

Business Communication Techniques for Lawyers

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The dynamic business environment and the changes in the perception of and sensitivity to time, affect also the business communication skills needed for the successful business people. Nowadays, particular trends exist in how business people communicate and these become applicable to corporate lawyers and to the law industry as well. One of the trends is that successful communication in business is the communication in which people are left with positive feelings after communicating with one another.

The article aims to use as grounds Mehrabian's communication research and to provide time-sensitive improvement possibilities through neuro-linguistic programming techniques and coaching tools for verbal and non-verbal communication. These are valid and proven to be effective in the corporate law sector as well. The article's limitations come from the fact that it creates a general discussion on business communication for lawyers without going into the specifics of the law profession and the variety of manifestations.

Introduction

Effective and meaningful communication is vital to lawyers. It is important that messages are conveyed in the most effective way possible, in a timely manner, and having verbal and non-verbal signals aligned. Effective communication is crucial when lawyers are participating in a request for proposal, networking with prospects or partners, communicating with staff, associates, other lawyers and vendors, or having a one-to-one sit-down with an existing or a potential client².

Most successful law firms have ongoing educational programs to improve and maintain superior legal skills. Drafting skills, oral advocacy skills, trial skills, being few of the many streams, are all very important. Beyond them though, more and more emphasis is placed on the lawyers' soft skills³. People are in general time-sensitive, all forms of messages get shorter, clients are more demanding, competition is intensive, and this creates an emerging need for the development of important skills, like communication rapport, relationship building, service orientation, networking, and understanding of the human nature and acknowledgment of people's differences.

Professor *A. Mehrabian* is most well-known for his publications on the relative importance of verbal and nonverbal messages, resulting from a study he conducted in 1967. In this study, still recognized as valid by many researchers in the field, *Mehrabian* comes to two main conclusions:

- 1) there are basically three elements in any face-to-face communication – words, tone of voice and non-verbal behavior;
- 2) the non-verbal elements are particularly important for communicating feelings and attitude, especially when they are inconsistent, i.e. if words disagree with the tone of voice and nonverbal behavior, people tend to believe the tonality and nonverbal behavior.

The study resulted in the following statistical representation:

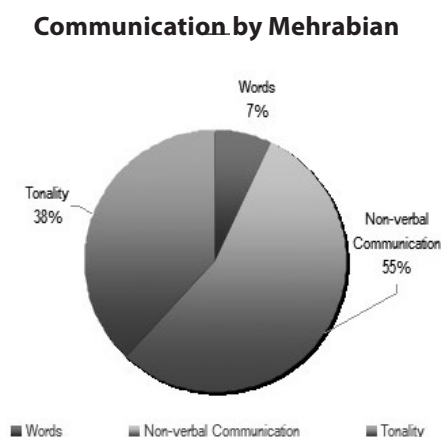


Figure 1. Communication Research by A. Mehrabian⁴

To be able to represent the above in an effective manner, the lawyer could use a variety of tools and techniques. And yet, we come again to time-sensitivity. Time has become the most highly valued currency and a luxury to many.

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² Top must-haves for succession planning, *Law Office Management & Administration Report 2005*, Vol. 5 No. 2, p. 11–12

³ *M. Becker-Avin*, *Developing Lawyers' "Soft Skills" – a Challenge for the New Era in Legal Services*, *Law Practice Today 2014*, <http://www.lawpracticetoday.org/article/developing-lawyers-soft-skills-a-challenge-for-the-new-era-in-legal-services/> (access 2.8.2017).

⁴ *C. David Mortensen*, *Communication Theory*, Transaction Publishers 2011, Dec 31, p. 193.

Therefore, lawyers do not have extensive time disposal and cannot engage in long-term soft skills trainings and educational programs.

Among the rapid methods which could be helpful in improving verbal competencies, non-verbal communication and the understanding of tonality, are neuro-linguistic programming (NLP) techniques and coaching tools. Captivating some techniques for direct use, and others – from the relationship building between the coach and the client, or between the NLP expert and the client, could bring many benefits to the lawyers' soft skills development.

