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How well we communicate is determined not by how well we say things, but how well we are understood.

Andrew Grove

THE TEN COMMANDMENTS OF EFFECTIVE COMMUNICATION

Communication problems between the lawyer and the client are a source of many complaints. In fact, between January 1, 2018 and December 31, 2019, nearly 250 files were opened at the Insurance Fund as a result of problems in the relationship between the lawyer and the client.

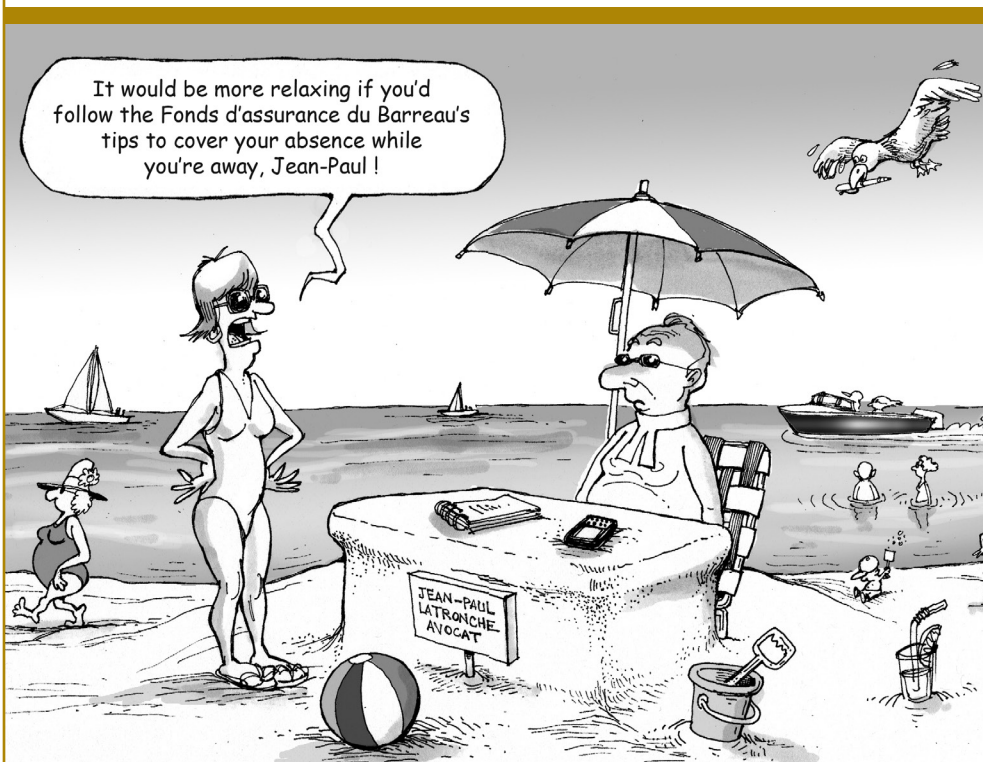
The legal profession often conjures up the image of a great orator and skilled communicator. However, we too often forget that effective communication is more than just spoken words. Here are ten commandments to optimize your communications with your clients:

1. Arrive at meetings on time and don't keep your clients waiting;
2. Favour distraction-free encounters. Turn off your cell phone and tell your assistant that you do not wish to be disturbed;
3. Schedule regular face-to-face or videoconference meetings that are long enough to allow the client to express themselves freely and you to answer all of their questions;
4. Remember that 55% of communication is through non-verbal language. So don't overlook body language, which can reveal valuable information about the client's emotional state. Furthermore, communication always involves at least two people, so you should be careful with your own non-verbal language and gestures. The client needs to feel that their case is important to you;
5. Be available: Pay attention to the explanations given by your client. It's difficult to practice active listening when we are preoccupied with another case or if we are mentally formulating a response to what has been said. This reflex sometimes leads us to neglect information or, due to a lack of concentration, not to pick it up at all;
6. Adapt your language according to who you are speaking to and the context. Just because two clients have a

similar legal problem does not mean that they have the same needs. In all cases, you should use clear, frank and concise language to ensure that the purpose of the message has been fully understood;

7. Approach the problem and solutions from the client's perspective;
8. Be transparent with your client. The client must be informed of the positive as well as the negative aspects of the case in order to be able to make informed decisions;
9. Properly document your file to avoid any misunderstandings. Provide the client with a written opinion on the chances of success and adapt your strategy based on developments. This allows the client to refer to your opinion as needed and you will have tangible proof of what was discussed;
10. Be proactive and communicate regularly with your client. This reduces the client's anxiety and stress and demonstrates your control over the case.

Establishing a good relationship with the client and listening to them while seeking to understand their expectations and goals helps avoid misunderstandings, which with a little less luck can turn into malpractice proceedings. So, let's take the time to improve our communication and better understand our clients' needs. As French industrialist Jean-Luc Lagardère noted, "Communication is a difficult science. It's not an exact science. It is learned and cultivated". ☂



IS YOUR VACATION AT RISK DUE TO THE PANDEMIC?

