



COMMUNICATING EFFECTIVELY HOW HARD CAN IT BE?

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Communicating effectively is not as simple as it may appear. It's about more than picking the right words and putting them together in a grammatically correct method. In today's complicated world, there are so many methods of communication that one must first determine the most appropriate method to use. As a colleague once pointed out to me, "just because you *can* email, doesn't mean you *should!*"

Attorneys often can't dictate to clients the method by which communication takes place. In today's buyers' market, clients should usually be communicated with by the method that they prefer. Depending on their choice, it may be important to warn clients of risks associated with utilizing their preferred communication methods.

Email is probably the number one choice of communication. Increasingly clients prefer text as well. But we also have clients who wish to communicate by LinkedIn Messenger through open or private posts on Facebook, and of course through the traditional methods of telephone, fax and written correspondence.

Considerations for using some of the infrequent communication channels, such as sending LinkedIn Messenger communications, carries with it considerations of untimely response. Depending on how frequently an attorney may check the alternative communication channels, there is a potentially high risk for failure to respond in a timely fashion.

Billing considerations also enter into consideration. Is time spent communicating over certain channels effectively captured for billing purposes? This is something that I personally wrestled with, and have concluded that for certain types of work, only certain communication channels will be appropriate because otherwise it fails to get billed for.

It's important to carefully think through your records retention and client confidentiality considerations, in determining how to address communications over various channels. Only certain types of communications can be easily controlled from a records retention perspective. Lawyers have considerations related to

preservation of communications which are part of the client file, as well as preservation of the confidentiality of such communications.

If someone were able to get ahold of your cell phone, would s/he be able to simply click on the icon for your telephone, LinkedIn Messenger, text etc. to have complete access to any of the communications? Obviously, putting a password on your cell phone is a simple and reasonable precaution all lawyers should employ.

As the age of our clients, especially in the corporate and business arena, increasingly get younger, it's important that you communicate with them in a manner that *they* feel is effective and time saving on their part. This has led to a significant increase in the desire to use texting.

With fierce competition for those plum business clients, most lawyers simply cannot afford to refuse to communicate by text. Therefore, it becomes even more important to think through and communicate with the client regarding the risks, and to modify your procedures with regard to retention and safekeeping. For example, you would want to make sure that any communications of a client nature are not stored on an individual privately-owned cell phone, but rather are transferred to the firm computer's hard drive. It may mean you need a policy which requires copy and pasting into an email and emailing it to the office address so that it can be saved in the client file, and then deleted from the cell. Or perhaps you use specialized software which enables you to print the messages.

Choosing the most effective platform for communication will usually depend on the level of formality, precision, and feedback speed that's required. Most commonly, people turn to email because it is fast, seemingly efficient, and provides a written record of the communication.

The problem with email is that it is totally lacking in the social cues that are frequently required to enable one to have effective communication. Because email response is often so immediate, one is often deluded into taking the contemporaneous nature and free-flow of communication back and forth as a verbal conversation. However, one doesn't get the essential social cues including body language, tone of voice, facial expression and so forth, which help to guide us in communicating effectively.

Lacking these queues in email, we lay our own emotional context over the words. For this reason, email is notorious for generating misunderstandings and inappropriate emotional responses to words, based more on ones implied emotional interpretation than on the words themselves.

A lot of people tend to get sloppy with email communication. Punctuation,



spelling and grammar should be as accurate in an email as in a letter. Text communications, on the other hand, are an acceptable place to ignore extra words good grammar would call for, along with most but not all punctuation. As long as your meaning is clear you can get away without many of the constraints required in email or formal correspondence.

Let's not forget, however, that occasional use of punctuation can make all the difference in the world in the clarity of the communication. For example "let's eat, grandma" versus let's eat grandma." For the lack of a comma, poor grandma becomes a menu item.

The bottom line is that we are almost overwhelmed with the variety of modalities available for communication. No one method can be considered most effective in every circumstance. You must find out what methods your clients prefer. Then take into consideration retention and safekeeping of those communications. As well as your ability to capture time spent and bill for it. Then use whatever methods you employ with best practices. I know, easier said than done.

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