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Maureen A. Howard

University of Washington School of Law

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There is No Summer in the Courtroom

by Maureen A. Howard



Pacific Northwesterners frequently lament summer's delayed arrival to our verdant corner of the country, and this year is no exception. June was unseasonably cool and wet, and the first official weekend of summer brought grey skies, chilly breezes, and sheets of rain. It is no surprise, then, that each year, as August approaches and summer seems to have truly arrived, locals eagerly search their closets for rarely-used warm-weather attire. Lawyers are not immune from the lure to celebrate summer's overdue arrival by breaking out tank tops, flip-flops, sunglasses, and shorts. Nonetheless, a trial lawyer needs to remember that although summer does eventually arrive to our region, however late that may be, it never arrives inside a courtroom.

Over the last two decades, particularly on the west coast, where there is a more relaxed expectation of formality in professional dress, clothing that was once reserved for "casual Fridays" is now *de rigueur* throughout the work week in many law firms and agencies. It can be easy, then, for a lawyer's working wardrobe to become unconsciously "summerized" when the temperature rises. And while a particular office culture may tolerate or even embrace the idea of colleagues sporting sleeveless dresses, polo shirts, khaki shorts, or short-sleeved Hawaiian-print shirts, a lawyer needs to be mindful that it is never summertime in the courtroom.

When it comes to jury trials, the chances that a "summerized" work wardrobe will bleed from office to courtroom is relatively low, because most trial lawyers develop a keen sensitivity to jurors' expectations and perceptions through their training and experience. In *Beyond a Reasonable Doubt: One Size Does Not Fit All When It Comes to Courtroom Attire for Women*, 45 Gonz. L. Rev. 209 (2009/10), I wrote:

Physical appearance is a serious concern for trial lawyers trying to maximize juror receptivity to their advocacy. To some extent, when it comes to trial work, a juror's perception is a lawyer's reality. When preparing for trial, a lawyer needs to anticipate and consider jurors' expectations, preconceptions and biases about wardrobe and physical appearance. This analysis can be particularly complicated for the female trial lawyer. It may not be your mother's courtroom, but your (or someone else's) mother may be on the jury, harboring outdated or discriminatory expectations about "appropriate" courtroom attire for women. As unjustified as the expectations might be, "a quality trial attorney must consider gender issues, be they stereotype, false or real, when planning his or her case."

Lessons such as these are generally internalized by trial law-

yers, prompting most to perform a cautious review of their clothing choices on the day of trial. At less formal hearings, however, such as administrative hearings, or the *ex parte* or arraignment calendar, there is a much greater risk that inappropriate clothing will inadvertently make its way into the courtroom.

The fact that a hearing is conducted outside the presence of a jury should not lull a lawyer into a false belief that his or her appearance at court is of little consequence. A lawyer's credibility is an invaluable asset with the judge, as well as with the jury, and it should be vigilantly protected. A judge's perception of a lawyer as professional can augment the judge's perception of the lawyer as prepared and competent; part of being perceived as professional is dressing professionally. Professional attire also communicates an appropriate level of respect for litigants, witnesses, court staff, and the judicial system itself.

The risk of a lawyer running off to court for an unantici-

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pated informal hearing without reevaluating his or her summer uniform is not just academic. In my many years in the courtroom, I have personally witnessed lawyers of both genders appear in court in an array of beachwear including flip-flops, tank tops, shorts, bandeau tops, halter tops, basketball pants, sleeveless sundresses, and shirts with spaghetti straps. On more than one occasion, an attorney's clothing has incited a reprimand from the bench. Years ago, when I was a prosecutor assigned to juvenile court, then-Chief Judge Laura Inveen issued a memorandum addressed to "[a]ll professionals appearing in ...court" wherein she announced that the judges had adopted behavior and dress standards for those appearing in court in their professional capacity. The judges hoped the policy would "contribute to the creation of a positive work environment which fosters the dignity and respect which we accord all matters pending before the court."

Easy insurance against this professional misstep is to keep a set of "court clothes" at the office, especially during the summer. I ultimately went the extra step of affixing a sign on the inside of my office door that read: "Court?" It was a great self-reminder to stop each time I ran to court, take a breath, and review a checklist of what I needed to bring with me. Over the years, my checklist came to include "court clothes." Happily, this addition saved me substantial embarrassment more than once. ♦

"Off the Record" is a regular column on various aspects of trial practice by Professor Maureen Howard, director of trial advocacy at the University of Washington School of Law. She can be reached at mahoward@u.washington.edu. Visit her webpage at www.law.washington.edu/Directory/Profile.aspx?ID=110.

