

# Kenya School of Law

**ADVOCATES TRAINING PROGRAM**

**2015-16 ACADEMIC YEAR**

Trial Advocacy

**COURT ETIQUETTE**

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# OUTLINE

**Dress**

**Punctuality**

**Introductions**

**Mode of Address**

**Behaviour in court**

**Witnesses**

**Court terminology**

**Perception of bias**

**Humour in court**

# Court Etiquette-Sources

- ❖ Long practice
- ❖ Practice manuals of the High Court
- ❖ Rules of conduct of the Legal Profession

# Dress

The appropriate court dress is dark coloured suits or dresses (black, dark grey, Blue).

Ties-Loud ties or ties with cartoon characters may be improper.

Other details-shoes be clean; shirt collar buttons fastened.

Robe, where required: Be uncreased, of suitable size, be in good state of repair.

Witnesses: Be smart and conservative.

# Punctuality

Come to court early. Recommended: 30 minutes before starting time.

Lateness without explanation, especially if repeated may amount to contempt of court.

# Introductions

Introduce yourself to court. Have Senior introduce the others.

No need to reintroduce one self for each new case.

May need to reintroduce yourself if have not been in that court in a long time, if the Judge/Magistrate cannot remember you and/or if they are new in the station.

## **Remember:**

- Unless its not possible, attend chambers in company of opponent or his or her advocate.
- If in chambers, await invitation to sit down
- If have not met court officials before (clerk;orderly;interpreter) introduce yourself.

# Mode of address

- ❖ Magistrates, High court and Supreme court judges-”Your Honour”
- ❖ Court of Appeal-”My Lord(s);My lady; Your Lordship(s);Your ladyship(s)
- ❖ Mixed bench: “My Lords, my lady”.

# CJ Practice Notes 2011

Circular on Judicial Dress Code and Address

Made on 23rd August, 2011

FROM: CHIEF JUSTICE & PRESIDENT OF THE  
SUPREME COURT OF KENYA

TO: ALL JUDGES OF THE SUPREME COURT  
ALL JUDGES OF THE COURT OF APPEAL  
ALL JUDGES OF THE HIGH COURT  
ALL MAGISTRATES

REF: C.J. 90



# Practice Notes 2011-contd.

**I want to bring to your attention the decisions arrived at by consensus at the just concluded Judges Colloquium also attended by the JSC. You will note that some of these decisions take effect immediately:**

- Wigs will be discarded with immediate effect. Those who have them can either keep them as souvenirs or hand them over to the Chief Registrar;**
- No head gear of any type will be worn except by the Kadhis;**
- There will be two robes for each court, one ceremonial, one functional;**
- Each court will deliberate on the material and colours of robes it would wish to wear;**
- Magistrates will through their association deliberate on whether or not they want to wear robes;**
- All judges, magistrates and Kadhis will be addressed as YOUR HONOUR/MHESHIMIWA and this salutation must be communicated to the Bar and the public forthwith; and**
- Each court will determine the dress code of the members of the Bar appearing before it.**

# Introductions exercise

- ❖ Greeting or salutation.
- ❖ Name.
- ❖ Firm.
- ❖ Whom you appear for.
- ❖ When the case is due.
- ❖ What the case is coming up for.

# Behaviour in court

**On entry** of Judge or Magistrate, and clerk announcing “all rise” or knocks on door, all should rise.

All in court bow slightly.

Wait for Judge/Magistrate to sit down first.

**Exit:** Same procedure in reverse (Judge/Magistrate rises, all bow.) Allow the Judicial officer to leave before you sit or leave.

**While court in session:**

**Entry:** Silently walk in, bow, find a place to stand or sit.

**Exit:** Rise quietly, move to back, bow, leave quietly.

If are to pass a note, avoid it causing distraction.

**DO NOT** whisper.

# Behaviour in court-contd.

- ❖ **Avoid unnecessary movement.**
- ❖ If trial is in session and wish to confer with client, ask for the court's permission.
- ❖ If discussion will be long, ask for a brief adjournment.
- ❖ **STAND** every time you are being addressed by the judge.
- ❖ Only one of the counsel on opposite sides should stand at a time if they are the ones speaking.
- ❖ If judge is addressing both counsel, both should stand.
- ❖ After delivery of a ruling, both stand and say, "most obliged" or "thank you, your honour".
- ❖ After intervention by court e.g. during cross examination, get permission of court before proceeding.

# Witnesses

- ❖ Witnesses should look at the lawyer when he/she is questioning them, then look at the Judge/Magistrate when answering.
- ❖ Witnesses should wait outside if are not testifying, but away from earshot of the proceedings.
- ❖ Be punctual when called (don't go too far).
- ❖ Avoid what may cause distraction(phones, too many clothing accessories)
- ❖ After testifying, either remain in court silently or go away completely.

# Court terminology

Appear-

Submit-

Most obliged-

If it may please the court-

With all due respect-

My instructions are-

I withdraw-

My learned friend/colleague-

# Terminology-contd.

When quoting judgments-”Say “His Lordship”  
(AVOID-”Your brother”).

Adjournment-

Termination-

Remand-

Standing down-

# Perception of bias

*“Justice must not only be done but also be seen to be done”-  
From **R v Sussex Justices***

***Areas of misunderstanding by client:***

Familiarity with Prosecutor or the lawyer on the other side.

Mark the professional distance to be maintained.

What may be misinterpreted: Concessions made, eg. To admission of an exhibit; adjournment.

Refer by professional title, not personal name.

Don't discuss social matters with Judge/Magistrate while in chambers in company of opponent.



## Humour in court

Avoid humour in trial, especially during a criminal trial.

May be perceived as trivializing a serious matter.

Avoid humour attempts at the Judge.

# Q and A

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