

# CONCRETE SUGGESTIONS FROM AN OVER-THE-HILL JUDGE

## I. Introduction

Picture this: You are in your office resting after a hard day's work in court. Your judicial assistant comes in and says, "Judge, there is a man from the Judicial Standards Commission here – he wants to talk with you."

How do you react? With a sinking feeling? Fear? Will all your sins come flooding into your mind? Do you think, "Uh-oh, I bet he is coming about the \_\_\_\_\_ case. Oh, drat! I wish I had not handled it that way!!"

This article is to help you – so that does not happen. I have read the NC cases where judges were reprimanded, censured or removed. Here are some suggestions that may prevent this from happening to you. They includes ten special suggestions that may help to make your career as a judge a happy one. They are marked with asterisks.

## II. Practical Suggestions

1. Come to the courthouse early and start court on time. First, this shows the public that you are serious about your job. Second, it creates an atmosphere that is helpful for attorneys – so they can get right down to business and dispense with idle chatter. Everyone benefits.
2. Keep court moving. Our courts break down, often due to missing parties, officers or attorneys, and as a result there are no cases ready for trial. Yet do your part to keep things moving. Have short recesses and take only one hour for lunch. Check to see specifically why no cases can be tried. Sometimes you can help to get lawyers into your court. Often, when an officer is needed, a deputy will say, "He is on his way." That is often inaccurate. Ask specifically where he is and when the information was given.

If attorneys are habitually late, talk to them privately and explain that they have held up court. Most attorneys will respond positively to this information.

The old technique of judges sitting in chambers with their feet on the desk, telling war stories, will no longer do. It takes eternal vigilance to keep court moving.

3. Avoid going out to lunch with attorneys, particularly if they are involved in cases you are trying

**\*\* 4.** Make rulings promptly. This is a major problem in our court system. It adds to the feeling that courts are slow, that judges take forever to conduct trials.

5. Some noise and disruption is endemic to district court. Yet keep the courtroom as quiet as possible. Be alert. Be aware of everything that is going on in the courtroom. Even be aware if there is noise in the hall. Sometimes you have to sign papers or read documents while in the courtroom; but do not become lost in that work and lose control of the courtroom.

Lawyers are the main violators of this rule. Some do it out of habit; others do it because they get wrapped up in their case; and some do it for attention. Most will cooperate, for under it all, they want an orderly courtroom

Before court starts, talk to the assistant district attorneys (ADA's) and deputies who will be in court. Let them know you want a quiet and orderly courtroom. Most of them will be glad to hear this. If the ADA will join with you in this effort, it is a lot easier.

Settle people down so that they feel safe while in the courtroom. Make sure there is quiet when hearing cases or speaking to defendants. If there is too much noise, the defendant may not really understand what is happening. Once a trial starts, then insure that all noise stops. Those that need to talk should step out of the courtroom.

6. Explain court proceedings to the jury. Be considerate of juries. When the attorneys are asking questions of jurors, be alert to see if the questions are causing stress. Often, when attorneys ask jurors if they have any criminal record, the jurors feel they are on trial. Many questions that attorneys ask can be very uncomfortable to jurors. If you notice that a juror is becoming anxious or angry, make a statement from the bench to the effect that the questions are in no way disrespectful – but are only to find out if the juror is likely to be biased toward one side or the other. A lot hinges on the demeanor of the attorney. If an attorney repeats the same question again, politely point this out. The juror will appreciate this.

When jurors are excused from the courtroom so that you can hear arguments on a point of law, tell the jurors why this is done. Do the same when there are conferences at the bench.

Be alert; call recesses to alleviate any stress that jurors are having. Ask witnesses to speak up. Ask members of the jury if they can hear the witness. When the case is over, thank the jury for their service, and tell them they are the backbone of the judicial system.

7. During breaks, move around, stretch, flex your shoulders, rub your lower back. If possible, breathe some outside air. Don't just drop into a chair. We sit way too much.

8. Pay attention to the deputy clerk who is in court. She knows more about what is going on in court than anyone else, including you. Be considerate of her. If attorneys are bothering her with requests, have them step back & give her breathing room.

9. Courts are overburdened with cases; and this will increase. This makes it absolutely necessary that we not waste time, use discipline in court and conduct cases efficiently.

## **II. Professional, ethical and moral suggestions.**

**\*\* 1.** When you get angry, count to ten before you say anything. Do not say something in anger that you will regret later. People look to you as a leader. Respond to this expectation by

conducting yourself in a patient, considerate manner. There are times when you need to be stern and decisive, but most of the time a fatherly or motherly tone will carry the day.

2. When attorneys make mistakes and need to be corrected, be firm but considerate. Usually it is best to talk to them in chambers. However, if it is done in court, bring them up to the bench and talk to them quietly. Do not demean them. Do not speak in anger. Remember how it was when you were a lawyer – the problems you had to deal with then.

In the heat of highly contested cases, tempers sometimes flare and attorneys make rash statements.. Let them know that you will not allow that, but do not add your anger to the mix.

