



AMERICAN
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Skills/Young Lawyer Track

How the Three Little "Ps" — Pitching, Presentation and Performance — Can Blow Your Audience Away

Jennifer M. Meyerowitz, Moderator

GCG; Atlanta

Carrienne Basler

AlixPartners LLP; Chicago

J.P. Cournoyer

Northern Blue, LLP; Chapel Hill, N.C.

Christine L. Myatt

Nexsen Pruet LLC; Greensboro, N.C.

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**How the Three Little “Ps” Can Blow Your Audience Away
-- Client/Committee Pitches, Public Presentations and Courtroom Performance**

Materials by:

Carrienne Basler
AlixPartners
Chicago, Illinois

J.P. Cournoyer
Northen Blue, LLP
Chapel Hill, North Carolina

Christine L. Myatt
Nexsen Pruet, LLC
Greensboro, North Carolina

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I. INTRODUCTION

You come out of law school eager and ready to “Rock the World” with your impressive writing skills, uncanny legal research ability and for some, exceptional oral advocacy skills developed through trial clinics or moot court arguments. While many of the writing and research skills will continue to be honed over the next few years of your practice, your oral advocacy skills get rusty without practice and for some business lawyers, you may never have truly developed your inner advocacy skills even in law school. All of which can lead to NERVES AND ANXIETY when trying to obtain committee work, speak on a panel, courtroom advocacy or public speaking.

We are here to tell you that everyone, even senior lawyers, will on occasion, experience some type of nerves or anxiety when speaking but that with the right tools and with practice, you can reduce your anxiety in these situations. For example, many, many, many years ago there was a young lawyer who would get extremely anxious when he would speak in public. He would even get anxious about conducting an in-house training seminar for other lawyers in his own firm. It was not because the lawyer was not prepared or did not know the law, to the contrary this young lawyer was absolutely brilliant. It was simply because the lawyer was anxious. Today, that young lawyer is an outstanding bankruptcy judge who has no problem conducting court and routinely speaks at bankruptcy seminars throughout the country. In other words, **YOU ARE NOT ALONE!!**

So we want to share some tips with you as you make your pitches for client or committee work, engage in public speaking or zealously represent your clients in bankruptcy courts.

I. PITCHES FOR WORK.

1. **Understand the scope of the work being requested.** If you don’t know, ask questions.
2. **KNOW THY AUDIENCE!!!**
3. **Appearance.** Wear neat professional attire.
4. **RESEARCH, RESEARCH, RESEARCH** – you want to find out everything you can about the engagement and the audience.
5. **BE PREPARED.**
6. **Draft a script**
 - a. Even if it’s just bullets, script out what you are going to say. This way you won’t forget any key points.

- b. Practice the script to see how long it takes you (if you have a time limit this helps refine your presentation)
- 7. **Everyone should have a role**
 - a. Don't bring anyone to a pitch that isn't going to talk. The client will wonder why there are they and if they add value.
- 8. **Prepare and rehearse**
 - a. Practice your portion of the pitch in front of a mirror. The more you practice the more natural it will be.
 - b. This should include a full dress rehearsal with all participants
- 9. **Handshake** – make sure your handshake is firm, but not too strong. Women, don't be afraid to grasp the other person's hand firmly. It is better to be a little too firm than a fish. Men, remember it is not a strong man contest; try not to overpower the other person. ALWAYS look a person in the eye when shaking their hand.
- 10. **Demeanor** – Smile and maintain eye contact. Be enthusiastic and energetic; no one wants to hire an "Eeyore."
- 11. **Stand Up** - If people enter the room or leave the room, stand-up and shake hands.
- 12. **Notepad** - Bring note pad to the meeting to take notes but keep notes short so you don't spend the meeting with your eyes glued to your notepad.
- 13. **Discuss or have examples of prior work to demonstrate competency.**
- 14. **Consider including testimonials from others.**
- 15. **Be strategic and creative in your presentation.** Remember your competitors are also good so what can you do to stand out. Focus on classy, business approaches – not cheesy.
- 16. **Propose options**- "have you considered.....?"
- 17. **Be prepared for potential Q&A** – be ready to be challenged.
 - a. Think of questions your potential client may have – or questions your competitors may have given them to ask you – and then have the answers at the ready.
 - b. A good example – "what are your fees and how does that work"?
- 18. **Engage with everyone** – even the most junior person in the room will be providing feedback. They wouldn't be there if they weren't expected to give feedback.

