

## Communication

Communication: the act or process of using words, sounds, signs or behaviors to express or exchange information or to express ideas, feelings, or thoughts to someone.

Merriam-Webster Dictionary

Unlike the auto mechanic who has his tool chest, the carpenter who has his saw, hammer, level and measuring tape, and the surgeon who has his forceps and scalpel, all designed to perform the tasks attendant to each of their jobs, the lawyer's "tool chest" most often consists of two things: his brain and his ability to convincingly communicate his thoughts and ideas to his clients, judges and juries.

## The Face of the Office

I always remind my legal assistants that they are the "face" of my office. They are the first person the client sees and the last person the client sees. When the client calls, it is the legal assistant who answers and, depending on the nature of the call, perhaps the only person the client may speak to on that occasion. The importance of the person filling that role cannot be over emphasized in terms of establishing and maintaining the attorney/client relationship.

In my office, one of the legal assistants will answer the phone, reciting the name of my firm and politely asking how they may help the caller or direct the call. The nature of my practice, (criminal defense and divorce) requires more than just a polite, professional greeting. As the case for the client progresses, a good deal of empathy and what I call "hand holding" may be needed to calm the client and assure him or her that we will do our best to take care of the problem. This "hand holding" requires a special skill set in my legal assistants: patience, trust, a non-judgmental attitude and a calm demeanor.

Once the client feels that he or she can trust the legal assistant, many of the phone calls which would ordinarily be referred to the attorney, can be handled by the assistant and the gist of the conversation then relayed to the attorney for further action if needed.

### The Office

The next step in the communication process occurs at the initial office visit. We all make judgments and decisions based on what we see. If we go into a restaurant and the tables have not been cleaned, we draw a certain conclusion from that. The same is true when we go to the grocery store or convenience store. Is the bathroom dirty, are the employees shabbily dressed? In the offices we enter we look at what is on the wall. What magazines are there to read while we wait? The same process is taking place when our clients come in our offices for the first time. Does the law office look like what we think a law office should look like? Are the legal assistants dressed appropriately? Do they greet the clients with a friendly smile and reassure them if necessary? Everything and everyone is communicating things about us to the client as he decides whether to retain us.

### The Lawyer

Then comes that most critical moment when the client meets the lawyer for the first time. Do you remember the last time you had to go to the doctor's office and how he or she greeted you? Was he dressed like you think a doctor should dress? Did he meet you in a setting which was comfortable but professional? Did he set aside adequate time to not only discuss your problem, but to get to know a little about you as a person and let you know a little about him as a person? Or did he simply do an exam, shake your hand and "wham bam thank you ma'am" as he moved on to the next patient. Which approach do you prefer? As for me, if I am going to entrust someone not only with my private thoughts and difficulties, but perhaps my very life, I want someone to take up a little time with me and be genuinely interested in me and my welfare. Again, just as with your legal assistants, are you dressed like a client expects a lawyer to dress, are you empathetic, non-judgmental and patient while the client tries to pour out what, in a divorce case, may be years of frustration and guilt? Being a good listener is also part of the communicative process.

The same holds true in criminal cases. In serious criminal cases, the client may be in jail and the first contact with the lawyer will be in that environment. Such visits are often very emotional and are usually accompanied by the client having bad breath and body odor. Are you able to see past this and see the human living in the orange jumpsuit? I always take a few peppermints, if permitted by the jail staff, and, if allowed, my cell phone, so I take a photograph

of the client, not only for my purposes, but to send to the client's wife, mother or other relative so they can see that he is alright (at least as "alright" as he can be while in jail). I always ask if I need to call anyone for the client, and I warn them about jail phone calls being recorded and mail copied. Yet another area of "communication" which helps solidify the relationship with the client, and demonstrate the concern the lawyer and his staff have for his welfare.

In criminal cases, it is my practice, after being retained, to ask the client if they wish me to forward copies of pleadings, motions and the state's responses to them to the clients. I explain the pros and cons of doing it or not and most often the client declines, preferring not to receive a reminder of his continuing difficulty when he goes to the mailbox.

### The Fee

Finally, no discussion about attorney/client communication would be complete without some mention of the fee. After struggling with this area in the early years of my practice, I decided to pattern this area of attorney/client relations after what I had experienced myself when going to my doctor's office. I have never once been told by a doctor what it costs for any office visit or procedure. Instead, the visit ends with a handshake and being told to take my chart up to the reception desk. There is where I get the news on the charge from someone other than my doctor. I have found that this system works just as well in my law practice. I tell the client to have a seat in the lobby and my legal assistant will be with him in a few minutes to "discuss fees and things like that." If I am asked about this procedure by a client I simply say that I can only worry about one thing at a time. Had he rather me worry about getting paid or getting his ass out of the crack it is in? The answer one hundred percent of the time is for me to concentrate on extracting his rear end. This approach may not work for everyone and some lawyers may not mind the more direct approach, but it has worked very well for me. Again, communication, albeit indirect in this instance, solves the problem.

## The Conclusion

We are communicating every waking moment of everyday. Everything we do and even those things we do not do, form the basis of that communication. In the practice of law we should strive to look, act and be what is expected of our noble profession. The last thing any lawyer wants to hear is that famous line from the movie "Cool Hand Luke": "What we have here is a failure to communicate."

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