Neuro-Linguistic Programming

NLP was created in the early 70s of the 20th century in the United States by *R. Bandler* and *J. Grinder*, with the cooperation of a large group of professionals, including *M. Erickson*, *V. Satir*, *R. Dilts* and *J. Delozie*. The basis of NLP stands in retrieving the successful model of high professionals in their field and establishing how they do what they do (even if the person in question does not know what they actually do and how they do it), further called „modelling”.

According to the NLP understanding, everyone has a model for perception of the world based on their values, beliefs, behavior, experience, etc. This is an individual model which differs from the others in certain aspects, or completely. The reason is that the experience acquired by each person is different, and therefore the ways in which they interpret the world differs. Even people who shared the same experience, perceive and remember things differently. A song or a picture can create totally different feelings, moods, emotions and reactions in different people because of the individual response to them.

The institute of Neuro-Linguistic Programming gives the following definition of the term: „Neuro-Linguistic Programming (NLP) is an exploration and change in the real-life behavior through a set of principles, techniques and behavioral techniques. It allows people to change, adopt or eliminate habits and offers a choice for everyone's rational, emotional and physical status”. NLP has also often been called a „science of excellence”. NLP is a model that explores the links between the way the physiology and the brain work (neuro), how the words are used (linguistic), and the accepted patterns of behavior (programming). In other words, NLP is a set of models that make up the approach to success that can be applied in every sphere of reality and most importantly – in business. For the purpose of this article, the benefits of NLP will be discussed further in the context of law practice.

Having accepted the NLP presupposition that everyone's perception is based upon their differences, there is a call for understanding different capacity for problem solving, build-

ing interpersonal relations, leadership, self-improvement, establishing strategies and skills to influence⁵. Therefore, lawyers should adapt their communication skills and shape their messages accordingly, so that the meaning is conveyed in such a way, that it creates understanding and respective feedback.

NLP techniques: modeling

Neuro-Linguistic Programming (NLP)⁶ is based on a methodology called modelling. Modelling means detecting and describing the basic elements and processes through which people do something. The process begins with the identification and study of a human model. This is an individual who does something in a particular, usually highly skilled manner. This is a very good method for the study of people and how they do things. For example, if a lawyer wants to know how to be very successful in networking, they have to find a proven expert who knows how to do networking extremely well. Then they ask a lot of questions about what the networker does, what they are doing that works and what does not, etc. At the same time as the object of modelling is observed, this often leads to new and more relevant questions to be asked in the process of operation. The addition of NLP techniques makes it possible to determine much of what makes this human model an expert even when they are not even aware of that.

When the whole process is done properly, using the time and technology and applying logic, the outcome is a new model. This new model results in a set of instructions⁷. If it is good, it can be used by anyone who wants to duplicate the skills and abilities of the human model used as an initial subject. In other words, anyone can be as good and professional in presentations as the model is. Of course, this requires effort and practice, but both are lessened when compared to a scenario in which the training is applied in more traditional ways⁸.

Modelling involves a process of observation:

- 1) monitoring the physiology of the model;
- 2) studying the language used (words, linguistic structure);

⁵ *D. Ilieva-Koleva*, Neuro-linguistic Programming Techniques for Perfecting Presentation Skills, M-Sphere, Zadar, Croatia 2014, https://www.researchgate.net/publication/283346614_Neuro-linguistic_Programming_Techniques_for_Perfecting_Presentation_Skills. (access 2.8.2017).

⁶ *R. Dilts*, Neuro-linguistic Programming: The study of the structure of subjective experience, Meta Publications, 1980.

⁷ *N. Galtsova*, Основные принципы эффективной презентации учебного материала с позиций нейролингвистического программирования (Basic Principles of effective presentations – study materials with NLP), Vestnik Tomskogo gosudarsvtvennogo universiteta 2004, p. 282.