**\*\* 3.** Keep an even keel. Although your position as judge gives you great authority in the courtroom, this does not mean that you are greater than others. You are not a king. You are a referee. In a football game, the referee is not superior to the players. He has authority, but he is only the referee. In a courtroom, others are equally as important as you.

This also applies to defendants. Do not assume that because you are the judge and he is the defendant, that you are smarter, wiser or more righteous than he is. There, but for the grace of God, go you.

Be considerate to attorneys, witnesses, officers of the court, and jury members. Recognize the strengths of people before you. Do not jump on people when they make mistakes.

Often a person in the courtroom is being subjected to intense pressure, criticism and accusations of a serious nature. Temper the wind to the shorn lamb.

4. When you rule in favor of one side of the controversy, make a few positive remarks about the other side. If an attorney goes to great pains to argue a point, and you rule against him, compliment him for the work he has done.

**\*\* 5.** If you sentence a defendant to prison, do so with an even temper. You may feel the defendant needs a heavy scolding, but balance the scolding with the hope that he will decide to change the direction of his life. Encourage him to use his time in prison to improve himself.

6. Do not allow attorneys to belittle witnesses. If a witness, while on the stand, digresses from his evidence and begins to degrade another witness, stop him without delay.

7. Conduct yourself in a manner that will help people to feel a sense of peace and good will. Do not use inflammatory words. Rather, speak with calmness.

8. Do not get into an argument with a witness. Judges on TV fail to understand this. They tend to bandstand in order to keep the programs interesting to the public. Yet our function is to be the pillars of moral behavior as well as leaders in legal matters. Our function is to do justice, and not to impress an audience.

9. Do not play favorites. Do not give preference to the lawyers that are your friends. Be

courteous to lawyers from outside the county. Do not allow your friends to come back into your chambers and talk about cases before you or cases you may hear later.

**\*\* 10.** It is inevitable that you will make mistakes. If this happens, be forthright and admit the error. Being a judge does not make you perfect.

**\*\* 11.** Before you step into the courtroom, take a deep breath, compose yourself, and say a brief prayer or affirmation. Two examples are: 1. “Lord, help me to be true to the ideals I had when I first started to practice law.” 2. “Help me to see the truth.”

12. Read and re-read the NC Code of Judicial Conduct. Perhaps the most note-worthy parts are your conduct relative to elections and when to recuse yourself from a case.

13. In order to be re-elected, you have to be a politician. Yet strive to set this unfortunate fact aside when you decide cases.

### **Conclusion.**

1. Being a judge is a lonely job. You have to make difficult decisions all by yourself. You are not a member of a committee; you cannot seek help from others. Stand straight; make the decisions without unnecessary delay. Don’t complain; it is the job you signed up for.

2. Being a judge places you in a place where you can be severely criticized, even lambasted. When this happens, try to relax. Dealing with such matters is part of the job. Remember that people have the right to have their opinions, even if the opinions are misinformed or unfair. Do not take yourself too seriously.

**\*\* 3.** You probably have someone in your county that plagues you, someone who can make your life miserable if you allow it. Remember, you are not alone. Hundreds, thousands of other judges face the same problem. Moreover, it is possible that person was placed in your path to teach you a spiritual lesson – to teach you to have empathy for others who are treated the same way, to teach you patience and humility.

When you see things this way, after the passing of time, your whole concept about being criticized may flip-flop – and the criticism will not bother you at all. In fact, there can sometimes be a feeling of joy, for it puts you in touch with the great saints, inventors and scientists of the world who also suffered severe criticism.

4. Judges have been removed for alcoholism, inappropriate sexual behavior, uncontrolled anger and what may have been mental breakdowns. If you have any of these problems, get help. Chances are these problems can be mitigated through counseling.

5. As a judge you preside over cases of assault, larceny, fraud, alcoholism, drug abuse and all kinds of harmful behavior. Be not of that world. Stand, like an oak tree, in the midst of it, yet not a part of it.

6. Keep foremost in your mind that the courtroom is a place that is the cornerstone of government. It is a place that not only brings forth the power of the law for the protection of people; it is also the place that liberates people if the executive branch or the legislative branch become too tyrannical.

\*\* 7. You are a servant of the people, not a king. Your service should be marked by humility. You are only one part of a large system. When you enter the courtroom, everyone stands. Yet they do not stand for you alone. They stand in honor of a court system that follows the rule of law; that gives people a fair shake, that creates a level playing field for everyone.

\*\* 8. There is a higher power that should be reflected in the courtroom. See it as a place that is ever open to the light of truth. Be one of the beacons of light and illuminate the court with a positive attitude. See the bright side even in the midst of dark actions. See every soul in the courtroom as endowed by the living spirit of the light. The source of all souls is light, and to light they shall return. Judge according to the law; mete out jail sentences when appropriate --yet, in your heart of hearts, do not condemn anyone.

Stanley Peele

