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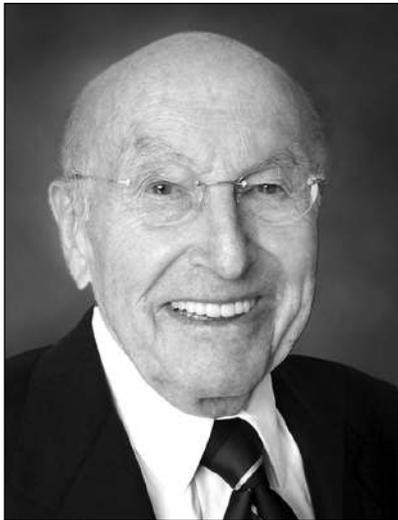
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Gene Majeski's 10 Key Lessons to Becoming a Successful Trial Attorney

By Kassie Cardullo



Eugene J. Majeski

At ninety-six, going on ninety-seven years old, Gene Majeski, the second inductee into the Litigation Section's Trial Lawyers Hall of Fame, is enjoying a well-deserved retirement from practicing law and writing articles for *California Litigation*. As such, he has chosen to let his long-time friends and colleagues collectively

share, through this article, the 10 most important lessons they have learned from him. Their hope is that these lessons will aid others in their journey to become successful trial attorneys.

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1. Be Yourself

To be a successful trial attorney, you must connect with your audience. If you want your client, opposing counsel, the judge, and the jury to believe you, you have to be yourself. A tactic or style that is successful for one attorney may not be successful for you. Do not hide your personality or try to be someone

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that you are not. Juries trust the genuine.

According to Michael Brady, a long-time colleague, Majeski is famous for talking to the jury like he was “sitting across from them at the dinner table.” In every stage of a trial, Majeski is himself. He uses his natural personality to encourage the members of the

jury to trust him and see him as their friend, to his clients’ advantage.

2. If You Don’t Know Something, Just Say So

The biggest mistake a new attorney can make is to act like they know everything. No one knows everything. If you are wrong, say so. If you don’t know something, then express that. It is perfectly acceptable to say: “I don’t know, but I will quickly find out.”

John Bentley, Majeski’s long-time friend and partner at Ropers, Majeski, Kohn, & Bentley, says that “Gene always takes the time to get the right answer, rather than to be wrong in front of a jury or judge.” He knows that his credibility is defined by his image of trustworthiness. If you don’t know something and you guess wrong, this critical image of trustworthiness is tarnished. It is almost impossible to salvage your case once you have damaged your credibility in that way.

Always remember that the goal is believability. You want the jury to believe what you are saying and why you are saying it. You want them to hear your words and think, “that makes sense” or “that’s what I was thinking.” The jury needs to believe in your story, so don’t taint your case by acting infallible.

3. Always Respect Opposing Counsel

Even if your opposing counsel is doing a terrible job, or is blatantly untruthful, be respectful. A jury will begin to feel sympathy for the opposing client if you appear to be attacking or belittling their counsel.

Majeski keeps his professionalism at the forefront of his practice. Bentley describes a case where Majeski’s opposing counsel was particularly inept. He could sense that the jury was beginning to feel sorry for the counsel’s client. Rather than trying to make his opponent look worse in the eyes of the jury, Majeski suggested to the jury that opposing counsel’s performance was merely a tactic of a brilliant attorney. This enabled the jury to

focus on the merits of the case, and find in favor of Majeski's client.

4. Don't Ever Try to be Funny

A trial is not a joke and the jury needs to believe that you are taking your client's case, and their time, seriously. This is not to say,

‘Never, ever talk to the interpreter instead of the witness. Always remember that the interpreter is the conduit for the person talking.’

however, that humor cannot be an effective tool in the courtroom. In fact, according to Bentley, Majeski is the master of utilizing his personality in the courtroom. He never tries to be funny. He just is.

Bentley says that “Gene is a small man with a giant personality.” Bentley further recalls a time when Majeski represented an airline in a case where a man had broken into

the cockpit of a plane and shot the pilot. Majeski wanted the jury to understand how easy it would have been to break down the door. He did this by stretching as tall as he could and exclaiming that even “a guy my size” could break down that door. It was funny, but he was not *trying* to be funny. He was trying to make a point, and he did. And by making the point with humor, at his expense, he connected with the jury.

This is all consistent with always being yourself. If you are a naturally charismatic person, then utilize that. Don't hide your personality by trying to be someone you're not.

5. Be Clear and Concise

Speak in plain English, but do not talk down to the jury. Explain your case in a way that is understandable and gets to the point. Always remember that the members of the jury are taking time out of their lives to be in the courtroom. Do not repeat yourself or waste their time. If you have made your point, move on. If you keep repeating the same point, the jury will stop listening.

Brady describes Majeski as very conversational with the jury. While in trial, Majeski focuses much of his time trying to make the case as understandable as possible. Everyone knows Majeski as the man who can take even the most complicated, tornado of a case, and turn it into a cool breeze for the jury. He always acknowledges that the jury has limited knowledge about the trial process and legal language.

