

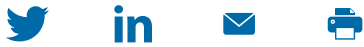
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9 MINUTES TO READ · 2000 WORDS

# Active Listening: Do I Really Need to Say This?

By Stephen E. Seckler

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Several years ago, the *New York Times* [published an article](#) describing the term “cooperative overlapping.” The author suggested that in New York, if you are not interrupting, you are not interested in the conversation.

A promotional banner for mycase. It features a teal background on the left and a dark blue background on the right. The teal section contains the text: "BE A HERO TO YOUR CLIENTS. KICK ADMIN TASKS TO THE CURB." The dark blue section contains the text: "Fewer hassles. Less paperwork. More client love." and the mycase logo.

After reading the article, it occurred to me that I’m in a mixed marriage. My wife is Jewish and from Ann Arbor, Michigan, and I’m Jewish and from New York.

Simply put, when I’m interested in a subject, I like to jump in and participate in the conversation. My wife, on the other hand, thinks that interrupting is rude. In the Midwest, it is more polite to let someone finish their thought before weighing in.

Since that time, I’ve been considering a bigger issue: Do I simply talk too much?

## In Building Business Relationships, Active Listening Is Key

I’ve been a student of active listening for more than 30 years. In 1990, I participated in my first mediation training and learned about the importance of giving parties a chance to be heard. We practiced nonjudgmental listening and the art of asking open-ended questions. We learned that letting someone vent can go a long way in getting that person to start thinking about compromise.

Several years later, I learned that the same principles apply to coaching. A good coach asks a lot of open-ended questions and then listens with the intention of trying to understand. Good coaches do not focus on their own thoughts, feelings, reactions, and experiences when the client is speaking. A good coach asks questions to get coachees to articulate their goals and underlying beliefs and to identify roadblocks that are getting in the way.

As I've come to appreciate, active listening skills are important not only in coaching and in mediation. They are equally important if you want to build trusted relationships that will help you build your practice, advance your career, and be a more effective manager/leader.

Part of that means listening more and speaking less.

## **As a Group, Lawyers Are Not Great Listeners**

As I said in my article "[Stop Thinking \(and Acting\) Like a Lawyer](#)" for the September 2022 issue of the *GPSolo eReport*, the qualities that make lawyers effective in representing their clients (skepticism, aversion to risk, competitiveness, intellect, etc.) can get in the way when they are not actually practicing law.

If you are representing a client in front of a tribunal, it is important to be persuasive and well-spoken. If you are trying to generate referrals from a good referral source or convince your associates to spend more time in the office, you need to remove your lawyering hat.

While some attorneys appreciate that representing clients and building a practice may require different communication skills, as a group, many of us are not good at shifting gears. We feel the need to explain ad nauseam in situations when no one really cares about the details. We fail to recognize that brevity might be a lot more effective in building trusted relationships. We fail to appreciate that listening to understand will get better results.

As lawyers, we like to show how smart we are. In reality, listening may be the best way to do that.

So, how do we decide when to speak and when to keep quiet? One way is to apply the concept T.H.I.N.K. (The original source of the acronym is unknown, but it seems that it has been used a lot in educational settings.)

## **T.H.I.N.K. Before You Communicate**

Each letter in the acronym “T.H.I.N.K.” represents a question that should be asked before speaking:

T - Is it true?

H - Is it helpful?

I - Is it inspiring?

N - Is it necessary?

K - Is it kind?

By considering these questions before speaking, individuals can avoid saying things that might be hurtful or unproductive and instead communicate in a more thoughtful and positive way. (Side note: This explanation of T.H.I.N.K. was generated by ChatGPT.)

Here are some other questions to think about in deciding whether something needs to be said:

- Are you being respectful?
- How might people interpret what you're saying?
- Is this appropriate for your audience? Maybe they don't share the same sense of humor or worldview.

I was recently on a panel, and one of the speakers cited a book but gave the wrong name of the author. I thought briefly about correcting her. But it was a well-known book, I didn't think the audience would have any difficulty in tracking it down, and most importantly, I knew she would be offended. I didn't think it would be helpful, it wasn't kind, and it certainly wasn't necessary. I kept my mouth shut.

Humor can be a particularly challenging issue. If you are someone like me who takes pride in having a “good sense of humor,” it can be hard to hold back when a funny thought percolates into your consciousness. Getting someone to laugh is a great way to build your connection. But it can also backfire.

I was once giving a presentation to a law firm about retirement, and I wanted to illustrate some stereotypical retirement activities that seniors might engage in. One of my slides showed a couple in their 70s gleefully playing a video game. I told the audience on Zoom that the couple was playing “Kill the Nazis.” I’m pretty sure no one laughed. Practice tip: Be very careful with humor on Zoom.

