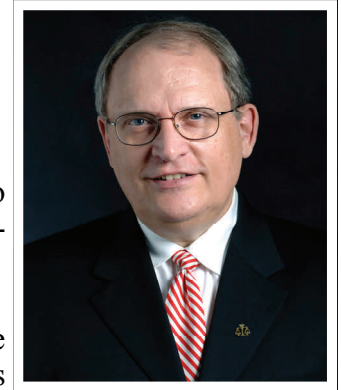


# Improving Attorney-Client Communications: Fifty Tips

By: David L. Raybin

In law school we learned how to speak to judges. Seminars teach us how to speak to witnesses and jurors. Unfortunately, very little attention is given to enhancing skills in communicating with our clients.

We should always strive to improve our relationship with our clients since they are central to our profession. Clients are the best source of new clients. Clients are also the largest source of ethical complaints. This article presents fifty tactical suggestions that I employ in communicating with my clients which you might find useful in your practice.



1. **Representation is more than just “going to court.”** You must build a relationship with your client from the beginning of the case. We all have experienced the situation where the client is hesitant to accept critical advice as to how a case might be resolved. This is frequently caused by a failure to recognize that the client may not do what you think that he or she should do at the critical end of the case because you have failed to build a relationship at the beginning of the representation. The best example of this is my observation of an attorney berating her client in the courthouse: “Larry, Larry, why will you not take this wonderful deal?” The client responds that his name is not Larry but, Steve, and if the lawyer was not even aware of the client’s name, how could the lawyer make an appropriate recommendation as to the resolution of the case. Point made.
2. **It is important that you recognize that the client is under a tremendous amount of stress.** You may be the world’s most experienced lawyer in car wrecks and you can do them in your sleep. However, the client has no experience in this since it is her first case. If you were going in for brain surgery tomorrow you would be “stressed out” as well. The person sitting in your office is functionally going in for brain surgery.
3. **Discuss the issue of “stress” with your client and explain that you are sensitive to this fact.** The client also needs to recognize that he or she is under a tremendous amount of stress and will irritate other family members with abnormal behavior. The client is at high risk of “totaling” his car or getting fired from her job. Discuss this collateral issue and suggest counseling with a trusted person, a minister, or mental health professional.
4. **Without doubt, the most important component of any case is the “client interview.”** While we always take appropriate time to discuss the case with the client, there are always facts that come up throughout the representation that might be helpful to know. We just don’t seem to find the time to learn all we can. One valuable tactic is to have your client write you a letter about the “story of my life.” You can read faster than they can speak. Moreover, the client has time for reflection. The client will appreciate that you desire this level of detail. The letter should always begin with birth and run all the way up through the moment he walked into your office with particular emphasis on the facts surrounding the litigation. I have never failed to obtain valuable information from such letters. Years ago I was representing a bus driver who had run over and killed two young boys while he was experiencing a diabetic episode. I interviewed him for hours and, among other things, learned that he had served in the army. That was about as far as I went with that fact since his service had occurred decades ago. It certainly did not seem “relevant” to this

case. He began his letter to me with the fact that this accident with the boys was the “*second* scariest thing that ever happened to him in his life.” This begged the obvious question. It turns out that the client had been a medic in Vietnam and had won a medal for bravery for saving his entire platoon during an ambush. Needless to say, this formed the central part of my case when it came to character proof. One of the worst witnesses against us “flipped” when he learned of my client’s service since the witness had also been a medic in Vietnam and they formed an instant bond. My interviews with the client were insignificant compared to the valuable fact I learned by having this bus driver write me a letter about the story of his life. I now do this in every case. You should as well.

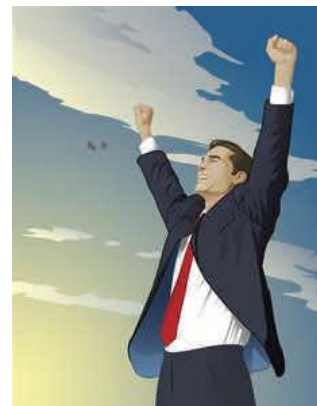
5. **While you may, of necessity, interview the client in her own home, interviews should normally be conducted in your office.** If that is not possible, meet in a restaurant if appropriate but never conduct an interview in your home. You want your professional and personal life to be separate. When conducting cases out of town I have found other lawyers to be most accommodating such as offering a conference room for an afternoon meeting with a client. Follow up with a thank-you note to the lawyer and include a gift certificate to Starbucks.
6. **Keep a list of client referral sources** and send each a holiday gift at the end of the year consisting of anything but fruitcake.
7. **A client interview should last no more than two hours.** A series of interviews is usually more productive. Be careful of information overload. While we want to know the “whole story,” one should always work from the big to the small.
8. **Half-way through the interview walk out of your office for a few minutes.** The client wants to look at your diplomas and certificates. Give them that opportunity. Needless to say, have something appropriate on the wall.
9. **When you return to your office, carry a glass of water.** The client will need it by now and will appreciate the gesture.
10. **Introduce your client to other members of your office that they may deal with.** Your staff will feel part of the team and will begin to build a relationship with the client as well.
11. **Take a digital photo of your client** so your investigator or witnesses may be able to identify your client if appropriate. If the date of the photo is important have the client hold up the front page of the newspaper.
12. **You should always be sensitive to the fact that the client has absolutely no experience in “going to court.”** Never tell the client to meet you in court at 9 o’clock. Always tell them to be there at 8 o’clock because invariably they will be late.



