

Want Your Client's Trust? Sharpen Your Listening Skills

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[Ellen Arvin Kennedy](#)

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When introduced to someone new, he or she invariably asks what kind of law I practice.

"Corporate work primarily — acquisitions, work-outs, representation of creditors and debtors in Chapter 11 bankruptcies," I say, and that's when it happens. Everyone unconsciously takes a half step back as though bankruptcy is somehow contagious.

It's not. I promise.

Even so, most are interested to learn that the current economy has not really affected my work flow. Companies file bankruptcy for all sorts of reasons — some due to the economy at large, but often for reasons completely independent of the local/national economy. They file because there's been a breakdown in their supply chain. They file because of changes to their lease. They file due to lack of short-term financing. They file to reject onerous contracts in order to enter more advantageous arrangements. Unfortunately, a lot of companies who file bankruptcy do so because they wait too long to do anything at all.

It's not just a curious quirk of bankruptcy law that has practitioners putting their clients in court as a last resort. Too often people wait to see an attorney until most of their options have been eaten away by time. Many say that the delay is due to a desire to save attorney fees. No one wants to call in legal help until they have to. Unfortunately, by the time they have to, a lot of the easier and cheaper alternatives their attorneys might have suggested have passed them by.

In addition to theoretically saving on fees, a common reason for persons consulting their attorney too late is denial. In most cases, problems are better handled on the front end, but rather than facing the crisis, many people put their head in the sand and wait for disaster to strike. Inevitably, it will. Once it does, a client's options are often sharply limited. There's nothing I hate more than to say to a client, "If you'd acted sooner..."

Make no mistake: In some — perhaps many — situations, parties are not going to agree, disputes cannot be resolved, and legal action is necessary. With prior planning, costly litigation can sometimes be avoided. Even in cases where going to court is a

foregone conclusion, there is often great reluctance to seek legal assistance before the storm hits in order to learn how to best prepare.

That's not how it should be. A successful attorney/client relationship is one in which both sides understand the needs and goals of the other. Clients, whether they are businesses looking for advice on how to weather a difficult economy or individuals going through a difficult personal predicament, want attorneys who can understand their clients' needs and make the client feel as though the attorney is going through the process with them.

The lynchpin of any attorney-client relationship is candor and trust. An attorney cannot be an effective advocate unless the client discloses the facts of the case completely. This is often difficult for clients to do because they fear facts will reveal instances of poor judgment, bad management or misfortune on their part. Therefore, an attorney must demonstrate that he or she is trustworthy and competent to handle the problem. The first step for an attorney in developing mutual trust is to listen — really listen — to what the client is saying and to try to understand what kind of outcome he expects. When the client knows his lawyer is focused, competent and trustworthy, full disclosure will often follow.

Attorneys often falter by pitching "one size fits all" legal solutions to complex problems. Such an approach is guaranteed to heighten the client's dissatisfaction and is something that clients should not tolerate. It is this system of mutual trust and understanding that gives the most value to clients. Talking to an attorney early may help avoid protracted legal battles, and when such fights are not avoidable, it is beneficial for attorneys to plan. Importantly, tackling problems early also allows for clients to budget and discuss fee alternatives with their attorneys and to reach an arrangement that is satisfactory to everyone.

Attorneys and clients need time to think and strategize. Last minute "fire drills" with no underlying plan of attack are often what cause those large and seemingly unavoidable attorney's fees that have clients shying away from consulting an attorney in the first place. Legal strategies can be the framework for a business solution, but only if an attorney understands the client's business, where the client is headed, and how long he has to get there.