



THE LANGUAGE OF LAWYERS

Reaching a verdict on communication in the legal arena.

By Christine Clapp, DTM

Intensely questioning a witness or eloquently arguing before a jury — that is what usually comes to mind when we think of the work lawyers do. Maybe that’s because of the explosive legal proceedings depicted in classic films ranging from *To Kill a Mockingbird* to *A Few Good Men*, and in television shows such as *Law & Order* and the old British series, *Rumpole of the Bailey*.

ever, successful lawyers work hard at their communication skills — both listening and speaking.

A Lesson Learned

Toastmasters International President Michael Notaro, DTM, a real estate attorney in Alameda, California, remembers how, early in his legal career, he represented a San Francisco fisherman in a case that went to trial.

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But those dramatic images of courtroom oratory don’t reflect the typical working lives of most attorneys. Their day-to-day efforts, attorneys say, often revolve around less-glamorous activities, such as doing legal research, drafting contracts and negotiating settlements. For many, writing skills are emphasized over public speaking. “Oral communication definitely gets underplayed to writing,” says James Grant, an attorney at Gordon & Rees, LLP, in Seattle, Washington. “There’s an expectation that you’ll write your briefs and when the motion comes, you’ll go and argue them.”

As it is in many careers, speaking proficiency is simply assumed. How-

As the proceedings wound down, he believed the verdict would definitely arrive in his favor. Then he delivered his closing statement.

“As I began speaking, I could tell the jury was paying no attention to me,” he recalled in a September 2011 article in the *Toastmaster* magazine. “They were bored. Juror number one was staring at ants on the ceiling. Juror number four was studying cracks in the vinyl flooring.”

When the verdict was announced, Notaro lost 11 to 1, with the jurors later saying his speaking was too mechanical and stiff. The attorney, now a 27-year Toastmasters veteran, said the experience taught him a valuable lesson about the impact of public speaking.

David Henderson, Toastmasters’ 2010 World Champion of Public Speaking, is a prosecutor in Bexar County, Texas, which includes the city of San Antonio, Texas. Representing victims of sex crimes, domestic violence and crimes against children, he argues before juries regularly. Henderson says he initially joined Toastmasters so he wouldn’t get visibly emotional in the courtroom. “I failed completely,” he confesses about that original goal. So he decided to make a new goal for himself: Help the jurors “to understand *why* I was emotional. That gets them emotionally invested too.”

A member of the Brighton Toastmasters club in San Antonio, Henderson showed just how well he could connect with audiences when he won the 2010 International Speech Contest with a powerfully moving presentation about coping with loss.

“Most people don’t understand that [connecting emotionally] is what communication is about,” he says. “They think it’s about articulating themselves well.”

Confidence Is Key

Whether they are in the courtroom or the conference room, attorneys must convey confidence. Grant, who practices labor and employment law, says he exhibits confidence by using a “loud, unwavering tone without a lot of ‘ums’ or ‘ahs,’ having good posture

and ‘owning the room.’” He notes that sometimes this can be a tricky balancing act, because he has to show “appropriate humble confidence in front of a judge” yet also maintain a “stubborn confidence in [my] position.”

Toastmaster Karima Mariama-Arthur, who practices corporate law in the Washington, D.C., area, says it is important to show confidence as a female lawyer. “[I am] always mindful of how I’m sitting, holding my body and using facial expressions,” she says. “As a woman, sometimes gender plays a role. I try to have a stern, academic look, because if you’re smiling too much, they [opposing counsel] don’t take you as seriously.”

A member of two Toastmasters clubs in Washington, D.C., Mariama-

Arthur says she also displays confidence verbally. “I choose words precisely when describing an idea or getting at the heart of an argument.”

Listening in the Legal Arena

To be an effective oral communicator, an attorney first needs to listen. “You have to listen to your clients so you can make their stories real to a jury,” says Henderson, adding that listening is a key part of earning his clients’ trust and becoming a zealous advocate for them.

Attorneys must also listen to the opposing side and the judge in any legal proceeding. Grant says sometimes a client might provide too much information during a deposition, but the opposing counsel won’t catch a

weakness in the case because of a failure to listen. “They obviously were going down the list and checking off the next question,” notes Grant. “You can’t be so dedicated to [a] list of questions that you don’t pay attention to the answer.”

Attorney David Pisarra, a member of Westside Toastmasters in Santa Monica, California, practices family law, focusing on men’s and father’s rights in custody and support cases. He stresses the importance of listening closely to a judge to make sure you hear his or her directions correctly.

The Keys to Clarity

Mariama-Arthur emphasizes the importance of clarity to make sure she is understood by clients, especially in

FOR THE RECORD

Toastmasters International President Michael Notaro, DTM, is a licensed real estate broker and principal attorney at the Notaro Law Group. He offers the following advice for lawyers and aspiring lawyers who want to hone their communication skills through the Toastmasters educational program:

ADVICE

Learn to think and speak on your feet so you can successfully argue motions in court.