⁸ *J. Richardson*, The magic of Rapport, Meta Publications 2000.

3) studying the thinking of the model⁹.

Modelling is an approach that involves the use of sensory acuity and flexibility in terms of change. Moreover, the approach is based on the differences – what makes someone different and affects their behavior, success or failure. In other words, what the difference that makes the difference is? This model does not attempt to answer the question why, but rather the question how.

So, how does someone communicate successfully in their law practice. This technique could be used by finding a model of excellence in the communication areas that one aims to improve and extracting the model through observation, questioning or by inviting the person to be a mentor. Everyone needs a role model. If done properly, copying another's way of doing things and phrasing is also an effective form of flattery. However, attention must be paid to not being obvious or obsequious about it. Role models, mentors, such as senior associates, could be used as a sounding board¹⁰.

NLP techniques: representative systems

Each person uses sensory organs to perceive the outside world, to study and to witness its transformation: to see pictures – visual, to hear sounds – auditory, to move – kinesthetic, to talk to themselves – auditory digital. Eyes, mouth, nose, ears, skin are the only points of contact with reality. The world offers an infinite variety of sensory events, but observers can see only a small part of this diversity. And the part that is seen is filtered by a unique experience, culture, language, beliefs, values and assumptions of each individual. Everyone lives in a unique reality based on individual experiences and acts accordingly, relying on this reality, and on their own model of the world described previously.

The methods for obtaining, maintaining and coding the information in the mind into pictures, sounds, feelings, smells and tastes are known as representative systems.

Everyone uses all (visual, auditory and kinesthetic) representative systems constantly while not realizing it and tends to favor one over the other. For example, many people have an inner voice that arises in the auditory system and creates internal dialogue.

In business and corporate law environment, communication occurs at all levels and one should develop knowledge and understanding of people's representative systems. Whether there is a strongly visual person to communicate with, or one who is primarily auditory, effective communication skills require adaptation and shifting to the language and perceptual preferences of the other. Below are some of

the basic signs to observe when scanning the other party in communication, in order to adapt to their preferred communication style.

Visual people maintain eye contact during meetings, seek and present visual materials such as business cards, brochures, their appearance shows attention to detail, they talk using words related to the visual representation (see, observe, look, picture, focus, etc.), prefer larger distance from the person they communicate with, and stand still and organized in their position.

Auditory people might not maintain eye contact which should not be perceived as a sign of disrespect. Auditory representation is also shown by a slower response due to the need to hear the received message in one's own mind. Auditory people are easily distracted by noise and surrounding sounds, and the typical words used are listen, hear, tone, say, talk, etc.

Kinesthetic people seek comfort and therefore do not follow strictly the formality in dress code and non-verbal communication. Kinesthetic preferred representation makes people maintain closer distance as there is large comfort in touching and being touched even during first time meeting. The typical words are feel, touch, smell, grab, handle, catch, contact, etc.

In using the representative system technique for successful communication, lawyers should neglect their own preferred representation and act as chameleons, thus adapting to the other person's style and reaching rapport much faster than waiting for a natural liking to occur.

Coaching

Coaching is a developmental ongoing interaction between two people – the coach and the client. Coaches assist their clients in developing their capabilities, achieving their goals and objectives and producing successful results. The coach facilitates change through verbal and non-verbal communication (questions, reflections, explanations, metaphors, tasks, guided focus, exercises, etc.). The coach promotes and supports the client's growth, learning, professional and personal development. The coach creates and facilitates change, elicits, selects, trains, asks meaningful questions, motivates, creates insights, explains, sets tasks, evokes, challenges, stimulates, supports and encourages the client's self-expression.

⁹ D. Ilieva-Koleva, *Methods for Perfecting Presentation Skills*, 2014, 13th international scientific conference Economy and Business, Elenite, Bulgaria, https://www.researchgate.net/publication/298727844_Methods_for_perfecting_presentation_skills (access 2.8.2017).

