

# **Looking Good: Avoiding Common Mistakes**

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## Where We've Been, Where We're Going

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## Why does it matter?

- **Respected**
- **Intellectual**
- **Accountability**
- **Probity/Rectitude**
- **Reverence**
- **Transference**
  
- **Anything else?**

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- “The public’s confidence in the judiciary is undermined when a judge’s conduct
- simply creates the perception that cases have been prejudiced or that there is
- a political bias ...”
- **“... regardless of whether the perceived bias or prejudice exists.”**

- The Tennessee Board of Judicial Conduct
- RE: Board of Judicial Conduct Complaints
- File Nos. B19-7753 and B19-7777

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## Crowdsourcing

Take a few minutes at your table to discuss what you think the most common mistake justices of the peace make.

Identify a spokesperson who will share some of the mistakes your table comes up with.

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# Mistake 1 – Not Moving Cases Along

Judge Hill mentioned the Canons earlier today and talked about “Do Your  
Job”

What are some drawbacks of cases not being moved along quickly in  
justice court?

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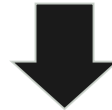
## New Case Clearance Reporting

- Not in justice court .... yet, but may be coming!
- HB 841/1182 from 2023 Legislative Session requires case-level information, rather than aggregate data. Why does that matter?
- How are your current reports going? If poorly, does that make this level of reporting more or less likely to be extended to our courts?

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## Mistake 2 – Not Keeping Up With the Law

PSR and required training in magistration –  
authority to set bail



What if the magistrate wasn't legally  
authorized to set bail, and the defendant  
either made bail or failed to make bail?

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## Mistake 3 – Ignoring Appearances

- Liv is in line waiting to file a small claims case. There is a person in front of her who is taking a long time. Dominik is sitting at another window and she asks him if he can help her and he tells her he isn't able to take small claim filings. He goes back to scrolling his phone while she waits.
- How does this reflect on the court and the judiciary?
- What are some ways this could be addressed?

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## Mistake 3b – Ignoring Appearances

- Brent arrives at the court ready for his trial for speeding. He is in the lobby and the officer who wrote his ticket arrives. The clerk says “Steve!” and gives him a hug. After Brent is convicted, he hears the judge discussing with the officer plans to play in the upcoming golf scramble.
- How does this reflect on the court and the judiciary?
- What are some ways this could be addressed?

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## Mistake 4 – No Set Policies/Procedures

- How do you treat and evaluate requests for continuances? What about requests for deferred disposition?
- Do you think there is a need to treat them consistently within your court? What about within all of the courts in a county?

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## Mistake 5 – Attention to Detail

- You fail to tell a tenant to pay monthly rent into the courts registry when they appeal an eviction case. Five days later, the landlord comes in wanting their writ.

Now what?

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## Mistake 5b – Attention to Detail

Court had a civil hearing and the defendant appeared and plaintiff didn't. Case was continued to a dismissal docket.

Plaintiff hired an attorney who appeared at dismissal docket so case reset for trial.

Meanwhile, the defendant submitted a new address, which the clerk inadvertently entered for plaintiff, so defendant didn't get new court setting.

Default entered for plaintiff. Plaintiff now has a writ of garnishment and defendant has appeared livid due to their bank account being frozen for a case they thought was over with.



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## Mistake 6 – “Hey, an attorney said...”

- You sign an agreed judgment that includes the following terms:
  - Diane Defendant must pay \$500 per month on the 1<sup>st</sup> of each month until the judgment is paid in full. If she does, Paula Plaintiff may not obtain a writ of execution.
- Scenario 1 – Paula comes to your office and says Diane missed a payment and so should be held in contempt for disobeying the judgment.
- Scenario 2 – Paula comes to your office and requests a writ of execution. Should you verify if Diane is current on payments before issuing the writ?

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## Mistake 7 – Access to Justice Issues

- What if a party needs an interpreter and can't afford to pay for one up front?
- Gina walks in to ask the court how much it costs to file a small claims case. The clerk says “\$154.” Gina frowns, says “well, guess I just can't afford justice here” and leaves. What could have been better?

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## Mistake 7b – Access to Justice Issues

- Sovereign Citizen
- Constitutional Auditor
  
- An individual refuses to enter a plea. “I do not consent to your jurisdiction as I am a free man and sovereign individual that is not subject to the governmental intrusion of your entity.”
  
- How do you interact with this individual?

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## Mistake 7c – Access to Justice Issues

- Sovereign Citizen
- Constitutional Auditor
  
- An individual enters your office/courtroom and is blatantly using a video recording device.
  
- How do you interact with this individual? Is filming prohibited? Do you reciprocate the actions?

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## Mistake 8 – Autopsy Issues

- For those of you with an ME – take a Gratitude Moment!
- For those of without, what are issues that come up with autopsies and determining cause and manner of death that can impact perception of your court?
- How many have faced complaints of too many autopsies?

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## Mistake 9 – Public Courts Issues

When and how is the public entitled to observe court proceedings?  
What if the case is a truant conduct hearing?  
What if the case is a Zoom hearing?  
What if someone is requesting a lot of records, and it will be a hassle to gather them all?

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## Mistake 10 – Good Intentions

- Defendant calls wanting to contest his citation. Clerk opens the case and sees that the fine was paid online and it is closed.
- Defendant states he did not pay it and wants to know how it got paid. Clerk states she can get that information, but will need to call him back.
- Defendant calls back stating that his mother took it upon herself to pay the citation for him after she saw it sitting on the counter, but still wants to contest it. The clerk finds that the credit card that paid it is in his mother's name.

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## Mistake 10 – Good Intentions

- Generating facts of the case
- v.
- Practicing law
  
- TRCP 500.6
  
- What is your litmus test?

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## Mistake 11 – Keyboard Warrior

- Concerns with social media
- Is there a difference between a personal account and professional account?
- Where is the threshold?
- Lindke v. Freed (2024)

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## Employee Referees

- What, if any, are some examples of employee disputes have you had to referee?
- How do you address each concern and decide a proper remedy?

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## How Can We Look Good & Avoid Mistakes?

Communication

Pre-Planning

Education

Take a Breath  
Before You Act

Use Your  
Resources

Don't Be Too  
Proud

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# Questions?

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