

# FASTER & FASTER & FASTER

Q. Another thing —

that

A. Yeah.

Q. — is to make sure —

A. Gotcha.

Q. — that we don't —

A. No problem.

Q. — speaking at the

A. Won't happen.

Q. — be

ough — ouch..



## A veteran reporter writes an open letter to attorneys (and judges) that is both whimsical and serious. You get to decide which parts are which.

Dear Counselor:

We may not have met, but we share common interests, a primary one being respect for the traditions of our system of justice. I also assume that we're both interested in simply doing our respective jobs well and earning the respect of those who know our work.

The overlap of our professional interests is especially important at one particular juncture: We both want a useful, accurate, and reliable record of the proceeding that brings us together.

I started my reporting career about (gulp) 30 years ago. You would think that this job would get easier over time — as one gains a certain mastery of working conditions and achieves a learning and experience curve.

You could think that; but you would be wrong.

### THE MECHANICS OF MAKING THE RECORD

To put the problem in a nutshell: People today stink at making a good record. Okay, not all people. But a lot of them. In this information-saturated world, these good folks just can't wait to get that information out of their mouths. It matters not to them that they have not yet finished their prior thought or that they haven't really formulated a cogent presentation of their latest thought, that other people already are talking, or that the reporter's face and temple veins are turning magenta.

Q. Another thing —

A. Right.

Q. — that's very important —

A. Yeah.

Q. — is to make sure —

A. Gotcha.

Q. — that we don't —

A. No problem.

Q. — speak at the same time —

A. Won't happen.

Q. — because it makes it difficult —

A. Sure, must be tough — ouch. Who kicked me?

I remember being amused when a transcript containing an exchange of that sort was passed around the office. That isn't done anymore. Instead of being the humorous exception, it's now practically *de rigueur* for witnesses. But it was funny the first 1,000 times it happened.

When you, as the questioning attorney, start talking over the witness, whose words do you want the record to reflect? I have about a tenth of a second to decide. That tenth of a second doesn't give me much time to read your mind and make the right guess, so there's no guarantee that I'm going to make the choice you would want me to.

When the verbal torrents are crashing in on each other, then in my fantasy world (and at my age, this is as good as fantasy gets), I stand up and tell everyone, "Are you interested in the way this record is going to look? Because if you're not, I really don't need to be here."

Please, my very dear attorney friends: Speak one at a time. Talk in sentences. Use actual words. And read your transcripts so you can develop a sense of how all these words, which are fluttering about the room like so many manic butterflies, are going to appear on the page when they're captured.

### THE CONTENT OF THE RECORD

This article isn't just a forensic critique of your record-making methodology. As previously stated, the world is awash in information, the amount of which is growing exponentially. Just about the entire range of human endeavor is fodder for lawsuits, and it's going to end up on our keyboards.

When I started reporting, there was the occasional construction case or medical deposition, some accounting experts, and maybe a smattering of environmental issues or testimony on flint spear tip technology. Now the range of material that you and I deal with is daunting. Every human-engineered system seems to have exploded in complexity of observation, analysis, methods, and material, and more systems and more complexity are added every day.

We need bigger vocabularies to handle all this information. Bigger vocabularies mean more words. More words mean bigger words. Since the reporter's business is taking down words, this all makes the job more demanding.

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*Jason Meadors, RPR, owns a reporting firm in Fort Collins, Colo. A former Marine, he does not consider himself to be a whiner.*

Now, with your new awareness of speed and overlap of speech, and with the diversity of topics that reporters are supposed to have literary mastery of all the time, let's think about the reporter's limitations.

We know that you consider our minimum standard to be perfection. We appreciate that and know that you carry the same standard for yourself. But, like the polished presentation of an exquisitely made car — let's take one that provides a fair comparison to my profession: say, a Ferrari Enzo Coupe — the record that we produce is subject to dangers that can dent and mar the appearance. Let's explore these stray keys and overhanging branches of society and the scratches that they leave behind.

**Experts.** Expert — medical and highly technical — testimony is harder on the reporter. To understand why that is, try this experiment: Grab your pen and legal pad and write the word “car.” Now write “Lamborghini Murcielago.”<sup>1</sup> Did that take you longer to write? Did you have to think about it? Same thing for us. Expert testimony, particularly when the experts are trying to be impressive with their specialized language, is just harder.

