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INFORMED. INDISPENSABLE. IN-HOUSE.

Outline, Outline, Outline

Skills and Professional Development



“Just because it pops into your head, doesn’t mean it needs to come out of your mouth.”

~Unknown

I suffer from what my husband jokingly calls a “blurting disorder.” I have a tendency to say what I think at any given time, which can result in misunderstandings and miscommunication. Thinking out loud can be beneficial when brainstorming, but not necessarily when negotiating a contract, conducting an employee review, or even meeting your best friend’s fiancé.

During college, my best friend got engaged and I had the pleasure of meeting her fiancé over a Christmas break. She had told me so many stories about him that I had formed a mental picture of him. In my mind, I imagined a larger than life presence. When I finally had the pleasure of meeting him, I made the mistake of exclaiming, “Oh, you’re shorter than I thought you would be!” Ever the gentleman, he politely smiled and replied, “Really?”

I was mortified with the realization that I had just used my “outside” voice. Thankfully, decades later, we can all laugh about that first meeting. However, not every relationship has the benefit of time to recover from an inadvertent “blurt.”

In the past couple of years, I have rediscovered the value of crafting a good script or roadmap for important conversations. Having a written roadmap keeps you focused on the relevant issues and can help prevent the stray comment. It also allows you to guide the discussion and avoid tangents.

Students create outlines to map out a paper. Outlining helps organize thoughts and creates a logical flow for the written conversation. Creating an outline or script before an important discussion can also increase the effectiveness of the verbal communication. Those of us who participated in Moot Court were trained to create what I call a briefing outline. This consisted of two pages, placed side by side on the speaking podium. It outlined relevant points, supporting caselaw, and statute citations that could be easily referenced during oral arguments. This was an invaluable tool in advocacy competitions. Due to the nature of these competitions, we outlined both sides of a given case because we could be required to argue either side.

How much more valuable is that training now as we engage in high-level business negotiations? Not only should we be putting to paper our concerns and “arguments,” but also those that we anticipate from the other party to the transaction.

In the last year, I engaged in a very protracted contract negotiation. We continued to go around in circles for many months and revisited the same issues in multiple conversations. The non-lawyer representative for the other side had a technique where he would keep asking the same question in different ways because he did not like our answer. Before a key meeting, I sat down with our internal project manager and we wrote out our main points and potential responses from the other company. We reviewed our outline and rehearsed our side of the discussion. When it came time to have the conversation (over the phone), we kept our scripted outline in front of us and did not stray from it, even as the other party again attempted to sidetrack the discussion. We were able to successfully keep the negotiation on point and move forward to execution.

In addition to making outside negotiation more effective, an outline also keeps you focused, calm, and levelheaded for internal negotiations. I recently conducted a review of an employee with whom communication has been challenging. Instead of merely walking in with a list of items or agenda, I actually created a script with talking points and certain phrasing that I planned to use. I kept it in front of me as we spoke and I managed to guide the discussion in a productive, non-reactive manner that made the whole experience much less stressful.

As in-house counsel, we are trained to think on our feet. As important a skill as that is, we also need to remember to take the time to properly prepare when time permits. Just because we can work and communicate without a script doesn't mean that we always should. Taking the time to write out the thoughts, concerns, and even counter-arguments of an upcoming discussion, presentation, negotiation, or review provides a blueprint to build effective communication. I'm sure you have heard the statement that the three most important things in real estate are "location, location, location." I think that the three most important things in communication are to "outline, outline, outline."

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