

Credibility Lessening Tactics Utilized in the Courtroom by Male and Female Attorneys

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Abstract

Attorneys utilize Credibility Lessening Tactics (CLT) to make their opposing counsel appear less credible. Survey data were collected from attorneys to identify types of CLT attorneys experience directed at themselves and those they direct at others. Responses were unitized and content analyzed, resulting in the identification of eight CLT categories. The types of CLT attorneys reported included: Case Knowledge, Experience, Truthfulness, Legal Knowledge, Name-Calling, Distractions, Exclusion and Reference Gender. All CLT were equally reported by male and females except Reference Gender, which was reported only by females. Each category is defined, and the implications of using different types of CLT are discussed.

Introduction

“If the facts are against you, argue the law. If the law is against you, argue the facts. And if both the facts and the law are against you, abuse your adversary” (Easton, 1998, p. 59). Some attorneys may take this advice seriously and do just that - abuse their adversaries in hopes of improving their own case. Juries and judges hear from fact witnesses, experts, defendants, victims and numerous other individuals during trial each attorney must convince the courtroom decision makers that he or she is the most credible source of information and ultimately the most important witness. The greater the credibility of the attorney; the greater the benefit to the client (McElhaney, 1995). In fact, some literature indicates that an attorney’s success in the courtroom is connected to how credible jurors perceive him or her to be (Crawford, 1989; McElhaney, 1995). If the fact finders do not believe the attorney, the client’s case may be in jeopardy.

“Thinking of yourself as a witness - the most important witness in the case - has a profound effect on what you do and how you do it” (McElhaney, 1995, p. 9). Attorneys, like witnesses, need to consider their credibility before walking into the courtroom. Aristotle emphasized the importance of successfully establishing one’s ethos more than two thousand years ago; attorneys still recognize its relevance in the courtrooms of today (Waicukauski, Sandler & Epps, 2001). An attorney’s ethos is based on what the audience, the judge or jury, observes in court or by knowledge gained from previous interactions (Crawford, 1989; Waicukauski et al., 2001). In addition to establishing their own credibility, attorneys may attempt to affect the credibility of their opposing counsel in court (Waicukauski et al., 2001).

Literature Review

Credibility is important to attorneys; therefore, additional information about how to develop and protect credibility from attack in court is valuable. While there has been discussion of behaviors considered appropriate and rules have been implemented to regulate the behavior of attorneys, there has been no qualitative study conducted to investigate the CLT attorneys actually attempt in court. This study is a natural next step in the understanding of this in court communication behavior of attorneys related to credibility.

Credibility Definition

To understand what attorneys are manipulating we must look to the distant past to learn about the original and ancient definition of credibility. Aristotle first identified ethos, or credibility, as a core component of persuasion over two thousand years ago (Barnes, 1984). When we look to modern definitions, Hovland, Janis and Kelley (1953)

identified two dimensions of credibility, which have consistently stood the test of time: expertness and trustworthiness. The establishment of these two dimensions was based upon a tendency of individuals to be influenced by how well informed and intelligent they believe communicators to be and by evaluating communicators' trustworthiness or their motivation to make "nonvalid assertions" (Hovland et al, 1953, p. 21). Later, scholars added two additional dimensions of credibility: authoritativeness and character (Berlo, Lemert, & Mertz, 1969; McCroskey, 1966; Whitehead, 1968). Communicating without bias and without something to gain have also been incorporated into the definition of credibility (Chaiken, 1979; Walster, Aronson & Abrahams, 1969). The number of dimensions expanded again as McCroskey (1974) reported five dimensions: sociability, character, competence, composure and extroversion. Finally, the identified dimensions of credibility have come full circle and the original two have been reemphasized: expertise and trustworthiness (Infante, 1980; McCroskey & Young, 1981). Lastly, goodwill, seeing the source as caring about or identifying with another, has been included as the third dimension of credibility (McCroskey & Teven, 1999). Credibility's three facets have become a natural extension of attorney's behaviors in court. They work to establish it for themselves, enhance their witnesses on direct examination, detract from witnesses on cross examination and even detract from their opposing attorney's credibility in court.

