



Week of **September 28, 2010**

## Make Sure You're Not "Tone" Deaf

I recently was asked to evaluate a software program called "ToneCheck." Analogous to programs that check your spelling and grammar for accuracy, "ToneCheck" seeks to alert the user when a sentence in an email may create a feeling of hostility in the reader when, in fact, such a tone is not intended at all. Anyone who has ever sent off an angry or sarcastic email, then immediately regretted it, can see the utility of such a program as a safety check on emotions.

"ToneCheck" is not intended strictly for lawyer use, but when I was asked to review it, there was an implication that lawyers in particular could benefit from it. Interestingly, the program was developed by a Canadian company. In Canada, where civility is highly valued, the Canadian Bar Association's Code of Professional Conduct specifically states (Rule IX, chapter 16): "The lawyer should at all times be courteous, civil, and act in good faith to the court or tribunal and to all persons with whom the lawyer has dealings... [A] consistent pattern of rude, provocative or disruptive conduct by the lawyer... might well merit disciplinary action." There is nothing this formal in the U.S., although some state and local bar associations have adopted voluntary professionalism goals and standards that attempt to encourage "civility" for lawyers.

Why is this something that is even a problem in our profession? Why do some of us feel the need to be rude and obnoxious? In a heated court battle there are some lawyers who view this as an effective tactic, but such behavior often merely entrenches the opposition further. More significant is the issue of client relations. Clients, being human, like to buy from people they like. Doctors receive training about developing "bedside manner" and treating patients with "compassionate care." Yet law schools don't teach the equivalent skills to lawyers. The lawyer is supposed to order, the client is supposed to obey.



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Such an approach too often creates client hostility that results in unpaid bills and disciplinary claims.

I once heard Marshall Goldsmith, coach to many of the top CEOs of corporate America, make two observations that any lawyer should take to heart:

- Trying too much to win can hold successful people back. Generally, we're successful because we're competitive. Being competitive, we win. But, we don't know when to stop, and have to come out on top even in little things, when the effort can be counterproductive or hurtful.
- Destructive words like "no," "but" and "however" discount the value of other people and their ideas. By merely saying "thank you," we can create, maintain and retain relationships with significantly greater results for all involved - without need of a reminder by a software program.



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## Personal Commentary

This month has been chock-filled with activity, capped off today with an incredible honor.

First, I was the keynote presenter at the Lexis-Nexis customer conference; second, I chaired the West LegalEdcenter Midwest Law Firm Management Conference. Then, I was surprised and very honored to received the first **Lifetime Achievement Award from The California Bar's Law Practice Management & Technology Section!** Wow, what an honor to have this new award named after me, and given to me as the first honoree.

Best wishes,

Ed Poll  
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