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Business of Law

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The Art of Listening

"A good listener tries to understand thoroughly what the other person is saying. In the end he may disagree sharply, but before he disagrees, he wants to know exactly what it is he is disagreeing with." Kenneth A. Wells, *Guide to Good Leadership*

I had just completed a withering cross examination during a trial advocacy program twenty years ago. I was quite full of myself, as I elicited a key admission from a recalcitrant witness who was loathe to help me. A local lawyer, who was serving as one of the teachers for the program, congratulated me, but offered some suggestions as to how I could have better achieved the same result.

I recall watching his lips move but barely heard a word he said. I did not know this lawyer, or his firm, and thought he had nothing to offer me. After all, I had already succeeded—what could he possibly have told me that could have improved the outcome?

The folly of my ways was underscored on a rather interesting day a few months ago that vividly demonstrated the importance of listening. In the morning, I read an article about yet another victory by that same trial lawyer whose advice I blocked out years ago. As time passed, I learned that this gentleman is one of the premier litigators of his generation. Every time I subsequently read about him, I grew restless thinking about that lost opportunity to have learned from someone who was good enough to offer me help. This latest story about one of his wins just drove that point home yet again.

Later that day I geared up for my daily calls to partners, as that is a staple of the recruiting profession in which I have been engaged now for almost a decade. I would

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estimate that about 98% of these calls are positive experiences. Savvy partners, including those who have no intention of ever leaving their firms, understand the benefits of learning about what is happening in the market and making a connection that could help them in quite a few ways. And, as many have told me, things do have a way of changing in unexpected ways.

There was one particular partner at the top of my list, as I was asked by a client to call him. Unbeknownst to this partner, there were some changes afoot with a mutual client that were likely to impact him if he were to stay at his firm. I also had another interest in speaking to him, as he was the President of a local nonprofit board that greatly interested me. I had heard that this organization was looking for new board members and other assistance and relished speaking to him about those topics.

Unfortunately, this partner was part of that rare 2%, as he brusquely shut me down before I could explain who I was and why I was calling. Although I trust he will still be successful going forward and his nonprofit will be fine, I shook my head in wonder. Whether he would leave his firm was immaterial, as he missed an excellent opportunity to learn more about a key client and also lost out on a chance to improve the nonprofit's fate, which may be more telling in these tough times. As to the latter, my interest instantly dissipated, as the thought was seared into my mind that any organization that had such a rude person at its helm was not one with which I wanted to be affiliated.

This led me to ponder how many times wonderful opportunities have been sitting virtually in front of us throughout our careers that were never seen, let alone appreciated, due to an inability to listen to what was being communicated. In some cases, this may have meant the loss of marginal opportunities, but, from having discussed this topic with many persons (and witnessing it in my own life), I realize that some potentially transformative breaks are often missed.

I am aware that lawyers are especially challenged in dealing with this phenomenon. We are trained to be analytical, which often means thinking ahead and framing one's thoughts while another person is talking. Lawyers, like other professionals, are also pressed for time in our 24/7 world. Nevertheless, it would behoove us to work harder on our listening skills and I thus offer a few tips in that regard.

First, although it is a trendy aphorism (and a staple of the self help world), it truly is helpful to “be in the moment.” I am cognizant of how difficult this is in our multitasking environment, but it is important. At a minimum, paying attention to what someone else is saying shows respect, which can only help boost how you are viewed by others. Consequently, turn off cell phones whenever practicable, block out distractions, and pay rapt attention when others are talking. Although this level of concentration can be a bit draining, you will also find that your ability to later recall these discussions in which you were “locked in” will dramatically improve.

Second, be open to what others are suggesting. As the quote at the top of this article suggests, you may ultimately disagree with what you’re hearing, but at least you will have understood what you heard. If nothing else, you will have learned something that may be helpful to you at a later time. Additionally, I often find that it takes some time for points with which I disagree to ultimately sink in, which has, on many an occasion, caused me to come around to the view that initially did not resonate with me. If you are not at least open, you will never have given that thought the proper opportunity to be nurtured and developed in your mind.

Finally, do not assume that you have every angle covered and know everything in a particular situation. I have found that this is an especially difficult concept for lawyers to appreciate, as exhaustive preparation is the hallmark of a good attorney. Lawyers who do rigorously prepare, and over rely on that effort, can sometimes miss some subtle points in a meeting or do not see a curveball coming at them, as they do not factor in the possibility that there could be something that a counterpart knows that they don’t. If you enter a meeting without that false assumption, you’ll listen better, learn more, and will be a better advocate for your client.

Despite all this supposed wisdom, I am sure that I’ll fail at executing on this suggestion many more times during my career. However, at least being more aware of the challenge should hopefully minimize those situations, as I believe it will for you, too.

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