Credibility Lessening Tactics Utilized by Attorneys in Court

Tactics designed to reduce credibility can be employed against both attorneys and witnesses (Evangelos, 1993). Attempts to discredit the opposing attorney and witnesses during legal proceedings may be perceived by many as just part of the game played in court. Some trial lawyers actively seek to discredit their opponents in the eyes of the judge and jury and according to Baer (1996) they are permitted wide latitude by judges when attempting to do so. There is, undoubtedly, a large degree of variability in the permissiveness of judges in allowing CLT in court. However, what can be agreed upon is that regardless of the judge CLT are attempted in court. Some behaviors that attack the credibility of the opposing attorney are expected and perhaps even required during the adversarial process. In fact, lawyers in an adversarial system are expected to be combative and display fervor in the presentation of their clients' cases (Crawford, 1989; Lentz & Laband, 1995; Waicukauski et al., 2001). A lawyer who does not argue with the opposing counsel at some stage of trial may be considered an ineffective litigator (Bogoch, 1999).

As the primary conduit for eliciting evidence and arguments for their clients, attorneys recognize that their credibility is paramount. Regrettably, understanding how attorneys manipulate their own credibility in court is an area that has not been widely studied. This paper will focus on tactics attorneys use in attempt to gain an advantage over opposing counsel in the courtroom by utilizing Credibility Lessening Tactics (CLT) to enhance their case presentations. CLT may be viewed as normal, unprofessional, or the reaction could be mixed – viewed as a necessary evil (Dickerson, 1998). An indication that unacceptable or unprofessional tactics are being used in court is the establishment of civility standards by many states. Civility standards are voluntary guidelines, which address concerns about the professional behavior of attorneys in court (Ponce, 1996). Ponce (1996) describes the following anecdote as an example of unprofessional tactics: an attorney labeled an opposing counsel as a high-powered

attorney “who’ll do anything for a buck” (p. 2). This behavior maybe characterized as appropriately aggressive representation but others may see this behavior as crossing the line of civility.

Few studies have examined the impact of one person’s behavior on another’s credibility in a competitive environment. Seiter, Abraham, and Nakagama (1998), Seiter (1999) and Seiter, Kinzer, and Weger (2006) all concluded that the impact of nonverbal behaviors of a nonspeaking debator can have an impact on the credibility of the speaking debater during televised debates. During a political debate, the participants are expected to remain silent when not speaking; they must rely on nonverbal gestures to indicate their displeasure with the opponent’s argument. These nonverbal gestures can have a negative impact on the audience’s perception of the speaker’s credibility. In addition to generating nonverbal gestures, attorneys also have the ability to orally object and interject their comments into court proceedings. These verbal and nonverbal interjections may be constructed for the purpose of negatively impacting the opposing attorney’s credibility.

RQ₁: What Credibility Lessening Tactics do attorneys report being directed at them in court?

RQ₂: What Credibility Lessening Tactics do attorneys report directing at others in court?

Credibility Lessening Tactics and Gender

Bowman (1999) noted that by 1998, thirty-five states and several federal judicial circuits had issued gender bias reports documenting similar findings. The reports indicated that subtle forms of discrimination (sexist remarks and practices, derogatory treatment, inappropriate forms of address, and gender-based conduct) intended to diminish the credibility and professional stature of female attorneys were prevalent throughout the judicial systems at both the state and federal levels (Bowman, 1999; Bowman & Schneider, 1998; Delfs, 1996). The North Dakota Commission on Gender Fairness in the Courts Report stated, “Men attorneys carry credibility with them, but that’s society as a whole. Female attorneys have to establish their credibility, and it takes a long time” (Herman, 1996, p. 1156). Competing with males in court may be especially difficult for a female attorney as the opponent may draw attention to every perceived small flaw or error (Lambert, 1987). The large number of small comments and jokes, combined with the burden of proving credibility, may make it difficult for females to establish their credibility (Herman, 1996).

In addition to gender bias studies, there is also anecdotal evidence regarding the inferior treatment of female attorneys by the opposing counsel (Lentz & Laband, 1995). Females report opposing counsel to be acting hypervigilant in the documentation of violations of procedural and other rules, making references to female stereotypes, pointing out how the subject matter is masculine, and how emotions may cloud their perception (Bogoch, 1999; Evangelos, 1993). Opposing attorneys have tried to use intimidation factors, including the use of foul language, cute names or making references to physical appearance to gain an edge in the courtroom (Glasser, 1996, Wine-Banks, 1989). In a survey conducted by Rosenberg, Perlstadt and Phillips (1993), approximately two thirds of female attorneys reported being addressed with pejorative language such as “honey” or “dear” and having remarks about their gender and sexuality made in a professional situation. Over a third of these remarks were made by other lawyers. One female attorney summed up her feelings regarding these behaviors by writing, “credibility of and respect for females -- as judges, lawyers, litigants, and witnesses -- is a continuing problem” (Riger, Foster-Fishman, Nelson-Kuna & Curran, 1995, p. 471).