Learn how to make a persuasive argument.

Learn to make eye contact with jurors — not just the judge.

Learn to think about the purpose of communication at each stage of a trial. For example, an attorney should be the center of attention during a closing argument, but not during the questioning of a witness.

PUTTING IT INTO PRACTICE

Regularly participate in Table Topics and give evaluations, both of which require analyzing information and presenting yourself clearly with little to no preparation time.

Also consider “Project 1: Impromptu Speaking” in the *Specialty Speeches* manual from the *Advanced Communication Series*. This project will teach you how to anticipate and prepare for an impromptu speech that is five to seven minutes long.

Tackle “Project 9: Persuade with Power” in the *Competent Communication* manual. Then work through the *Persuasive Speaking* manual in the *Advanced Communication Series*.

When delivering manual speeches, know your material well enough to reference notes only briefly, so you can make lasting eye contact. Also see “Project 5: Your Body Speaks” in the *Competent Communication* manual, which includes tips on eye contact.

Work on “Project 3: Get to the Point” in the *Competent Communication* manual to practice identifying the general and specific purposes of a speech.

civil litigation, which she had exposure to as an intern at the Cochran Firm in Los Angeles. “We assume everyone is listening or moving at our pace, but they’re not,” she says. “We have to slow down, organize our thoughts and make a roadmap, so clients understand where they are and where they’re going.”

Lawyers need to be clear with witnesses and juries too. Todd Baldwin, a criminal defense attorney in Washington, D.C., remembers the story of a lawyer who asked a witness if he was shot in a fracas.

“We have to slow down, organize our thoughts and make a roadmap, so clients understand where they are and where they’re going.”

The witness replied, “No, I was shot midway between the fracas and the navel.” Baldwin recommends using simple, direct language.

Pisarra, the family-law attorney, says pausing is another technique to improve clarity. “The value of the pause is not just to remove the clutter words,” he notes, “but to allow the other side, particularly the judge, to understand what has been said. Many attorneys try to pepper the judge with facts, rather than letting a single fact hit a judge and sink in. A pause is better than a barrage.”

Prepared for Cleverness

Not only do lawyers need to be confident and clear, they need to be confident and clear *off the cuff*. “You have to think on your feet in court,” says Baldwin. “Good lawyers are listening and reacting, rather than just going through a script.” This follows the nature of legal presenting, in which (with the exception of oft-dramatized opening and closing arguments in a

trial) lawyers seldom speak uninterrupted for long stretches of time. They have to be mentally quick in order to listen, analyze and articulate in a matter of seconds.

Speaking off the cuff doesn’t mean winging it. “It’s hard to have a pre-set speech, but you do need a complete understanding of what’s going on and what could come up,” says Grant, the labor-law attorney in Seattle. He prepares and rehearses his opening lines, but speaks from a one-page outline of his main argument and a thick binder with tabs for each area of

legal research he has done to address points that could possibly be raised by opposing counsel.

Mariama-Arthur agrees that it isn’t effective to follow a set strategy and script. She thinks of herself “as a chameleon” and points out that attorneys “have to be flexible, and sometimes you have to back away from a planned strategy so you can do what’s best for your client in a particular situation.”


Always Improving

Successful attorneys need well-developed listening and oral communication skills, but not everyone comes by those skills in the same way. Many lawyers have a background in high school or college theater, debate or public speaking. Baldwin, who is trained in acting, doesn’t discount the experience he gained selling Kirby Vacuum Cleaners in college. “I was always closing [sales], which taught me a lot about working with people and selling.” He also finds

continuing legal-education sessions that provide hands-on practice with closing arguments, as well as classes offered at conferences hosted by the National Association of Trial Lawyer Executives, to be useful.

Other lawyers, like Henderson, Mariama-Arthur, Notaro and Pisarra, joined Toastmasters to hone their communication skills. “One of the things that Toastmasters has radically improved is my ability to do on-the-spot speaking through Table Topics,” says Pisarra.

And would-be lawyers with stage fright shouldn’t let their fears stop them from pursuing a legal career — even seasoned lawyers get jittery. After 15 years as a criminal defense attorney, Baldwin concedes, “I still feel nervous when I go to trial.” But he says routine hearings are much easier. “If you do it often enough, you don’t feel so nervous.”

For most in the legal profession, practicing law might not be filled with dramatic “you-can’t-handle-the-truth” moments, as seen in *A Few Good Men*. But the truth about being a successful attorney — no matter how much time a lawyer spends in court — is all about developing effective listening and powerful speaking skills. 

Christine Clapp, DTM, is a member of the United States Senate Toastmasters club in Washington, D.C. As president of Spoken with Authority, she develops the voice of experts who want to broaden their impact. Her new iTunes app is called *Master Public Speaking for All Occasions*. Contact her at christine@spokenwithauthority.com.