It's a fact that the easier you can make a case for the jury, the more likely they will see the case your way. This takes practice. Find a willing “non-lawyer” and try explaining your case to them. Discover what is complicated and then figure out how to explain the issues clearly and concisely.

6. Put Yourself in the Shoes of Your Opponent

At all stages of litigation, you need to consider and understand your opponent's fears, weaknesses, strategies, and goals. According



to Bentley, Majeski describes this process as “having a silent trial in your mind.”

Majeski is the master of anticipating his opponent’s strategies. For example, Brady describes a time when Majeski tried a case where a mortuary failed to cremate the decedent in a timely manner. The decedent and his wife, as Buddhists, believed that if the body wasn’t cremated within 24 hours the soul would be trapped in purgatory. The decedent’s wife brought suit when she discovered that her husband wasn’t cremated within that window.

Majeski represented the mortuary and he knew that his client had been negligent. He anticipated that his opposing counsel was going to focus on proving that negligence. He re-strategized, focusing on damages, arguing that there was no way to measure the harm of a soul lost in purgatory. As a result of Majeski’s strategy of focusing on the weakness of his opponent’s case, rather than trying to deny the weakness of his own, the jury found Majeski’s client liable for negligence, but awarded the plaintiff nothing by way of damages.

7. Never Over-Ice the Cake

When you are examining a witness, whether in cross or direct, always know when to stop asking questions. The goal is to get in and get out. If you get a good answer, especially on cross, don’t try to get the witness to repeat it. Nine times out of 10 they won’t. They will realize their mistake or the importance of what was just said. Given another opportunity, they will change their answer or justify their previous answer with other information that will destroy the important point you just made.

According to Bentley, Majeski always knows when to move on. Once he gets the answer he is looking for, he changes paths, saving that answer for his closing argument. Answers you get during direct and cross are just puzzle pieces. Once they fit, hold on to them, and then put the puzzle together for the jury in closing.

8. Know How to Properly Use an Interpreter

Never, ever talk to the interpreter instead of the witness. Always remember that the interpreter is the conduit for the person talking. Questions should never begin with “please ask them” or “I want to ask them.” Such questions do harm to your client and your overall case. It doesn’t matter what side the witness is on, it is disrespectful to the witness and confusing for the jury if you do not speak directly to the witness.

Do not let an interpreter get away with paraphrasing a witness. You should never hear “he is trying to say” or “he means that.” If you hear those words, the interpreter is not doing their job correctly. Take control of the examination and do not let this happen. If the interpreter is not fading into the background, then you are not doing your job.

According to Bentley, “Gene always looks at the witness, talks to the witness, and responds to the witness.” Further, Majeski practices and teaches that knowing how to properly use an interpreter is the key to making sure that your jury is following along. They need to be paying attention to the important information coming from the witness. Important information could mean the difference between a win and a loss for your client.

9. Educate Yourself and Your Peers

Majeski is a big believer in keeping himself, and all of his attorneys, updated on ever-evolving case law. Continuing education is the key to a successful career as a trial attorney. If you don’t know and understand the law, you cannot adequately represent any client.

Majeski has always found education to be paramount to his own career and the careers of the attorneys at his firm. According to Mark Bonino, a long-time colleague, education has been a primary concern of Majeski from the beginning. Bonino describes that very early on in Majeski’s practice, he devel-

oped a system that would ensure that his firm was always highly educated. He required that all new associates receive updates on the law and then teach the rest of the firm what they had learned. Every Friday, all attorneys would meet and the associates would update them on new case law. This assured that everyone was knowledgeable and educated.

Take the time to learn what the law is, where it is going, and how it is being applied. While this seems like an impossible endeavor, teamwork makes education more manageable. When everyone works together, everyone can achieve success.

10. Your Reputation is Everything

Your reputation in the community will define your career. Be honorable in everything you do, everything you say, the way you treat

Judge Phelps, Brady, and Bentley attribute much of Majeski's success to his reputation with the bench. Judges admire Majeski and trust that he is always being forthcoming and honest. He established that reputation early on in his practice. This helped him to win motions and evidentiary arguments while in trial. This is because, according to Brady, judges respected Majeski so much that they not only paid attention to him, they often relied upon his judgment.

Moreover, according to Bentley, Majeski never forgets that he is representing people that are in a crisis. Both sides are in crisis. As such, "Gene is always sympathetic." The ability to sympathize with the jury, your client, and opposing counsel's position defines your reputation in the community.

Gene Majeski is as successful as they



people, and the way you treat yourself. Judge J. Barton Phelps, a long-time friend and former partner at Majeski's firm, notes that Majeski has a reputation for being a man of integrity.

According to Judge Phelps, Majeski has lived the adage that you should never lie in or to the court. Not only will this ruin your reputation with your colleagues, it will ruin your reputation with the bench. Judges never forget and judges talk to each other. If the court loses respect and trust for you, winning motions on behalf of future clients will be much more difficult. Everything you say will be looked at with skepticism.

come. His intelligence, charisma, and natural sense of humor have provided him with a life and career to which we can all aspire. Remember, your success is defined by your actions and your willingness to grow and learn with changing times. Be yourself, be confident without being arrogant, be decisive, be educated, and above all else, be sympathetic. Good luck!

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