Some Credibility Lessening Tactics may appear to be unintentional yet still create bias (Sheppard & Vidmar, 1980). For example, comments on clothing and appearance intended as compliments are commonplace in the courtroom setting even though they may be inappropriate (Delfs, 1996; Schafran, 1987). A judge or attorney who compliments a lawyer on her appearance in open court may have meant no harm yet have still injured her credibility in the eyes of the jury. Ultimately, females have indicated that they are concerned that these biased behaviors may possibly affect the litigation process, the case outcome and relationships with court personnel (Garcia, 1995; Lentz & Laband, 1995; Martin & Jurik, 1996).

RQ₃: Are there differences in the Credibility Lessening Tactics men and females attorneys report being directed at them?

RQ₄: Are there differences in the Credibility Lessening Tactics men and females attorneys report directing at other attorneys?

This study describes the types of Credibility Lessening Tactics attorneys report being directed at themselves in court and the types of Credibility Lessening Tactics attorneys report directing at others. The frequency of the types of tactics utilized were then analyzed on the basis of gender to determine if there were any gender based differences in the utilization of CLT.

Method

Participants

The survey was tested with a pilot sample of 10 attorneys before being utilized for this study. A survey of 154 attorneys (response rate of 56%) in northeastern Kansas was utilized to collect data regarding the use of CLT. The sample was a convenience sample identified from bar registration information in northeast Kansas. Participants were contacted and, after agreeing to participate, received a survey packet which included the survey, informed consent and a stamped, self addressed envelope so the survey could be anonymously returned. Ninety-eight participants were men (63.6%), 53 were female (34.4%) and 3 did not indicate gender (1.9%). This sample closely approximates the percentage of male and female attorneys practicing in the United States (United States Department of Labor, Bureau of Labor Statistics, 2006).

Instrument

The survey consisted of a series of open-ended questions related to CLT. CLT was defined for the participants as “any tactic in which an attorney uses speech or actions to negatively impact the credibility of another attorney in court.” Attorneys answered open-ended questions in which they could describe up to three examples of CLT that they had directed at others and three examples, which had been directed at themselves. Demographic items completed the survey.

Content Analysis Procedures

The open-ended question responses were content analyzed using the following procedure. The first phase of content analysis involved unitizing the attorneys’ responses. The first coder (Coder One) and the second coder (Coder Two) unitized the data by reading through all CLT examples. The survey had three specific response areas for attorneys to write descriptions of CLT. Each response was unitized as an individual CLT. There were 349 individual examples of CLT written by respondents. Responses excluded after Coder One and Coder Two

conferred. Some of the reasons for response exclusion were the response reported the participant's general opinion about utilizing CLT, mentioned tactics that were observed outside of court, described CLT directed at someone other than the opposing counsel, or were illegible. After eliminating responses, 48 CLT responses were determined to be unusable resulting in a total sample of 301 CLT responses.

In the second coding phase, a second coder (Coder Two) utilized analytic induction techniques (see Baxter & Wilmott, 1984; Dolin & Booth-Butterfield, 1993; Vangelisti, Daly, & Rudnick, 1991) to develop categories for attorney-generated examples of CLT. This aggregating procedure involved Coder Two placing the CLT units on index cards and sorting the cards into conceptually similar categories. CLT were placed into one of the eight emergent categories. Once Coder Two placed all CLT units into their respective categories, 25% of the units were randomly selected from the eight CLT categories to be cross-coded by Coder One. Coding reliability was assessed using kappa as a measure of agreement with kappa values greater than .8 based on Cohen's kappa.

Eight categories of CLT were identified. The Case Knowledge category refers to the knowledge of the particular case held by an attorney. The category of Experience relates to information about the attorney's prior behavior and age. Truthfulness attacks the honesty of the attorney. Legal Knowledge refers to the knowledge of case law, statutes and other legal knowledge. The Name-Calling CLT is a reference to an inappropriate personal characteristic, trait, hobby or other behavior. Distractions relate to an attorney's nonverbal behavior in court. Exclusion includes behavior by an attorney that attempts to exclude the other attorney by proceeding quickly or without the other attorney's presence. Lastly, Reference Gender includes a specific reference to the opposing attorney's gender, typically in a demeaning way. Examples of these categories are summarized in Table 1.

