

# THE LEGAL OUTLOOK

A Monthly Newsletter from Messa & Associates, P.C.

## Happy Black History Month

With February coming to an end, it does not mean that we should not keep celebrating Black history in our community!

Philadelphia is honored to have many Black icons make change and history in our city. Here are a few of the notable Philadelphia icons we would like to highlight for Black History Month!

If you recognize the name Cecil B. Moore, you should know that it is more than just a busy avenue in Philadelphia. Moore was a Temple Law graduate who led multiple protests to push for integration in schools and employment. He paved the way for the black community to expand their education and professions.

Crystal Bird Fautet was the first African American woman elected to a state legislature in the country and was chosen to represent the 18th District of Philadelphia. She introduced legislation addressing public health, low-income housing, and women's workplace rights.

A pastor of Zion Baptist Church in Philadelphia, Reverend Leon Sullivan, also fought for integration in the workplace. He is known for his slogan "Don't buy where you don't work.", encouraging the black community to only support businesses that hired people of color. Reverend Sullivan opened the first Opportunity Industrial Center that trained the black community of Philadelphia manufacturing skills which is still operating today in 22 different US states and around the globe.

We have the utmost gratitude and respect for these icons and many more that fought for the rights of the black community and for those who are continuing to make history today!



*"Don't agonize, organize."* -Florynce Kennedy

# The Importance of Listening in a World Full of Noise

Lee D. Rosenfeld

*"The biggest communication problem is we do not listen to understand. We listen to reply."*

-Stephen Covey

As a trial lawyer, I love to speak! After all, I am very convincing and have a deep voice. I am trained to argue and persuade. So, I'm an excellent communicator, right? To confirm the answer to that super easy question, I recently consulted my wife---one of my biggest fans who just happens to have expertise in advising professionals about communication skills. Uh oh. That didn't go as planned. It's not an easy answer? I will save you my shock and denial but, eventually, I took a deep breath and realized that she was right. I am a skilled "speaker", but I need help in the more important part of communication— listening. More importantly, the correct way to listen.

We live in a polarized world and it does not matter how we arrived here. "Facts", "arguments" and "truth" are now more malleable concepts than at any time in our history. Our personal views have hardened, not from our own experiences, but through a constant bombardment of reinforcement from others like us. This accelerated polarization has resulted in a tribal society, and we are now locked in a permanent misunderstanding on core issues. We cannot compromise. Can we move forward together from here? The answer may just be in changing how we listen to each other.

My wife told me that there is a vast difference between "passively listening" in order to form a reply and actively listening in order to understand. Passively listening does very little to persuade because no reciprocal trust forms. This quickly results in a rhetorical stalemate.

So, how do we create active listening? In her recent blog post, my wife detailed seven behaviors that resonated with me:

1. **Be present and attentive.** To the best of your ability, clear your mind of any thoughts not related to what you're discussing.
2. **Limit distractions.** Try to get rid of any outside factors that might take your attention away from the conversation.
3. **Avoid judgment.** Listening to what someone is saying without attaching your own opinion or feelings to what is being said is not easy! However, keep an open mind as much as possible. If you can master this behavior, you set the stage to sincerely hear what others have to say.

4. **“Pay close attention to body language and nonverbal cues.** Many people believe that over 90% of our communication is nonverbal, so try to be aware of what someone is conveying to you without even speaking.

5. **Practice empathy.** Put yourself in the other person’s shoes and imagine how things might feel from their perspective. If you are successful, your own body language will portray your empathy and understanding.

6. **Do not interrupt.** Wait for the speaker to pause before asking questions, and don’t be afraid of a little silence. It’s difficult to avoid frequent comments and relating other’s experiences to our own. However, it is also incredibly important to give them time and space to speak. Thoughtful questions will help further your understanding, but don’t interject until the time is right.

7. **Reflect, confirm and summarize what is heard.** By doing this periodically and at the end of our conversation, we let the speaker know that we actively listened and paid attention to what was said. We also have the opportunity to clarify when something is misunderstood and avoid ignoring what we don’t understand.

By using these tips, active listening can lead us down a path of meaningful and informed communication. From my perspective, the goal is to keep an open mind. We must be willing to change our views when new information is presented. We must permit others to explain their opinions before we contradict them. We need to regain trust in each other because only that can effectuate compromise to solve a disagreement. Actively listening is, by no means, not a cure-all for our current dysfunction. However, it is the first step.

Self-reflection is a painful but important process. Despite my career success, education and training, I am not a good communicator yet. But, I am on the right path since listening to my wife and actually hearing her.



Lee Rosenfeld is the Managing Partner at Messa & Associates and concentrates his practice on serious injury litigation, including automobile/trucking accidents, premises liability, FELA, negligent security, slip-and-fall incidents, and other serious injury claims.

# MDL Updates



At the beginning of the month, the defense lawyers for Zantac requested an opportunity to perform discovery on the pharmacy that first detected NDMA levels in Zantac. Defense attorneys argued that the pharmacy generated "false lab results" for the purpose of this litigation. The Defendants' request was denied by the Judge Reinhart, who is overseeing much of the discovery in this case.

One of the next steps in this MDL is for the Court to select the candidate pool for the initial bellwether cases.



The FDA is requiring Philips to perform independent safety testing on the new silicone-based foam, which is replacing the current PE-PUR foam which caused the recall. In February 2022, Judge Conti recently approved a tolling agreement, which means that users of recalled machines who are thinking about filing a lawsuit can now preserve their rights to do so by entering into this agreement. Prospective clients who register and sign the tolling agreement can toll their statute of limitations and protect their claims against Philips even after the Statute of Limitations runs. In February, Judge Conti also issued Pre-trial Order #8 appointing the Plaintiffs' leadership who would spearhead this litigation for the Plaintiffs.



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The parties have reached a tentative settlement. The settlement on the table is \$2.6 billion, the largest aggregate sexual abuse settlement in U.S. History.



The most recent trial in the 3M litigation resulted in a \$110 million verdict for Plaintiffs Ronald E. Sloan and Williams Wayman. The verdict, split along the two Plaintiffs included \$15 million each in compensatory damages and \$40 million each in punitive damages. Currently, the total compensation awarded to Plaintiffs is \$162,992,820 with the next Bellwether trial for Plaintiff Luke Vilsmeier beginning on March 14, 2022.

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