

"What In H-E Double Toothpicks Are You Talking About, Counsel?"

On Practicing In A Foreign County

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I'm not as young a lawyer as I used to be, but I still remember well my first day in court.

"Who the hell are you, Son?" asked the judge. "And what the hell are you doing in my courtroom?"

"I'm counsel for the defendant," I quavered.

The judge sighed. "They're getting younger every year," he muttered.

Many years later, enough judges in King County recognize my face, where I mostly practice, to avoid further embarrassment. There are, however, the occasional cases that find me in foreign counties struggling with unfamiliar judges and strange court rules.

Recently I found myself appearing in a small county on a motion for summary judgment. The case involved a breach of contract. After the initial round of discovery the other party had admitted to every factual element of my cause of action.

In hindsight, I should have known what was in store for me when I arrived at the courthouse that morning and attempted to get through the metal detector. The detector went off and I instantly found myself at the bottom of a pile of donut-engorged security guards. The guards, recently jerked awake from their morning nap by the pinging of the metal detector, were understandably upset. I sought to placate them.

"It's OK, officers," I said (security guards love to be called "officer"). "I'll empty my pockets."

As I did so the head guard pawed through the pile of items and extracted an offending item.

"And just what is THIS?" he asked menacingly. (It should be noted that the guard was still chewing his donut all the while. His question sounded more like "An' jus' wha' THITH?" accompanied by a white cloud of powdered sugar.)

"Those are nail clippers, Officer," I said.

"Nail clipperth?" he lisped through another mouthful of deep-fried sugarcoated pastry. "We don't allow weapons in this here courthouse, Son."

"Weapons?" I said incredulously. "These are nail clippers! I'd need someone's cooperation to hurt them with these!"

Eventually I got through the security checkpoint, but not before I had signed over ownership of my nail

clippers and paid a \$5.00 "holding fee" to the guards. I made my way to the courtroom where I waited until my case was called. When the court clerk called my case I rose confidently to my hind legs. "Good morning, your Honor," I said. "I am the attorney for the plaintiff. I am the moving party on this motion for summary judgment."

The judge stared at me and I plowed ahead, outlined the nature of the case and discussing the legal authority for my motion.

"Counsel," the judge interrupted. "I've read your brief, and I think after 87 years on the bench I have a pretty firm grasp of the elements of summary judgment."

"I'm pleased to hear it, your Honor," I said.

"Thank you, Counsel," the judge continued. "What I'm concerned about is your gross contempt of court."

"Contempt of court?" I echoed incredulously, checking to see if my fly was unzipped or, worse yet, if my suit jacket was unbuttoned. "I'm not sure what the court is talking about."

"Can it be, Counsel, that you have failed to consult the local rules of civil procedure regarding motions for summary judgment?"

I gulped. I had consulted the local rules about noting a motion, but had not checked them regarding CR 56. I found the rule in question and tried to gulp again, which I couldn't because of the dryness in my throat. I read the rule again, not believing my eyes.

"Counsel?" asked the judge. "Are you still with us?"

"I am, your Honor," I stammered. "And with your permission, I would like to start my motion from the beginning."

There being no objection, I launched into the following:

O' my judge, your Honor,
Whose knowledge is sublime,
This unworthy movant
seeks your relief benign.

It seems to us, your Honor,
In our unworthy way,
That our esteemed defendant
Has failed to save the day.

For even if, your Honor,
You interpret all the facts
In a light for the defendants,
They still should get the ax.

All material facts are admitted.
The other facts are moot.
And thus we ask your Honor
To grant us judgment in this suit.

"Objection, your Honor," the other counsel said. "He's not doing the dance."

"The dance steps aren't in the Court Rules," I protested.

"Sustained," said the judge. "Counsel, I don't know who you think you are coming into this courtroom unprepared and completely ignorant of the local court rules, but I am not amused. I'm denying your motion for summary judgment and granting costs to the defendant."

"Thank you, your Honor," I said.

"Don't thank me, Counsel, I'm ruling against you. And further, you may wish to wear a lighter suit or do something about your dandruff."

"That's not dandruff, your Honor. It's powdered sugar."

"Then wear a bib when you eat your breakfast, Counsel."

I decided not to explain the real reason for my appearance for fear that it would be construed as my having been caught in the act of attempting to bring a deadly weapon into the courtroom. Instead I meekly stated that I would comply with the Court's suggestion and drove back to my office.

My father frequently reminds me that "experience is what you get when you don't get what you want." It is sometimes difficult to learn anything from experiences of this sort. I did, however, as a result of this incident, formulate the following checklist for the next time I have to appear in a foreign county:

- Have head examined
- Double check the local court rules
- Associate local counsel if possible
- Leave anything that could set off a metal detector in your office
- Carry a lint brush in your briefcase in the event you have to deal with a security guard.