Not all topics are appropriate for all people. If I know that someone has children, especially adult children, as I do, I often use that as a way to connect. But if I know someone is single, I may avoid those topics unless he or she raises them.

Similarly, politics and religion can be dangerous topics to bring up, although, like humor, they can also be a great source of connection. (See my January 2022 *GPSolo eReport* article, [“Building Your Relationships Through Politics, Religion, and Humor.”](#))

## Storytelling Is a Great Way to Make a Point, but Be Prepared

Storytelling is a great way to keep a listener engaged. But in most situations, if you have a good story to tell, keep it short. Think about what facts are necessary to make the point, and don’t perseverate on non-material facts. This might take some preparation before you head out to a networking meeting.

Do you need to list the ten things that your client manufactures? Maybe in a court of law that matters. But maybe the accountant you are speaking to just needs to know that the two of you have synergies because you both serve manufacturing companies.

In a nutshell, many of us would often be better off saying a lot less (or sometimes nothing), particularly when we are not giving legal advice. Here are some common situations that we all find ourselves in and how you might want to navigate them:

**Being late to a meeting.** If you are late to a meeting, just say you are sorry. In most situations, no one cares that you took your dog to the vet, that the vet was running late, and that you ran into an old friend who needed a lift after the appointment.

**Rescheduling a meeting.** The same rules apply as when you are late to a meeting. No one wants to hear a five-minute explanation of why you need to reschedule a meeting.

**Explaining a negative at a job interview.** If you need to explain something negative during a job interview (like a gap in your résumé), give a concise answer that addresses the question but quickly shifts the conversation back to whether you are the best candidate. Don't give a long-winded explanation. It will come across as defensive.

**Listening to someone describe a bad experience.** Being empathetic does not mean telling someone else about how you had the same injury, tragedy, or bad experience. I once worked for someone who, without fail, would share his own misfortune when someone shared theirs. When someone's dog has just died, they don't want to hear about how your dog died three years ago. There is something to the adage that "misery loves company," but be judicious in sharing your own misfortune when someone raises theirs.

**Responding to the question "what do you do" at a networking event.** Recently, I was speaking with a lawyer whose specialty is data privacy. Pretty quickly, he got deep into the weeds and started talking about the regulatory agencies that govern the work he does. I was soon lost. He never stopped to check in with me to see if I was following him. If someone asks what you do, be succinct. Only share the skills that might be relevant to that individual. If he or she asks follow-up questions, by all means go into more detail. But don't give a ten-minute monologue.

**Giving feedback.** When you are giving feedback to employees or colleagues, think about what they need to hear. Giving them a blow-by-blow description of how they botched a project may not be that constructive. Instead, focus on the future and what they might want to do differently rather than rehashing the past. Try to include some things they do well.

**Receiving feedback.** As a group, lawyers are terrible at receiving feedback. How often do we say "yes/but" when someone is letting us know what they think? We like to argue. We do not like criticism. But if we are truly committed to improvement (for ourselves and for our team), we want to encourage feedback and not shut it down. If someone gives you feedback, just say, "thank you." You can always get into a conversation about it later. Saying "thank you" does not mean you agree. The same is true when someone is giving us a compliment or giving us recognition. If someone compliments you, just say, "thank you." Don't minimize it or give commentary.

**Running a meeting.** Being an active listener also means getting others to be active listeners. This is particularly true if you are running a meeting. Are there other members of the team who should be invited to give their input?

**When someone tells you something you already know.** This is a particular pet peeve of mine. Is it really necessary to tell someone you already know a fact when they share it with you? Sometimes it is important. Often it is not. Saying you already knew something is more about proving how smart you are.

And last but not least:

**When advising clients or screening prospective clients.** Giving advice is much more effective if we actually understand the problem before we jump in. While much of what I'm suggesting relates to communication beyond the actual practice of law, active listening is critical if you want to give good legal counsel. And in our effort to show clients or prospective clients that we are delivering value, many of us jump in too soon. Michael Bungay Stanier, a talented coach in Canada, calls this our "advice monster." As Michael suggests, the best way to respond when a client describes a problem is to say, "and what else?" and to keep doing this until we find out what the "real" problem is. Another way of thinking about this is the expression "prescription without diagnosis is malpractice." When clients are describing their problems, we should listen more to better understand their issues. Otherwise, we may be solving the wrong problem (or missing the bigger problem).

## **You Have Two Ears and One Mouth**

God gave us two ears and one mouth for a reason. If you spend more time exercising your ears, your law practice will grow, your career will advance, and you will be a much happier manager. And you'll be a better lawyer as well!

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