Table 1
Examples of CLT Reported

<u>Case Knowledge</u>
· Attacking the credibility of a witness and implying that my credibility was lacking because of my reliance on the witness's testimony.
· Emphasized important facts that were ignored or glossed over.
· I always do the same sort of thing; find a point where opponent has overplayed his hand factually and very specifically debunk it in an attempt to "piss in the well" and hurt credibility on everything.
· There are several defense counsels that "fly by the seat of their pants." I like to catch them messing up facts
<u>Experience</u>
Previous Experience with the Attorney
· There is one attorney that I deal with a lot. He is always late and we are always waiting for him. I will really let the judge know that this happens a lot.
· Show that the attorney is unreliable, not good to work with.
Lack of Experience / Youthfulness
· Allude to their inexperience in the matter at hand while making formal and informal statements to the court
· Older male attorney tried to leverage his experience against me and make me appear lacking in credibility before the judge.
· Suggestion was made that due to lack of experience my perspective wasn't as valid as his.
<u>Truthfulness</u>
· Attacking my comments and disparaging them as being "lies" or twisting the truth or being dishonest.
· Called a liar in front of the court when stated that documents had been sent.
· In final argument, a reference to what I said the evidence would be in my opening statement and an assertion that the evidence had failed to be proven as I said it would be.
· Pointed out that an attorney's analysis/argument was so off the mark that it was almost dishonest
· Finding specific instances in which counsel has not been honest with the Court. Some attorneys exaggerate. Call them on it.
<u>Legal Knowledge</u>
· Make the opposition seem less credible by suggesting they don't know the law.
· I was participating in a trial in Missouri (I work primarily in KS) and the other attorney informed the judge I was a Kansas attorney and every chance he could, he stressed, "in Missouri, the law is this way."
· Show incompetence on other side. Jump all over misstatement of law
· Go out of my way to cite case law and rules in my favor to make the point that the other side did not know the case law in their favor.

Communication Law Review

Name Calling

- Defense counsel commented during a trial before a judge that I had been a minister and should return to teaching Sunday School
- During jury selection - pointed out attorney's roles in local theater
- I was accused of being a "right wing mouthpiece" for the government agency I represented (in a case with political overtones.)
- In a smaller community a local attorney has referred to me as a city lawyer from Topeka in voir dire.
- Characterize opposing counsel as a high-dollar hired gun without scruples
- Advise the jurors during voir dire that counsel is good at telling jokes - meaning he was not serious about the case

Distractions

- The opposing counsel began yawning as I presented a witness or argument
- A loud and violent outburst with fist slamming the counsel table
- Dominating the courtroom by walking around and drawing attention during my presentation.
- While at the podium cross-examining a witness, an opposing attorney directly to my left began drumming the fingers of one hand on the table continuously and loudly.
- Defense counsel unhappy or disbelieving testimony of plaintiff's witness threw his pen down and huffed.

Exclusion

- During a hearing, I have had an attorney try to engage in a discussion with Judge and exclude me. He even tried to get the judge to rule without hearing my opinion.
- Talk to the judge in chambers before hearings, usually familiar conversation (golf) unrelated to the case.
- Moving the hearing quickly
- Speaking at a rapid pace

Reference Gender*

- Sometimes older (much older) male attorneys will call you "honey" or "lady lawyer"
- Referring to me as "little lady," "young lady."
- When picking my first felony jury, the prosecutor announced to the jury I was 5 months pregnant. He asked the jury if this would influence their decisions.

*No attorneys reported directing this CLT at another attorney.

Results

Case Knowledge was the most frequently reported category comprising 30.23% of the total references. Respondents reported the frequencies of Experience (16.95%), Truthfulness (15.61%), and Legal Knowledge (13.95%) in nearly equal numbers. Name-Calling (9.63%), Distractions (6.64%), Exclusion (4.65%) and Reference Gender (3.30%) were the four least frequently mentioned CLT. The frequency with which these tactics were reported was consistent regardless of whether the CLT was reported being directed at the respondent or reported being directed at another with the following exception. Reference Gender was never mentioned as being directed at another. Reference Gender was reported by female attorneys as directed at themselves significantly more than male attorneys. The frequency of reporting each of the eight CLT is summarized in Table 2.

