

▲ **Caffeine in Court**

For those of you who need to be fully caffeinated to be lucid at trial, I recommend caffeinated peppermints.

Three mints are equivalent to one cup of coffee, which is rarely permitted at a counsel table. In fact, I can remember only one such occasion.

It was a raw May day when the air conditioning failed to adjust to the damp cold. During a break, we attorneys sent a lay witness downstairs for coffee, size: large, in the hope of warming up before testimony resumed. No coffee had arrived as the judge took the bench.

Minutes thereafter, the courtroom doors opened and the aroma of six cups of coffee spread through the courtroom. The bearer was obviously confused about what to do and the judge's face was disapproving. So I said, "Your Honor, if I may, we are well-aware of the rules of court decorum. We had hoped this would arrive earlier. It is very chilly in the courtroom and I apologize. We will have it taken away." The judge smiled and the coffee stayed.

Caffeinated peppermints (and layered clothes) are less of a gamble!

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*Have a bit of sage advice for a newcomer to your area of practice? Send us your "tips & traps"! Your colleagues will be grateful. Email suggestions, cautions, and tales of woe to [bb@mnbar.org](mailto:bb@mnbar.org)*

document numbers, marital status and other details can be difficult and expensive to correct after the document is recorded. The value of this "two-headed" rule is proven every time I violate it.

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▲ **Outspoken Clients in Mediation**

Attorneys need to control their clients in mediation proceedings. Although mediators generally say that they want to hear from participants, not the lawyers, the reality is that the clients are best served like children at a dinner party: it is best to be seen and not heard. Clients participating in mediations rarely

add value, and often devalue their cases, by talking too much and uttering something they should not say. Common syndromes of too much talking at mediations include adaman- cy or over-emotional rhetoric, disclosing confidential or sen- sitive information that may redound to the client's detriment, or blurting out improper remarks. While mediation often gives parties the opportunity to ven- tilate, attorneys need to be aware of the down side of client chattiness and caution against it before and during the media- tion, and step into con- trol if it occurs.

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▼ **Real Property Descriptions**

The safest way to avoid typographical errors in a long legal description is to photocopy the description from a reliable source document and use the photocopy as an exhibit in the new document.

Only simple plat- ted descrip- tions, like Lot 1, Block 1, Jones Addition, should be routinely retyped for new docu- ments. Long

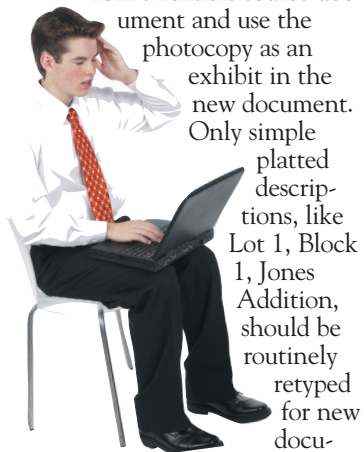
metes and bounds descrip- tions should only be retyped when necessary for legibility.

Real estate tax statements are not reliable source docu-

ments, particularly for metes and bounds descriptions. Counties often abbreviate the legal descriptions for tax statements, resulting in inac- curacies. Reliable source documents include the deed to the owner, mortgages, and title insurance policies.

Once typed into the com- puter, a legal description must be proofed against the reliable source document every time the description is used. I learned that lesson as a young associate when I relied on the description on a computer, and later discovered the errors in the description got progres- sively worse with each use.

Any document intended for recording in the real estate records should be proofed by two qualified persons with sufficient attention to detail and knowledge of what can go wrong if there are errors in recorded documents. Errors in names, legal descriptions,



▼ **M.A. Notice**

Minn. Stat. §524.3-801 (d)(1) is a statute which if fol- lowed can get you into trouble. It provides "if" a decedent has received medical assistance, his estate must give notice to the commissioner of human services. How- ever, title examiners passing on probate deeds of distribu- tion transferring estates' real property also require a record showing that such notice has been given in estates of decedents who have never received any benefits, to avoid a title objection. The Affidavit Regarding Seller (Uni- form Conveyancing Blank No. 50.1.2 (2006)) includes an averment: "10. The Person(s) (has)(have) not received med- ical assistance from the State of Minnesota or any county med- ical assistance agency." Examiners say providing this affidavit will not remove the objection. By failing to give notice in estates where the decedent was not on medical assistance, probate deeds of distribution transferring real property will produce an unmarketable title.

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