13. **Always write to your client about the court date.** Give him directions to court. If she lives out of town be sure she comes in the day before and not drive all night hoping to make it to court in the morning. *"Amateurs talk strategy. Professionals talk logistics."* Patton
14. **If your client is in custody be sure that the clerk has cut a "transport order."** There is always some problem getting incarcerated clients to court and you should never assume that this has been done correctly. It's just a waste of time to have everything ready for a trial or hearing and the client is still 200 miles away in some prison.
15. **If the client has something to bring to court, instruct him to leave it by the front the door so he will bring it in the morning.** Better yet, have them bring it in advance. Tell the client what to wear to court and have them lay it out the night before.
16. **Be sure you tell the client what *not* to bring: cell phones, pistols, pagers, children, or Bibles.**
17. **Tell your client about court-ordered drug testing at your first meeting.** It frequently takes weeks for drugs to be purged out of one's body. Nothing will ruin an otherwise successful sentencing hearing more than a failed drug test.
18. **If you think that the client is "on drugs" during the course of representation, it is not inappropriate to have the client independently drug tested.** I make this a condition of representation since there is not much that I can do to help a person if they are constantly coming to court stoned.
19. **Client communication extends to the written contract.** You should always have a written contract with your client which spells out obligations and responsibilities. The contract should also address things that are not contemplated at this level of representation. I tell my clients that they are hiring me for the trial but that representation will terminate at the end of the trial. It will not extend to an appeal absent a further and additional contract. This avoids misunderstanding since the client has no concept that the "case" is taken in stages. Contracts for representation are always construed in favor of the client and against the lawyer because of the superior position of the attorney in having drafted the contract in the first place. If you charge a non-refundable fee, then the written contract must so specify. There is no such thing as an "oral" contract for non-refundable fees. They must be in writing.
20. **The most important thing about sending your client a bill is that you also include a stamped, self-addressed envelope.** We tested this out in our office; the rate of payment was much higher when the envelope was enclosed. Use "forever" stamps since some clients may procrastinate so long that the rate of postage increases. Do not send stamps to incarcerated clients since stamps are considered contraband.



21. **When you are discussing things with your client, make certain he discontinues his Facebook account .** Facebook is just an open invitation to invasion of privacy. There is no telling what they put on their Facebook. There is zero privacy in a Facebook account.
22. **Does the termination of a Facebook account constitute “destruction of evidence?”** Certainly not. The simple answer here is to have the Facebook data captured and frozen in time before terminating the account. A Facebook account is a moving target and it is always subject to change and alteration by others.
23. **Advise the client to immediately change the password on all of her electronic accounts, including cell phones, e-mails and, everything else.** The last thing you want is your communications with your own client to be intercepted by some “friendly” witness who has all of your client’s passwords. Have the clients change their passwords frequently
24. **You should always remember that you are also under stress so deal with it appropriately.** Some clients are more stressful than others. Address these issues and then move forward. Do not wallow in indecision. *“The time to take counsel of your fears is before you make an important battle decision. That’s the time to listen to every fear you can imagine! When you have collected all the facts and fears and made your decision, turn off all your fears and go ahead!”* Patton *“Be always sure you are right -- then go ahead.”* Crockett
25. **Delegate as much as possible.** *Don't tell people how to do things, tell them what to do and let them surprise you with their results.* Patton
26. **Document your file.** A short pencil is better than a long memory any day. I have a plan for each case and practice “projective law.” In other words, think about where the case is going to be in six months and let your short term decisions be guided by the overall projected plan for the case. Be aware, however, that “your” file belongs to the client. Rule 1.16 of the current rules of professional conduct provides “The lawyer may, at the lawyer's own expense, make a copy of client file materials for retention by the lawyer prior to surrender.”
27. **Be aggressive with the case and hopeful to the client about a successful, albeit realistic, result.** There is a delicate balance between the “Rambo attorney” and the “Wimpy lawyer.” *“Nobody ever defended anything successfully, there is only attack and attack and attack some more.”* Patton. Clearly, you want to monitor client expectations so they are realistic. However, clients want some hope. *“We must accept finite disappointment, but never lose infinite hope.”* King