Table 2
CLT Frequencies Reported Overall, Directed at Self and Directed at Another

Category	<u>Overall Total</u>		<u>Directed at Self</u>		<u>Directed at Another</u>	
	N	Percentage	N	Percentage	N	Percentage
Case Knowledge	91	30.23%	49	25.26%	42	39.25%
Experience	48	15.95%	32	16.49%	16	14.95%
Truthfulness	47	15.61%	33	17.01%	14	13.08%
Legal Knowledge	42	13.95%	26	13.33%	16	14.95%
Name Calling	29	9.63%	22	11.34%	7	6.54%
Distractions	20	6.64%	13	6.70%	7	6.54%
Exclusion	14	4.65%	9	4.64%	5	4.67%
Reference Gender	10	3.30%	10	5.15%	0	0%

The intent of the third research question was to determine whether there are differences in the types of CLT male and female attorneys reported being directed at themselves in court. Females reported Reference Gender as a CLT directed at them significantly more often than men $\chi^2(1, N = 193) = 19.83, p < .001$. In fact, men never reported that tactic being directed at them. Males reported Truthfulness more often than females but it only approached significance, $\chi^2(1, N = 193) = 3.20, p = .07$. The frequencies of CLT directed at males and females reported are summarized in Table 3.

Table 3
CLT Frequencies Reported Directed at Self and Directed at Another Divided by Gender

Category	Directed at Self Male (n = 126)		Directed at Another Male (n = 76)		Directed at Self Female (n = 67)		Directed at Another Female (n = 32)	
	N	Percentage	N	Percentage	N	Percentage	N	Percentage
Case Knowledge	34	26.98%	29	38.16%	14	20.90%	14	43.75%
Experience	22	17.46%	13	17.11%	10	14.93%	3	9.38%
Truthfulness	26	20.63%	8	10.53%	7	10.45%	6	18.75%
Legal Knowledge	19	15.08%	12	15.79%	7	10.45%	4	12.50%
Name Calling	14	11.11%	7	9.21%	8	11.94%	0	0%
Distractions	6	4.76%	4	5.26%	7	10.45%	3	9.38%
Exclusion	5	3.97%	3	3.95%	4	5.97%	2	6.25%
Reference Gender*	0	0%	0	0%	10	14.93%	0	0%

Note. *Significant difference in the frequency reported by men and female directed at self

The purpose of the fourth research question was to determine whether there were differences in the types of CLT male and female attorneys reported directing at others in court. The frequency with which these tactics were reported directed at others did not differ based on gender. No one reported using a Credibility Lessening Tactic that referenced the opposing attorney’s gender. The frequencies of CLT directed at others by males and females are summarized in Table 3.

Discussion

Lawyers in an adversarial system are expected to be combative and zealous advocates for their clients (Bogoch, 1999; Crawford, 1989; Lentz & Laband, 1995; Waicukauski et al., 2001). The purpose of this research is to identify and understand the CLT attorneys use to negatively manipulate the credibility of opposing counsel. The conclusion can be reached that a variety of types of CLT are used. Some CLT appear to be a normal part of courtroom behavior while others may be deemed less professional. Easton (1998) reported attorney anecdotes accepting the use of some types of CLT as appropriate trial techniques, including attacking the opposing counsel’s case knowledge and legal knowledge. Both of these types of CLT are typically considered acceptable trial tactics. This assumption is supported by the data since the frequency reported of this category directed at self and directed at another were similar.

It should come as no surprise that attacking the opposing counsel’s truthfulness would be the most frequently mentioned CLT. Honesty is sacrosanct in the courtroom. Not only must all witnesses appear honest, so

must the attorneys (Crawford, 1989; Easton, 1998; Waicukauski, Sandler & Epps, 2001). While attorneys never take an oath to tell the truth in court, they are presumed to do so in all courtroom proceedings. The opposition will usually address any lies, exaggerations or misstatements, no matter how small.