¹⁰ N.J. Dilloff, *Effective Communication Tips for Young Lawyers*, American Bar Association Young Lawyers Division, *The Young Lawyer*, 2009, https://www.americanbar.org/content/dam/aba/publishing/young_lawyer/yld_tyl_oct09_commtips.authcheckdam.pdf (access 2.8.2017).

There are numerous areas in which coaching can be used. The following list is detailed but not exhaustive: accepting change, adaptability, anger management, career development, change of position, commitment issues, communicating emotions, communication issues, company/business or personal positioning, conflicts and conflict resolution, cultural differences, decision making, emotional intelligence, feeling left out or left behind, gender communication, job selection, language precision, leadership competences, learning issues, mediation, modeling for excellence, motivation (self and others), negotiation skills, nervousness, organizational issues, performance enhancement, personal organization, presentation skills, process coaching, procrastination, project planning, relationship issues, role issues, self-esteem issues, social skills, stage fright or negative emotions, stress management, test anxiety, time management, work-life balance, etc.¹¹.

Coaching tools: rapport

Rapport is a natural human process in which the participants of communication process learn what the difference is that makes the difference, so it can be used effectively and consciously. Rapport is the ability to relate to others in a way that creates a climate of trust and understanding. The basis of rapport is that when people are like each other, they like each other. Rapport is the process of responsiveness, not necessarily liking. In the context of law practice, it is important to point out that rapport can be useful in face-to-face meetings or in digital interactions, as long as the participants have a visual connection.

Through rapport people create a relationship of trust and responsiveness, refine and extend the natural skill of communication. Communication seems to flow when two people are in rapport, their body language and their words match. Body language and tonality are the most important elements in the process of building rapport¹².

The most interesting outcome of *Mehrabian's* research into the process of understanding communication, especially in interpreting the feelings and attitude of the other person, was that if the body language of communicators did not match what they were saying (a phenomenon known in psychology as incongruence), it was the body language that was the deciding factor.

It should be noted that there have been many subsequent studies of *Mehrabian's* work calling into question these percentages, such as that by *Argyle*¹³. Nevertheless, even as psychologists argue over the exact ratios, the significance of body language in the context of understanding and comprehension must invariably be recognized and acknowledged.

The words employed might be what the lawyer wishes to present, but how they are delivered conveys the real meaning of the speaker¹⁴.

People who are in rapport tend to mirror and match each other in posture, gesture and eye contact. They are engaged in mutual responsiveness and their body language is complementary. When people are not in rapport, their bodies reflect it – whatever they are saying, their bodies will not be matching.

Common experiences bond people together, even when the experience is not their own. All opportunities to find a common theme on the basis of which to create a bond can be employed to make the rapport stronger¹⁵.

Successful communicators create rapport, rapport creates trust, and trust is essential in the law practice. By matching and mirroring body language and tonality, lawyers can gain rapport very quickly. Matching eye contact is an obvious rapport skill and usually the only one that is consciously taught in English culture. To create rapport, communicators can attempt to match each other's body language, sensitively and with mutual respect. This helps to build a „bridge“ between their models of the world and assist them into uniting their background and overcoming the barriers. It should be noted, however, that matching does not constitute an obvious and exaggerated mimicry of copying other person's movements.

Rapport is established by matching and mirroring, wherein mirroring is the replication of the mirror image of a person's physiology, and matching is the replication of the same aspects of a person's physiology. Cross-over matching and mirroring is when one aspect of a person's physiology is matched and mirrored with a different aspect of our own physiology, such as breathing with a finger movement.

The time taken to create and build rapport pays back in the influencing process between the lawyer and the other party of communication. Lasting rapport requires sincerity, integrity and receptivity.

Coaching tools: sensory acuity

Sensory acuity is a powerful technique used to gain awareness of another person's subconscious responses. Lawyers are rarely trained to perceive another person's subconscious feedback. By close observation through the visual, auditory

¹¹ D. Ilieva-Koleva, *Mentoring – Process, Guidelines and Programs* 2015.

