



Communication skills for lawyers

Try thinking of opposing counsel as decent people who care about puppies and children

BY JOHN P. BLUMBERG

When I was a new lawyer, I was eager to give advice and tell clients what they should do. After all, I had spent many years in college and law school, and I believed that I had much wisdom to impart. Wisdom was in shorter supply than I thought; it came later.

Over the years, I have studied the subjects of persuasion and communication. I have practiced on clients, opposing counsel and juries. In this article, I share some things I have learned during 42 years of practice.

With clients: listening is often more important than talking, and it is better to be interested than trying to be interesting.

With opposing counsel: they are not enemies; they are adversaries who will often return the respect they are shown.

With court personnel: kindness can bring cooperation and assistance.

Learning who your client is

When I first sit down with a new client, I like to ask, "Would you tell me about yourself?" Sometimes they will respond by asking, "Like what?" I tell them to say whatever comes to mind. What results is a glimpse into their communication skills, level of sophistication, sense of self, and what they deem of importance. For example, if a woman says, "Well, I am married to an architect, and I have three wonderful children," she sees herself quite differently from someone who says, "I graduated with a degree in social work, got married, and before taking time off to raise our kids, I was a second-grade teacher." The first person saw herself as a part of a bigger picture; the second person saw herself as the bigger picture.

People consulting a lawyer usually are apprehensive because they have a problem that they couldn't solve and they are in an unfamiliar environment. A client may be put at ease by talking about

a familiar subject (themselves). By listening, the lawyer can gain insight into the best way to communicate with the client. Equally important is the dynamic that is created: Clients like being listened to. Theodore Roosevelt once remarked, "Nobody cares how much you know until they know how much you care." And, paraphrasing Maya Angelou, clients may forget exactly what you said, but they won't forget how you made them feel.

Client satisfaction when the meeting concludes

When a client meeting is about to conclude, I ask, "What are your questions?" This is very different from, "Do you have any questions?" Many people may feel that an affirmative response to "Do you have any questions?" would imply a lack of intelligence, so they answer, "No." By asking "What are your questions?" you indicate that you expect that they will have questions, and it is



more likely that they will ask for clarification. I like to end a client meeting by asking, "Is there anything else?" The answer is usually, "No," and it gives the client the feeling that he or she has not been rushed.

Finally, if the meeting was one where the client was seeking a lawyer (and assuming that I was willing to accept the case), I will say, "I think I can help you" and ask, "Do you want me to accept your case and represent you?" There are two reasons for this question: First, it avoids the presumptuous-sounding statement of "I'll accept your case." Second, it creates a sense of client empowerment, because I am not *telling* the client that I'll represent him or her; rather, the client is telling me what he or she wants by saying, "Yes." This creates a good start to the attorney-client relationship.

Communicating with opposing counsel

A common mistake made by attorneys is to view their opposing counsel as their enemies. After all, their goal is to make your client lose. While true, envisioning an adversary as an enemy can be counter-productive. Jerry Seinfeld once said that sports is about laundry; you cheer for the player wearing one jersey and boo the player with the other jersey. If the player gets traded and puts on your team's jersey, you cheer him, and when a member of your team gets traded and puts on the other team's jersey, you boo him. Opposing counsel is just a lawyer wearing a jersey; inside, most are decent people who care about puppies and children.

Treating them as decent people has benefits. First, it is a mark of

professionalism. Second, it can result in cooperation that will make your job easier. Consider calling opposing counsel instead of sending an email. Start the conversation by asking if they had a nice weekend; it is more difficult for opposing counsel to be disagreeable in response to social pleasantries. And freely grant courtesies whenever possible. It is a sign of professionalism, and it is more likely that you will be granted courtesies when you need them.

Communicating with court clerks

The Los Angeles Chapter of the American Board of Trial Advocates gives an annual award to a court clerk who makes our jobs easier by his or her courtesy and professionalism. Not every clerk is like that. There are certain jobs that create so much stress that the employee adopts a siege mentality. One example is airline counter agents who deal with customers who are stressed, impatient, needy and demanding. Ever greet one with a smile and a kind word? You should try it. They will welcome it like a glass of water in the desert.

Similarly, court clerks often start their days by dealing with stressed, impatient, needy and demanding lawyers. Why would you expect courtesy if you don't extend it? Instead of just handing the clerk or court attendant your business card, why not say, "Good morning. How are you?" It does not diminish you; it elevates you and sets you apart from most others.

What if you have a problem, and the clerk has the ability (and discretion) to solve it? Better outcomes are achieved by asking for help rather than making a demand. My son learned this lesson many

years ago when he stayed in a hotel room with his cousin during a family reunion. He didn't know that every telephone call was billed at exorbitant rates. The next morning when the hotel bill was slipped under his door, he was shocked to see the telephone charges. When he showed it to me, I walked with him to the front desk and I asked the manager if he could please help my son. The manager reduced the bill. Asking for help often gets a better result than a demand. Try asking the clerk for help. It might not always work, but your chances will be increased that it will.

John P. Blumberg has been practicing for 40 years, specializing in civil trials and medical and legal malpractice cases. He is AV-rated, Board Certified as a Trial Lawyer by the National Board of Trial Advocacy, Board-Certified separately in Medical Malpractice and Legal Malpractice by the American Board of Professional Liability Attorneys, and a Certified Specialist in Legal Malpractice by the California State Bar, Board of Legal Specialization. He was accepted into ABOTA in 1991 and has earned the rank of Advocate with over 60 jury trials to verdict. Mr. Blumberg currently serves on the Board of Governors of the Consumer Attorneys Association of Los Angeles and the Board of Governors of the American Board of Professional Liability Attorneys. He has previously served on the National Board of the American Board of Trial Advocates and the Board of Governors of the Consumer Attorneys of California. His firm, Blumberg Law Corporation, is located in Long Beach, California.



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