Experience CLT were not mentioned in any trial advocacy literature but comprised approximately 16% of reported tactics. There was not a statistically significant difference between the frequency that attorneys mentioned directing this CLT at another and having this tactic directed at them. It can be concluded that this particular strategy is one that attorneys utilize with regularly. Age discrimination is typically considered a problem for the old. However, all attorneys who mentioned these types of experience or age CLT believed they were targeted because they were younger. Young attorneys may feel a disadvantage in court due to perceptions of inexperience that may arise from their youthful appearance or the comments of their opposing attorney. Because age and experience are frequently related, it is difficult to evaluate the use of this particular tactic because pointing out an opponent's lack of experience may also serve to point out his or her youth. Knowledge is presumed to come with experience; experience is presumed to come with age. These conclusions may be assumptions that many people make when watching older and younger attorneys in court. Whether or not jabs at an opposing attorney's experience are thinly veiled youth-oriented ageism or simply attacks on the legal experience of the opposing attorney, unexpected CLT warrant additional study.

Attorneys also reported Name Calling as a tactic directed at themselves. This usually consisted of mentioning inappropriate out-of-court activities, attempting to equate the attorney with the bad acts of their client or characterizing the attorney as an "out of town" interloper. These CLT could be characterized as ad hominem attacks which the literature expressly warns against because they could damage the credibility of the initiating attorney (Waicukauski et al., 2001). This category of CLT may reinforce negative attorney stereotypes and ultimately negatively impact the credibility of both attorneys.

Almost 15% of the CLT that female respondents reported directed at them were categorized as Reference Gender. No males reported this tactic being directed at them nor did anyone, male or female, mention directing this tactic at another. It is not surprising that no attorney reported engaging in socially undesirable, sexist CLT. Engaging in such a behavior is risky. This sample reinforces the findings of numerous gender studies related to sexist behavior in court (Bowman, 1999). With the exception of Reference Gender CLT, male and female attorneys appear to experience similar treatment in court.

Finally, a few attorneys mentioned Exclusion and Distraction as CLT. Both tactics appear to be nonverbal red herrings, designed to distract and detract from the message of the presenting attorney. The only types of physical distractions that anyone admitted to personally utilizing themselves were silent nonverbals which did not overtly call attention to oneself. However, the types of physical distractions credited to others included verbal sounds and actions described as exaggerated and obvious. The result of these actions could be a credibility backlash at the person engaging in the overly exaggerated negative nonverbal behaviors, similar to the use of exaggerated nonverbal behaviors during a debate (Seiter, 1999; Seiter, Abraham & Nakagama, 1998). It may also be possible that attorneys are not conscious of exhibiting audible nonverbals such as sighing or huffing loudly.

Limitations and Future Research

This study was based on a limited convenience sample of attorneys from a specific geographic region who, unfortunately, had no incentive to participate. This resulted in a lower response rate as well as challenges related to generalizability because of the sampling method utilized. The involved nature of the survey which included open ended questions, may have also limited the response rate. Attorneys were asked to report three CLT but the frequency that the different CLT were reported may not actually reflect the frequency with which these types of CLT are utilized in court. Attorneys may have been reporting the most egregious examples of CLT they have experienced as opposed to reporting the CLT that have happened the most recently or most frequently. In addition, attorneys were asked to report CLT they utilize in court with no distinction between the types of CLT they may utilize with a particular audience. Finally, self-reported anecdotes may not be an accurate representation of reality.

It is uncertain how the use of these tactics impact the credibility of both attorneys, yet it is clear they serve as a staple case presentation tactic. Tactics such as Case Knowledge, Truthfulness and Legal Knowledge appear to be normal and even expected in the litigation process. However, Experience, Name Calling, Distractions, Exclusion and Reference Gender seem less sportsmanlike in their utilization. In fact, these CLT may be tapping into ageist or sexist stereotypes. In particular, Experience was an unanticipated CLT and would be interesting to explore in future research. The next question that remains to be examined is how the variety of CLT identified actually impacts the credibility of both attorneys.

Attorneys may be engaging in CLT assuming these tactics have positive outcomes when in actuality they do not. Some attorneys may be negatively impacting their own credibility by utilizing particular types of CLT. It may also be beneficial to examine the impact that CLT has on the judge versus a jury of citizens who are most likely being exposed to the trial process for the first time. They may have differing expectations of how attorneys should treat each other in court. Those expectations may be influenced by the CLT attorneys use and what jurors have seen in popular media. Finally, it would be important to continue to examine the challenges females and young lawyers must overcome as they attempt to maintain their credibility in court in the face of both sexist and ageist challenges to their credibility. Some tactics may be expected as part of trial behavior while other tactics are deemed by attorneys to be outside the regular and civilized practice of law. Ultimately, additional research can assist attorneys to sharpen their advocacy skills to ensure they are doing the best possible job for their clients.

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