

Demeanor and Behavior of Sued Physicians

Adapted from *Adverse Events, Stress and Litigation: A Physician's Guide*,
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People base their initial impressions on our looks and bearing. Most veterans of the litigation process suggest that when we appear for depositions or trial, we dress as approachable professionals, i.e., the same as we would in our office. If we tend toward a more informal style of dress when we function clinically, we should nonetheless dress “professionally” (suit and tie for men and business suit or attire for women) when we participate in the litigation process. This sends a message that we are taking these charges seriously and that we respect not only the process itself but also those who participate in the process including the lawyers, the jury, and the judge. If we have any doubts, we should ask our defense attorney directly about the preferred mode of dress.

Your claims professional and counsel will advise you as to what to expect at deposition or trial and how you are to respond to questions in a deposition in contrast to responses at trial. Some attorneys lawyers have their clients participate in mock depositions and mock trials. Others may take their client to visit the courtroom prior to trial in order to familiarize the physician with the physical and emotional environment of the court. During our time of preparation, we may learn that we have some rough edges that may either put others off or be easily misunderstood by them. We should work on these, consulting with others, if necessary, to correct or minimize them before the trial begins.

Our testimony is a significant part, but only one part, of our overall defense and lawyers and jurors watch us closely as we react to court rulings, to opposing counsel's strategies and, at trial, to other witnesses and the judge. Much as we must maintain a professional but caring manner in dealing with patients or emergencies in our everyday work, we need to control our feelings of disappointment or elation at the turn of any of these events. If we go to trial, we can appreciate how jurors emotionally transfer their experiences with their own physicians to physician defendants and we can understand why they expect us to relate to them with respect and professionalism. Their personal physician rarely expresses overt anger, hostility, or satisfaction at someone else's expense. Manifesting such behaviors eats away at the benefit of the doubt they are ready to grant us. They make judgments about whether we are genuinely interested in the proceedings, noting how attentively we listen to the testimony of others, whether we take notes when appropriate, and whether we relate to them in a pleasant, noncommittal way. There is no way to fake any of this because our daily unself-conscious behavior delivers a consistent message about us.

In summary, we want to be ourselves as we approach our involvement in the legal process; not with false pretenses or behaviors but as our best selves, as competent, caring, and knowledgeable professionals who take our work and our obligations seriously.