

## **ETIQUETTE GUIDELINES FOR COUNSEL IN COURT MAY 2009**

The following guidelines address standards of courtroom behaviour for counsel in trial courts. They are not intended to be comprehensive and should be read with Chapter 13 of the Conduct and Client Care Rules 2008. They have been developed by a consultative process between members of the High Court and District Court judiciary and the professional associations. The guidelines are intended to assist practitioners and may be used for educational purposes especially for new practitioners.

1. Wear appropriate attire. This should be reasonably formal. For men this will be a dark coloured suit with a collared shirt and tie, and for women attire of an equivalent standard.
2. Be strictly punctual.
3. Stand and be silent when the Judge enters or leaves the Court, and if the Judge bows to counsel, bow back. If the Court is sitting, all lawyers should bow on entering and leaving the Bar.
4. When the case is called, give your name and, if senior counsel, the name of junior counsel. Speak slowly and clearly, and if there is a possibility of error, spell out the name. Men should introduce themselves by their surname. Women are normally addressed in court as “Ms” but should introduce themselves as “Miss” or “Mrs” if preferred. If during the trial counsel is to be absent from Court at any stage, advise the Court of this.
5. Stand when addressing or being addressed by the Judge. Stand if you wish to object. If you are not speaking to the Judge or being spoken to, sit down. No more than one counsel should be standing at any time. Remain seated after an adjournment until invited to address or resume.
6. At all times address the Judge as Your Honour, Sir or Ma’am.

7. Use the indirect form of speech when addressing the Court and other counsel. For example, say; “does your Honour wish me to proceed” or “does my learned friend agree?”
8. If in the High Court, always wear a robe unless the hearing is in chambers and the Judge dispenses with the need for gowns. They are available for hire in Auckland at the Auckland District Law Society library. Counsel should not robe while in court.
9. High Court Judges should be referred to as Justice X. Associate Judges of the High Court and District Court Judges are referred to as Judge Y.
10. If at any stage it appears that the time allocated for trial may be inaccurate, the Court and opposing counsel should be informed immediately.
11. While the Court is sitting, counsel are expected to show respect for the Court process at all times. While the Court is in process, counsel should not without permission:
  - Have cellphones on;
  - Engage in text or email communication;
  - Discuss matters not connected to the case with other counsel;
  - Engage in any form of electronic search or exchange, unless it relates to the trial. If it is proposed to carry out an electronic search for the purposes of the trial, the Court should be advised of this.
12. Water bottles or coffee, tea, or food, should not be brought into Court. The Court normally provides water and glass or plastic containers.
13. Counsel should observe a formal standard of language and courtesy when addressing each other, including referring to opposing counsel as “my learned friend”. If it is necessary to refer to an opposing counsel by name, use “Mr”, “Mrs” or “Ms”. First names should not be used.

14. Seek permission from the Court if you intend to take time out to speak privately to your client or opposing counsel.
15. Court takers and Court criers should at all times be treated with courtesy and respect.
16. Counsel should not use swear words in addressing the Court or jury. They may of course freely refer to swear words that are part of the evidence, but should not use swear words as tools of advocacy. If using slang, counsel should do so with caution and for a particular purpose, bearing in mind always the need to show respect for the Court process.
17. If putting a statement to a witness or quoting part of a transcript to a jury, counsel should identify the nature of the material and ensure that the whole relevant part of the statement is read exactly, without omission or addition. Counsel should ensure that the Judge has a copy.
18. Address witnesses with respect, using their formal name, e.g. Mr or Ms or Dr.
19. Counsel should not approach the Bench or witness box without permission from the Judge.
20. Counsel should remain silent during a ruling or judgment of the Bench, and at its conclusion say "As Your Honour pleases". Expressions of displeasure or disagreement with a ruling or judgment are not appropriate. It is perfectly permissible at the conclusion to refer to any outstanding matter that has still to be dealt with or to seek clarification of a ruling.
21. If you are the last counsel left in Court, you should not leave before the Judge does so without the Court's permission.