II. **PUBLIC SPEAKING**

1. **Content Matters Most.**

2. **Know your audience.**

- a. What information would be useful and interesting to them?
- b. What is their knowledge level? Tailor your presentation to the audience's expertise.
- c. Word choice. Limit jargon unless the entire audience will understand it.

3. **Primacy and Recency Bias.**

- a. Audiences will remember the first and last things you say.
- b. Put the most-important concepts in the beginning and the end.

4. **First impressions are resilient.**

- a. Your audience will form an impression of you immediately (i.e., in a matter of seconds), so how you begin a presentation is essential.
- b. Begin with a bang, not bland introduction.

5. **Conversational.** Audiences prefer “conversational” style. What does that mean?

- a. Relaxed, not overly dry or formal.
- b. Don't sound like you're reading a script.
- c. Don't try to be someone you're not.

6. **Spoken word is different from the written word.**

- a. Don't talk the way you write.
- b. In written language, we use proper grammar, long sentences and clauses.
- c. Here's a sentence that is perfectly fine in writing, but don't try to use it in a spoken presentation: “Operating companies will often seek authority to honor pre-petition gift cards, usually on the basis that (i) it would be harmful to the business's reputation and customer relationships if it refused to honor gift cards, or (ii) that gift card claims are priority claims under 11 U.S.C. § 507(a)(7).”
- d. Use short sentences. Concise language is easier to understand, and more memorable.

7. **Hedging language undermines credibility.** Avoid phrases like “I think” and “I believe” when speaking to the public.

8. **Vocal Elements.**

- a. Variations in volume, speed and inflection help an audience pay attention.
- b. Most of us need to speak more slowly.
- c. We all have difficulty paying attention to a monotonous speaker, even when the content is first-rate.

- d. Avoid “um”, “like” and “uh.” Research shows these are most distracting between sentences, when there is no content for the audience to focus on. If “ums” and “uhs” are a problem, practice ending sentences on an exhalation.

9. Visual Elements.

- a. A big, centered posture. Don’t lean or slouch.
- b. Use gesturing, and gesture beyond your shoulders. Small gestures in front of your chest are perceived as defensive.
- c. Eye contact. Maintain eye contact with a particular person through a sentence, and then move to another person. Scanning and panning is less effective at engaging with the audience.
- d. Standing up and/or moving throughout the audience can be effective.
- e. When using PowerPoint, don’t just read it. Use PowerPoint to highlight your presentation.
- f. Handouts or take aways are always valuable for reinforcing your message and your brand.

10. Prepare.

- a. Practice your speaking, out loud, in advance.
- b. Using an outline results in more effective communication than writing out language word for word.
- c. Become familiar with the stage.

11. Evaluate Your Performance.

12. Think about how you will deal with any unexpected curve balls

- a. What happens if one of your panelists does not show up?
- b. How do you get the panel back on track if someone takes you off track – or is that ok?
- c. Distractions - noise, talking, accidents

III. COURTROOM PERFORMANCE

1. Goals

- a. Educate
- b. Persuade
- c. Include
- d. Build Trust
- e. Engage

2. **Difficult to Do Well**

- a. Must use witnesses with varying communication skills
- b. Must use Q-and-A -- not a natural way to tell story
- c. Controlled (limited) by evidence rules
- d. Interrupted by objections

3. **Maximize Audience Interest**

- a. Keep an interesting pace.
- b. Conversational in tone
- c. Slow down when you come to dramatic or critical parts of the story.
- d. Vary volume and inflection for effect when possible without being a total ham
- e. Interrupt long answers
- f. Keep an eye on the factfinders
 - judge's note-taking
 - jurors paying attention or nodding off
 - can everyone hear – ask witness to keep voice up, if necessary