Summer is finally here, and with it, vacation time. Despite the exceptional situation due to COVID-19, which has lasted for more than three months, and despite the fact that most of us are teleworking, we have all, in one way or another, been overworked. Of course, our worries about professional, financial, family and health issues weigh heavily on us. However, it is high time to take care of ourselves and our mental health.

You may therefore be wondering whether you will hit the road this summer and whether it will be possible to make this trip happen, within Quebec of course, given the exceptional distancing and other measures.

Despite these restrictions and after the endless months of confinement that have been nothing at all like a vacation, getting some fresh air can help avoid burnout.

Giving yourself this respite means taking a few basic precautions to ensure that you can return to work without too many unpleasant surprises, whether or not you are teleworking.

Here, then, is some practical advice to help you avoid any problems:

- ☒ Check your **agenda** carefully. Make sure you have no urgent mandates before your departure and no appointments scheduled while you are away;

☑ **Inform** your clients and adversaries of your absence;

☑ Make sure **no deadlines will expire** during your absence. Despite the suspension of some time limits, the gradual resumption of judicial activities has meant that many have remained proactive in issuing and filing proceedings;

☑ Set up an **out-of-office message** in your voicemail and email program, and don't forget to mention your return date and the name and contact information of a person your clients can turn to in case of emergency. Upon your return, don't forget to deactivate the messages;

☑ Make sure that a responsible individual is reading your **mail** and replying to any urgent matters and that this person has access to your agenda, voicemail and emails;

☑ Make sure you can be reached in case of an emergency.

Finally, if we may, for those of you who are not on vacation, know that your colleagues who are on vacation will greatly appreciate not receiving an avalanche of proceedings when you know they are away!

By following these few suggestions, you can ensure that your return from vacation is significantly more pleasant!

Despite everything, give yourself the right to disconnect a little! Make your well-being a priority while staying healthy! ☔

THE END OF A MANDATE: A STEP TOO OFTEN NEGLECTED!

At the end of a particularly rainy spring, a client consults you, claiming to have suffered numerous water infiltrations in his residence over the years. He therefore claims that his pretty bungalow is affected by several latent defects. You explain that the first step is to send a disclosure notice to the sellers. Subsequently, if the outcome is not favourable, you suggest obtaining an expert report and following it with an originating application if the report confirms the presence of latent defects.

The client therefore instructs you to send the sellers a disclosure notice. That said, no written mandate is signed. You handle the matter and send the disclosure notice to the sellers. The sellers contact you, but despite your efforts, the settlement talks fail. Consequently, you verbally suggest to your client that an expert report be obtained and that the proceedings be instituted quickly given the approaching prescription. However, given the costs involved in instituting the proceedings, the client asks you for time to give it some thought.

A few weeks later, you contact the client for his instructions and leave a message on his answering machine asking him to call you back. You still hear nothing from him! You conclude that the client does not wish to proceed and you close the file. Cue the dramatic music: Several months later, the client contacts you to check on the status of his file. The recourse is prescribed!

The termination of a mandate is a step that is regularly skipped. And yet, it deserves attention because it can be the source of many complaints. In fact, the best way to avoid a situation such as the one described above would be to send an end-of-mandate letter so as to leave no doubt about your intentions in the absence of instructions. Here are some suggestions for the content of such a letter:

■ An explicit statement to the effect that your mandate is over;

■ An account of what was done;

■ A reference to the documents being returned (of which you should keep a copy);

■ The additional steps that must be taken in order to protect the client's rights;

■ A reminder of any applicable prescription period;

■ A warning to the effect that another lawyer should be consulted as soon as possible;

- A final statement of account; and
- A word of thanks for the mandate that was entrusted to you.

The end of a mandate is also a great opportunity to get your client's comments by sending a satisfaction survey regarding the services rendered. This type of feedback is an excellent way to improve the quality of your services. So, let's resist the temptation to quickly close a file in order to move on to the many other tasks that await us. Let's give the end of the mandate the attention it deserves! ☂

UPDATED PREVENTION GUIDE AND PRESCRIPTION TABLE ON THE WEBSITE

Take a few minutes to visit the Insurance Fund's website at **www.assurance-barreau.com**. The website, which was revamped and is even more topical, contains several useful resources, articles and capsules on current topics.

Among other resources, in the *For Lawyers / Guides and Tools* section, you will find the *Guide de prévention en responsabilité professionnelle* updated to May 2020 as well as the table entitled *Prescriptions extinctives et autres délais* updated to April 2020.

Take a look... it could help save you time and money and support you in your practice! ☂

STAY INFORMED!

There's no question that the pandemic has brought its share of unpredictability. In these circumstances, it's not surprising if you have questions about how to manage your practice and avoid mistakes. In order to support

you during this exceptional period, we are regularly publishing articles on our blog *Maîtres@droits* about prevention related to the situation created by COVID-19. Therefore, we invite you to visit the Insurance Fund's website regularly to stay informed.

Be that as it may, the Insurance Fund team remains available to assist you! ☂



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NOTICE

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