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The Language of Listening

By Deborah A. Hansen

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Trial attorneys are generally good speakers: informative, persuasive, and entertaining. They know the language of effective communication includes tone, variation and posturing. But good speakers are not always good listeners undermining otherwise good trial work-particularly in jury selection. Any discussion of how to get jurors talking during jury selection is incomplete without also examining how to listen to their responses. For jurors to want to talk to you, they must know you want to listen.

A fruitful voir dire requires you to convey an expectation of an answer and your readiness to listen to the answer. Avoid being so enamored of your questions that you fail to hear the answers. A complete answer addresses the content of the question and gives an explanation for the answer. Failure to elicit complete answers may mean you are inadvertently cuing jurors to stop talking by not listening.

Feedback is very important in verbal transactions. The speaker (juror) wants acknowledgment that the attorney is hearing and understanding what they are saying. Everyone has had the experience of talking to someone who gives little or no indication that they are hearing you or participating in the conversation at all-it's as if you were talking to a blank wall - you are without immediate feedback and it feels uncomfortable. Lack of feedback to a speaker is the fastest way to stop them from talking. Appropriate feedback is the heart of the language of listening.

One important and easy way to provide feedback that evidences a willingness to listen and the expectation that a complete answer will be given is eye contact. Look at the juror you are questioning, not your notes or other jurors, and continue to look at them the entire time they are speaking. If you get less than a complete answer to a question, continue to look at the juror expectantly. Don't be afraid of silence, don't

rush to fill it with another question, and don't rush to add an explanation or an interpretation of the juror's answer. Silence can be uncomfortable and jurors will usually resume speaking because you have conveyed to them that more is expected and you are listening for it.

Body language should show interest and receptivity. Leaning slightly forward, tilting your head toward the speaker, nodding your head with a pleasant facial expression are all encouraging behaviors. Jurors are often unsure of how much they should be talking and tend to give the shortest answer to a question. Resist helping by substituting words or finishing sentences. Hurrying jurors along indicates you are more interested in what you have to say than what they have to say. Saying "I understand, or "Please go on," prompts jurors and shows you were listening and are ready to listen more.

A common listening mistake is thinking about the next question while the juror is still talking. While it's tempting to believe the speaker doesn't recognize this, it is often quite apparent through unfocused or diminished eye contact, peeking at notes, interrupting, and asking another question unrelated to the answer just given. Not only does this discourage a juror from speaking fully because it shows a lack of listening, it can present a missed opportunity for important follow-up questions. Good answers can lead to good follow-up questions and the follow-up is often where all the action is. Instead of thinking two steps ahead, stay focused on the immediate verbal exchange.

Finally, acknowledge a juror's participation. "Thank you for your candor," "I appreciate your willingness to explain," validates that juror's responsiveness by showing you were listening, and tells other jurors that their efforts to completely answer your questions will be expected and appreciated.

Learning the language of good listening requires practice. Fortunately, listening behaviors easily generalize across situations. Depositions, conferences, everyday work and family conversations, are all opportunities to hone your listening skills.

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Laurie and I had two very challenging real estate rights issues that we were advised were going to be difficult to prevail on. The RHRC team engaged with us and helped us understand our rights and prevailing position. RHRC were thoughtful advocates for us from the beginning to conclusion of our

cases. We feel fortunate to know we will always be able to call on the firm in the future and that they are our legal counsel.

Albert "Rocky" and Laurie Pimental, President of Global Markets and Customers, Seagate Technology

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