

## Speech on Business Communications

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I am a litigator and sometimes judge when I act as an arbitrator. I take the facts of a case, apply the law, and prosecute lawsuits based upon the facts and the law.

There are innumerable legal topics we can discuss that affect your industry, but the thing I find most important in daily business communications is clarity.

The idea of clarity can be symbolized by the Inuksuk symbol. Inuksuk are stone figures created by the Inuit people thousands of years ago in the Canadian arctic that were usually made in the image of man. The Inuit have lived in the areas now called Canada, Alaska, and

Greenland for thousands of years and Inuksuit can be found in all these regions.

The word Inuksuk means "to act in the capacity of a human" and comes from the word "inuk" which can be translated as "human being". These figures are believed to have been used to convey various messages such as markings on the land and shore; directions to subsequent travelers; messages about location of herds or game or potentially perilous conditions.

What does this enduring aboriginal symbol mean to us today? It serves as a powerful reminder of the value of direct, uncluttered communication.

Take this ancient symbol and juxtapose it with how we communicate now. Today, we have so many methods of communicating, often times our meaning is lost.

You are all involved in complicated contractual transactions. I frequently tell my clients – “You are not crazy. The deals you make all day, every day would give most law professors ulcers.”

You spend your days on the phone, cell, email, text messaging, faxing - in other words – communicating in order to get the deal done.

My message is that you must focus and be absolutely clear about what you mean.

And I am referring to the most practical things when I say this. If someone sends you a fax or email that contains erroneous information; if your trading partners deviate from the terms you have agreed to; if and when you have delivery problems, tell them so in writing and do not mince words.

A reply such as, “ No. You are incorrect. The terms are: .” Or, “The load did not make good delivery. We have ordered a timely inspection. We will fax the inspection to you. We will sell this load for your account and seek payment for any difference in the price.” Or how about, “We have both agreed to change the terms of sales as follows...” You would be surprised at the number of times that these simple, straightforward messages are omitted.

When you get to the point that you need counsel or are at the arbitration or mediation phase, your best friend is a clear and unequivocal statement. “No John, we agreed that you would do this...” “I called and said that...” . If you have a dispute and discuss its resolution on the phone, send

a follow-up email confirming how the problem will be fixed.

I have found through all of the cases I have handled and the numerous arbitration matters I have decided, the single most common problem is the parties' lack of clear communication. Notice I did not say a lack of communication, but a lack of Clear communication.

There are many instances in which the parties have exchanged hundreds of messages. And yet, certain critical terms of their agreement are missing. Or they simply fail to clearly convey what they intend to do or what they have done. I cannot overemphasize the importance of clarity and timeliness of communication with your trade partners.

Having a written contract is always preferred and is sometimes required by law. But those agreements must be

bolstered by precise communication while the contract is being performed. My best advice as you all embark on new trade partnerships and as you nurture current trade relationships, is for all parties to understand what is expected of them at the outset; to understand how to proceed if and when problems arise; and to know how to quickly resolve problems.

These simple ideas are time-tested. Just because our methods of communication have improved since the time the Inuit built stone human figures to convey messages does not mean that today's messages are easier to understand. And particularly in hindsight. Constant communication is no substitute for that single, bright, clear statement.

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