming to television's stereotypes, attorneys need to be aware of and use media-shaped public perceptions of how successful lawyers present themselves and interact with others in the courtroom. This knowledge can contribute significantly to the success of your case.



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### Self-Presentation

Actors portraying lawyers on TV typically walk into a courtroom well focused, knowing what they have to say and being well prepared to say it. TV lawyers may pause for dramatic effect. In real life, of course, many a lawyer must pause because they are caught off guard, in the midst of cross-examination for example. Since jurors are accepting of the dramatic pause, use it to your advantage. Rather than trying to come up with something quickly to fill the silence, when you are thrown, take your eyes off the witness, furrow your brow, and nod your head, as if ruminating something profound. What you are really doing is buying time. This pause gives you the opportunity to come up with something valid with which to continue the cross, or time to decide to conclude your examination of the witness. Whatever your decision, appearing to be in deep thought will be assessed favorably by the jurors.

The public is used to watching the facial expressions of TV characters to learn what they are thinking. The same holds true for jurors. Use this to your advantage: modulate your facial expressions to let the jurors know how you want them to interpret a given piece of testimony. Observe how TV lawyers express disapproval, belief that a witness is lying, or compassion. Practice facial expressions that enable you to convey such opinions subtly and easily. Teach yourself the dramatic technique of "express and hold." If, for example, you want to let the jurors know you think a witness is lying, raise an eyebrow and look quizzically at the witness (as in "oh really?"). Hold that expression for as long as you can comfortably do so while the witness is responding.

Watch how TV lawyers use eye focus. To dismiss an individual, they may keep moving during the testimony, thereby removing the ability to for the individual to maintain eye focus. Use eye focus consciously and with a purpose, instead of haphazardly.

Actors use movement to give emphasis to a point, break up the monotony of speech and lend expressiveness to their words. TV audiences have become conditioned to believe that competent attorneys move with ease and grace in the courtroom. Learn to move in a way that enhances and supports your speech.

Motivated movement goes a long way. Move to mark a transition between thoughts, to change subjects, or to give time for a point to sink in with the jurors. Do not move because you are nervous or don't know what else to do.

Think of the courtroom as a stage, and learn to use the space to the degree allowed by the judge. Watch how TV lawyers move about a courtroom. Before a case, walk inside the unoccupied courtroom to become acquainted with the length, width and depth of your "space." Make it your territory, both figuratively and literally.

#### Attitude Toward the Client and the Case

TV lawyers are invariably zealous. No matter how they originally felt about a case (often portrayed as lukewarm or indecisive), by the time TV lawyers hit the courtroom, their passion for their client is clear. Jurors expect nothing less from the genuine article. Don't let the morning traffic, a disagreement with your spouse or the too little sleep you had last night interfere with your energized attitude toward your client or case. Take a deep breath before you enter the courtroom and pull together your inner forces. Some trial lawyers find it helpful to say to themselves "Curtain's up!" or "Action!" as they enter the courtroom as a reminder to rise to the occasion. Your clear commitment to your case can sustain you in the jurors' eyes when you momentarily falter in the wake of an overruled objection or opposing counsel's winning point.

Successful TV lawyers exude emotional sincerity. The side that wins always finds some worth or heart-tugging merit in the client that the attorney (and jurors) can latch on to. These lawyers find a way to uncover and promote some core "rightness" in the case. Jurors have come to expect and anticipate such rightness. Even when trying the driest of business cases, do your best to find the rightness in your side.

#### Attitude Toward Opposing Counsel and Judge

In real life, lawyers know each other, socialize together and are more often friends than enemies. But on TV, opposing counsels heartily dislike each other, frequently fail to respect one another and wouldn't be caught dead socializing together. To jurors, the sight of counsel fraternizing during breaks or in the hall is disconcerting. Jurors, conditioned by the media, think lawyers are somehow up to no good and that justice is likely to suffer if the two sides of a case appear friendly to one another.

Be polite, but otherwise remain distant from opposing counsel whenever you are in front of jurors in court or outside court when a juror may be present. Don't gossip or talk about other cases with other lawyers within earshot of jurors. This doesn't mean you should be aloof — just be private about your clients and their concerns.

The media has reinforced the average juror's perception of the judge as being above the ranks of mere mortals. Woe to the lawyer who treats His or Her Honor with anything less than sincere respect. Accept the judge's rulings with grace. Do not allow extreme aggravation to show on your face. If you must disagree with the judge, do so respectfully. This does not mean to be wimpy. You can be direct, forceful yet respectful. Observe how successful colleagues counter a judge's comment while still getting their point across.

The media's portrayal of attorneys has increased the need for greater professionalism by trial lawyers. Jurors now expect more from attorneys. Trial lawyers can benefit greatly from the dynamic communication skills that actors have brought to their interpretation of the legal profession.

**About the author:** Noelle C. Nelson, Ph.D., is a trial and business consultant who provides trial/jury strategy, witness preparation and focus groups for attorneys. She is the author of the booklet, "101 Winning Tips: How to Give a Good Deposition and Testify Well in Court." Her published books include "A Winning Case" (Prentice Hall) and "Connecting With Your Client" (American Bar Association). [www.dr.noellenelson.com](http://www.dr.noellenelson.com), e-mail: [nnelson@dr.noellenelson.com](mailto:nnelson@dr.noellenelson.com)