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Tom Curry's Top Ten Tuesday Trial Tips for the Commercial List

Tom Curry is Managing Partner of Lenczner Slaght. He is well known for his infamous Tom's Tuesday Trial Tips on Twitter. See below for his top ten tips for practicing on the Commercial List and follow him at @jthomascurry for new tips every Tuesday!

1. Know your forum. If appearing in a Court or tribunal for the first time, learn its practices – read, watch, listen.
2. Professionalism is good for results. Judges and jurors agree that confidence and credibility are the markers of persuasive advocates. Be organized, know the facts and law, be respectful, concede what you should, do not attack everyone in sight.
3. Prior to trial of a civil action, go through a pre-flight check. Consider the transcript of the examination for discovery of your clients. Can you live with the consequences of your refusals? Can you lead evidence you need? If not, fix it!
4. Judges are jurors at heart. In summing up, whether Judge alone or before a jury, work the facts! Often trial lawyers spend a disproportionate amount of time on the legal issues and leave too little time to argue the factual findings they need.
5. Develop a story and a path to victory. The one says why you should win; the other says how you can win.
6. Every case has its weaknesses. Identify them without catastrophizing and make a plan to deal with them before your opponent does. Deal with the weaknesses on your own terms. Put a positive interpretation on the evidence and use it to create empathy.
7. Avoid leading Qs in examination in chief – keep a teeny list in your notes with these starting words. Who? What? When? Where? Why? How? Explain...
8. Always start a cross-examination on a point you will not lose. Controlling and sets the tone.
9. On objections: make every one you can win, and none you can't. Making them: be brief, be clear, be gone.
10. Electronic trials are here to stay, even if they are an

adjustment. Another reason to work at the skills to conduct paperless trials is to avoid the consequences of dropping your paper trial briefs in a driving rainstorm. Tip: hold on tight.