¹² J. O'Connor, J. Seymour, *Introducing NLP: Psychological Skills for Understanding and Influencing People*, London 2002.

¹³ M. Argyle, J. Dean, *Eye Contact, Distance and Affiliation*, *Sociometry* 1965, September, No. 3, vol. 28, p. 289–304.

¹⁴ M. Eggert, *Brilliant Body Language*, Harlow 2010.

¹⁵ D. Molden, P. Hutchinson, *How to be Confident with NLP. Powerful Techniques to Boost your Self-confidence*, Harlow 2008.

and kinesthetic senses, law practitioners can benefit through the accumulation of a tremendous amount of information.

Sensory awareness helps to establish rapport and to determine the response of the other person we communicate with. When communicators are more sensory aware, they are able to notice when something is not working in the process of communication and to change the direction to reach the desired outcome. By learning to gather information through the senses, lawyers will be able to take note of information during communication of which they were previously unaware. Using sensory specific language, based on observations of change, can prevent the practice of mind reading and guessing about the other person's behavior¹⁶.

Having presented the NLP techniques and coaching tools in help for enhancing business communication skills for lawyers, we should also draw attention to some facts which have changed and will continue to change the law practice interactions.

According to an article¹⁷ by *David Maister*, a former Harvard Business School professor who has made a specialty in law firms, and is the author of several books, lawyers are professional skeptics. They place the worst possible construction on the outcome of any idea or proposal, and on the motives, intentions, and likely behaviors of those they are dealing with. In the same article, he states further that lawyers lack intimacy and sociability, they rarely adhere to principles or values, they are inherently distrustful.

In terms of communication and doing business in the legal environment, the above tendency in profiling could create danger in understanding communication of the 21st century and the overlapping of generation perceptions. The older generations of lawyers have to be taught how to use or at least respect the tools of the internet age, but the Millennials have to learn to look at each other (eye contact maintenance and observation), discuss rather than speak to each other (listening and hearing), communicate and collaborate (rapport building). Lawyers are no strangers to challenging the ideas of others, but to challenge ideas

constructively is not inherent in the lawyer personality or lawyer training¹⁸.

The use of technology impacts three of the lawyer's most fundamental obligations – the lawyer's duties to communicate with the client, to protect the confidentiality of that communication, and to provide competent representation. Even though it is now universally accepted that lawyers can use technology for client communication, the prevalence of technology does not dictate that its use is always appropriate¹⁹.

Conclusions

This article aimed to present useful, affordable and time-sensitive techniques and tools for better communication as effective communication is the most important skill for a lawyer to develop. From the initial job interview to the courtroom or conference room, almost everything a lawyer does involves some form of communication. Even when not speaking, there is still communication through body language. To communicate effectively and to create a positive impression on listeners, whether they are partners, judges, clients, opposing party, or assistants, lawyers should leave them with a clear understanding of what has happened, conveying a clear message and getting the expected feedback, as well as summing up networking events. This creates a significant competitive advantage and fosters a positive and professional image.

¹⁶ D. Ilieva-Koleva, *Mentoring – Process, Guidelines and Programs* 2015.

¹⁷ D. Maister, *Are Law Firms Manageable*, 2006, <http://davidmaister.com/articles/are-law-firms-manageable/> (access 2.8.2017).

¹⁸ M. Becker-Avin, *Developing Lawyers' "Soft Skills" – a Challenge for the New Era in Legal Services*, *Law Practice Today* 2014, <http://www.lawpracticetoday.org/article/developing-lawyers-soft-skills-a-challenge-for-the-new-era-in-legal-services/> (access 2.8.2017).

¹⁹ K. Hazelwood, *Technology and Client Communications: Preparing Law Students and New Lawyers to Make Choices that Comply with the Ethical Duties of Confidentiality, Competence, and Communication*, *Mississippi Law Journal* 2014, No. 2, vol. 83.

Keywords: *business communication for lawyers, NLP in business communication, coaching for lawyers, law practice communication.*



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