28. **Do not procrastinate.** Rule 1.3 of the current rules of professional conduct provides that “a lawyer shall act with reasonable diligence and promptness in representing a client.” The lawyer does a disservice to the client by endless delay. Remember that clients not only want a successful result, but they want their case to be resolved quickly so as to reduce the stress and to increase the certainty that their lives can move forward. The primary reason for procrastination is that lawyers frequently feel that they cannot “get fired up” for the case unless they feel the pressure of a dead line. That is absurd. Procrastination is an invitation to a malpractice lawsuit.
29. **Do not take on more clients than you can comfortably handle.** Some lawyers think a multitude of clients is a wonderful bounty. It can be a curse.
30. While we have innumerable communication devices, **the telephone is still our primary method of conducting business.** Emailing is also appropriate because there is a good record of what is being communicated. Email can be accessed on your phone as easily as Text Messages. In my opinion, “Txt Mgs R 4 Children” and should not be used with clients since there is less security and it is too informal.
31. **Instruct your receptionist to always inform the caller as to your whereabouts before transferring a call to your office phone if you’re not there.** The worst thing that a prospective client wants is immediately being “dumped” into your voicemail with no indication of when you might return the call. You will never know about the messages never left by prospective clients who need a lawyer NOW and have moved on to the next lawyer on the list. If you do not have a receptionist, then your voicemail should indicate when you might return.
32. **Your voicemail message (or receptionist) should always ask the caller to leave a primary and secondary, alternate number.** People leave the number they are calling from (such as from work) and never think to give a cell number which they can access when they are home. You may not be able to call back until after they have left work. Since you don’t have that alternate number that is one less prospective client. You want all points of communication so you can employ tip 33. I am not quite ready to solicit email addresses in my telephone voicemail messages. Moreover, people don’t always remember their email addresses or frequently give them inaccurately in a phone message. My staff, when taking telephone numbers “live,” use discretion in offering to take email addresses from prospective clients. This ensures accuracy and gives me another point of contact.
33. **It is important that you promptly return your phone calls.** About twenty percent of the clients in our office have had other lawyers. The biggest complaint is that the prior attorney would “never call them back.”
34. **Do not be a lawyer who stays on a call forever.** Get yourself a timer to help monitor the length of your phone calls for billing purposes and to also put a “governor” on the length of your calls so that you can be accessible for the next call.



35. **Accessibility is the key to a successful law practice.** Lawyers who “go missing” for days or even weeks on end will frequently find that their clients are missing as well.
36. When *you* leave a message for your client or others, **recite your phone number first.** Then I leave the body of the message. A lot of people garble their telephone number at the end of the message and people have to listen to the whole thing all over again just to get the phone number. Some folks do not bother and you will never receive a return phone call. **ALSO be sure to also leave your telephone extension number if you have one** so that the return-caller does not have to run through some ridiculous menu to get back with you.
37. **When you speak with a client in your office, insist that they turn off their cell phone so that they are not fiddling with it while they are speaking with you.** Turn off your own cell phone and other communication devices so that you can give full attention to the client.
38. **Lawyers often ask if they should give their cell phone numbers to their clients.** At the end of the day you will probably want to do that if you believe that it is critical to a particular case. I have found that a better option is to give your client your e-mail and ask him to send you an e-mail if there is an “after hours” issue. I can access my e-mail on my cell phone and that seems preferable than having clients call in the middle of dinner.
39. **Be careful of automatic name insertions when addressing email.** It may be a similar name but not the person to whom the mail is intended. If this becomes a problem turn the feature off.
40. **Be sensitive to clients with physical disabilities.** Hearing difficulties is always a “hidden” problem, particularly as our population ages. You should also be sensitive to any hearing deficiency that you might have.
41. **It is critical that clients occasionally hear from you in written form.** When you write to a client, put it in language that they can understand. Have a firm policy of sending clients copies of everything.
42. **When you write to your client or anyone else, make certain that the “print” is large enough to read.** Most lawyers use 12 point font on their word processors because that is the default setting. Kick your computer up to 13 point and you will be amazed at how smart you will appear to everyone because now they can actually read what you write
43. **Client communication should be a strength for your practice.** You should emphasize this on your web site. Indeed, you should be certain that you have a website because, in this day and age, if you are not on the web you do not exist.



44. **Prospective clients not only find lawyers through “Google” searches, but they often hear about a lawyer and use the internet to “validate” what they have heard.** Having an appropriate web presence will do much to increase your visibility and enhance communication with prospective clients.
45. **Keep your word to your client and to other lawyers.** The Bar has a long memory.
46. **Never disparage other lawyers or judges to your client.** Your opinions are not privileged. Occasionally, paranoid clients tape-record their own lawyers.
47. **Keep client confidences.** The privilege extends beyond the grave.
48. **Before accepting evidence from the client be absolutely certain it is authentic and the client has not tampered with the evidence.** Do not accept contraband.
49. **Rule 1.4 of the Rules of Professional Conduct contains extensive ethical requirements and prohibitions regarding client communications.** Read the rule. **Rule 1.8 deals with certain client conflict-of-interest issues.** Study the Rule. **Rule 1.7 [12] addresses the most serious communication problem: sexual relations with one’s client.** Pray over the rule.

*And Finally,*

50. **Be sure to keep a scrapbook of letters, cards, and e-mails that happy clients send you through the years.** Pay attention to what the clients said so you can promote those traits that first attracted the client and helped you resolve their controversies in a successful manner. *Some people tap their feet, some people snap their fingers, and some people sway back and forth. I just sorta do ‘em all together.*” Presley

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