4. **Persuade**

- a. **Humanize the witness.** For example, if witness has never testified and is nervous.
Q: Have you ever testified before? A: No. Q: Don't be nervous. Just tell us what you know when we ask.
- b. **Maintain eye contact with the witness.** If your witness is really good, have them make eye contact with the jurors, especially on critical testimony.
- c. **Avoid reading your questions** as you will not maintain eye contact or see how the factfinders are reacting. Use an outline and glance as needed. After you have done this a few times, in most cases, you should write out only questions that must be asked in a certain way or that are complicated.
- d. **Use simple, one-fact questions.**
- e. **Let the witness tell the story.** Keep spotlight on witness, not you.
- f. **Use exhibits** to illustrate, highlight.
- g. **Focus on facts, not conclusions**
- 1. **Hammer the key points. Use connectives and looping back.** For example, if a key issue is whether someone had a chance to review a contract before signing it:
 - Q: Did you see Mr. Jones read over the contract?
 - Q: For how long did Mr. Jones read the contract?
 - Q: Did you see Mr. Jones sign the contract after he read it?
 - Q: After Mr. Jones read the contract and before he signed it, did he ask any questions about the contract?
 - Q: After Mr. Jones read and signed the contract, do you know if he initialed each page?
 - Q: How do you know Mr. Jones initialed each page?

5. Questioning Witnesses

- a. **Talk like a normal person** even though you are a lawyer. Examples:
Avoid: “I direct your attention to . . .” Use: “Let’s talk about . . .”
“Where do you live?” not “Where do you reside?”
- b. **Have witness tell the story**
Use topic sentence questions (segues) to direct witness to what you want witness to talk about. Some call these headlines or transitions.
Do not interrupt flow with detail questions – go back for details
- c. **Incremental Qs** – set the scene. Instead of “did you see Jim fight Joe at Jim’s office on January 20th?” Try: Did you go to Jim’s office on January 20th? Did you see Jim there? When? Did you see Joe that day? Where? Did you see Jim and Joe together at Jim’s office that day? What were they doing when you saw them?
- d. **Highlight important questions** – preface/more formal Q/pause & glance at jury after A
- e. **Avoid using conditional language.** Not “could you tell me ___?” and “do you know if ___?” Answers are either yes or no which requires a follow-up question.
- f. **Avoid conclusory, argumentative, or vague/ambiguous words** like “very”, “large”, “small”, etc., where people may have different views of what they mean.
- g. **Don’t phrase questions with negatives** so it is hard to know what the answer means. Example: You don’t know whether Mr. Barnaby was at the office? “No” answer could mean Barnaby was not at the office, could mean don’t know whether or not Barnaby was there, and could mean don’t know anything about it.
- h. **Avoid superfluous or inaccurate words.** Actual testimony -- Q: State the position of the sun in relationship to defendant’s vehicle. A: Approximately 93 million miles from the defendant’s vehicle. Ouch!!
- i. **Word choice.** Use words that can reasonably be given only one interpretation. Your word choice can confuse both witness and fact-finder.

From Airplane II: The Sequel

Attorney questioning a psychiatrist:

Q: Would you give the court your impression of Mr. Striker?

A: I don’t do impressions, my training is in psychiatry.

6. Evaluate Your Performance.

- a. Many courts now docket audio recordings of hearings to CM/ECF. Listen to them, and evaluate what you did well and what can improve.
- b. Evaluate yourself on concrete metrics (content, speaking style, etc.)

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General Points to Ponder

1. Remember – you are building your brand
 - a. Not only does this reflect on your organization, but more importantly it is building your personal brand that will carry with you even if you change firms.
2. Everyone has a different style – watch others and learn- but tailor your client pitch, speaking and courtroom performance to your style and what makes you most comfortable.
3. Don't sweat the small stuff or the mispoken word – remember we are all human and everyone will have a glitch or two. Just apologize and move on.
4. Finally, relax and enjoy. Practice may not make you perfect but it will definitely make you better!