**Numbers.** Say the following aloud: I would like to go out for some ice cream after the game on Sunday. Now do the same with this: 83401298465904438. It's the same number of syllables, and it looks so much shorter. But it's not so easy to say or to comprehend.

There is a familiarity and predictability in speaking words. However, when your accountant witness picks up the ledger sheet and opens his mouth, you can feel the tension crackling over at the reporter's chair. The reporter knows that there's a very good chance that numbers are going to be rattled off, in block form, without regard to normal word divisions, or notations of dollars and cents, or whether a number is in the hundreds, the thousands, or the millions. It's also likely that this numerical deluge will happen without decimal placement.

Testimony with blocks of undifferentiated numbers does not make for an easy record. More important for you, it won't be an easy record to read, either.

**Endurance.** When people are talking, reporters are working. Others can

talk longer than we can work, without question. They often (and obviously) are not thinking when they're talking. Reporters, on the other hand, have to pay attention to every word. We all can concentrate only on so much for so long. After a while, mental fatigue settles in. Also, reporters are not moving much, so physical fatigue will set in as well.

In days past, the conventional wisdom was that the 90-minute mark is a good time to give the reporter a break. Frankly, after sitting in one position and hanging on every word every second, we'd like it sooner. But an hour and a half works.

Speaking of the conventional wisdom of the past, let's segue to:

### THE REPORTERS' EXPERIENCE

Before writing this article — I mean, letter — I wanted to be sure I wasn't crazy, at least in terms of this particular thesis. So I went to the NCRA Online Forum, posted my thoughts, and asked if others were experiencing a decline in attention to the details that make for a good record. Some sample responses:

- “I've noticed the same thing you do.”
- “... you're definitely not imagining it... where in the heck did these attorneys learn that it was okay to simply mouth an objection to you?<sup>2</sup> ... That's just insane.”
- “I think every single reporter out there can understand what you are saying.”
- “I've been an official for seven years now, and I feel like I've had to speak up more often in the last six months than I have the seven years.”
- “I find that, more and more, attorneys are not record-conscious at all.”
- “I don't believe it is your imagination. In fact, I was just speaking to a colleague earlier today and asking the same question! Funny thing was, she told me she was just about to ask me the exact same question... More and more of the attorneys are mumbling.”
- “No, man, it's not you. The lawyers are pressured today to crank out unbelievable hours, and it turns them cranky. Also, I do not believe they receive the same training as they used to.”
- “Nobody seems to really care about what the transcript looks like, nor do

they care if we eat or have plans for the weekend. I think it's societal. We're an instant-gratification nation.”

- “It is true that today's lawyers are much different than when I started in the business a thousand years ago. They do talk faster and over each other.”
- “This topic really hits home!”

It's nice to know that I'm not alone in my impressions. It's not so nice to hear that we have a generation of record-unconscious attorneys out there.

### THE GLOBAL VIEW

I'm reminded of a saying: “The times aren't what they used to be, and they probably never were.”

For all the grouching in this letter, I don't want to go back to the good old days. Going back means preparing transcripts on weird analog machines called “typewriters” that had no RAM. “Carbon forms” referred to making copies rather than to earth-based life. And, in order to research a term or a name, one had to consult these unwieldy, heavy things called “books.”

But it would be so nice to have attorneys recognize the import, in black-and-white text, of the words coming out of their mouths; to have speakers follow the common courtesy of not interrupting each other; and to hear sentences, as we heard in a pre-MTV era, that had subjects and verbs in close proximity and relation to one another. I'd like to feel like I'm reporting a record rather than stapling together its tattered remains with dash symbols.

My dear attorney friends, we are in this together. You make the record, and we preserve it. Five years or 500 years from now, how will your record look?

Let's make it a good one. ■

### Footnotes

- 1 There's no special affinity by the author to expensive Italian cars. They just suit the purpose here.
- 2 Although not specifically addressed in this article, this is a relatively new but disturbing trend — the impression that reporters, in the middle of reporting fast-paced speech, can magically overlay visual signals by others in the room. It's hard enough just getting the words.