

# MINDFUL LISTENING

## AN INTERVIEW WITH PAUL STEVEN SINGERMAN

As trusted advisors, lawyers are looked to for their expertise and guidance. A key component of the skill set necessary for effective lawyering is listening. Notwithstanding the importance of effective and efficient listening, it is rarely taught in law school. And, in practice, bad listening habits and practices are often modeled by senior lawyers. In a fast-paced, distracting (technology oppressed?), emotionally charged, and stressful profession, listening can be compromised. And because listening is largely an internal process, we may not even realize that we have become distracted, or otherwise that our listening has become impaired. Listening is regarded as so consequential to the smooth flow of commerce, relationships, and well-being that in recent months national periodicals such as the *New York Times*, *Forbes*, and the *Wall Street Journal* have written about and offered tips on effective listening.

Yet, even when one “knows” what to do to be a more effective listener, it can be challenging to do so in the middle of a heated conversation or when one is distracted. In many cases a prerequisite to “active,” “engaged,” and “effective” listening is a quality of self-awareness and resilience that allows one to remain present. As a growing number of lawyers are realizing, mindfulness practices can help to tone down some of the internal impediments to maintaining active and engaged listening.

We spoke with Paul Steven Singerman — who has been discussing “mindful listening” with lawyers, judges, and law students for almost a decade — to more fully flesh out how mindful listening can

play a meaningful role in the life of a lawyer. Paul is co-chair of Berger Singerman LLP and is nationally recognized for his work in large and complex restructuring, insolvency, distressed business mergers and acquisitions, troubled loan workouts, and bankruptcy-related litigation. Paul launched the firm’s first mindfulness program more than six years ago with the goal of providing colleagues with a space and opportunity to learn how to enhance their data-gathering skills through heightened self-awareness and to enhance their personal and professional performance and relationships. Paul frequently speaks and writes about mindfulness matters for lawyers and judges.

**GPSolo:** Thank you, Paul, for taking the time to explore mindful listening with the readers of *GPSolo*. You have been sharing mindfulness with lawyers and judges for many years and were one of the first to discuss the importance of mindful listening. Of all the subjects you could focus on, why listening?

**Singerman:** I’ve been zeroing in on mindful listening in my professional life for three principal reasons. The first is that I believe that lawyers, speaking very generally, are poor listeners. Second, I believe that lawyers are under a dreadful misapprehension that they appear to be smarter when they are talking instead

of listening. And third, I believe that the legal profession has championed the notion that early interruption means that the interrupting lawyer is really smart and has already seized the point that her or his counterparty is attempting to make. I am convinced that these are unfortunate notions and habits that are counter-productive to the goals lawyers wish to achieve and, secondarily, not good manners.

**GPSolo:** What are the costs of being a poor listener?

**Singerman:** First, and I think most fundamentally, when one is not engaged in mindful, active listening and certainly when one interrupts a counterparty, much of the data that the counterparty was willing to offer for the asking is potentially forever lost, or at least will take longer to obtain. If I’m interrupting my counterparty and the counterparty was comfortable sharing what really mattered, their comfort may be compromised. Also, in an oral communication, there are nuances. There are seeds planted to invite follow-up questions, little teasers in which the speaker is taking a risk to see if the speaker’s counterparty — the putative listener — will pick up a subtlety and ask the next question. If the speaker is uncertain about whether a particular point is worthwhile to share,

### MINDFULNESS IN ACTION

*Being more aware of our thoughts, feelings, and sensations in the midst of conversation can enrich the experience for everyone.*

is appropriate to share, is safe to share, and the listener misses it, again we don't know what data we could have obtained. And I don't mean in this data-gathering model to suggest anything that's gaming the system. To the contrary; I think that it's actually contributing to a way of interacting and behaving with one another that, in all likelihood, would solve a lot of problems and be immensely more efficient in communicating and exchanging data.

**Data can be lost forever when one is not engaged in mindful, active listening.**

the agitation, and, rather than act out on these impulses, she observes them. Many new to mindfulness find this to be counterintuitive, and, indeed, it takes practice. So it is helpful to practice traditional mindfulness exercises such as focusing attention on the breath to develop these skills in a less-provocative environment. And it can be very useful to practice “mindful listening” in the midst of conversation. In this way, it is both a means to an end (more effective



**GPSolo:** Thus far we have discussed the benefits of mindful listening. You also share with lawyers how mindful listening can be its own mindfulness practice.

**Singerman:** Yes. A good example can be drawn from a basic mindfulness practice where one establishes the breath as the object of attention. In this practice, when attention wanders from the breath, and the mindful practitioner realizes this, she returns attention to the object. This can be helpful for steadying the mind, improving focus and concentration, and regulating emotional reactivity. The key is noticing—the awareness of one's mind wandering. With mindful listening, the object of one's attention is the speaker and what she or he is saying. So that is the object of attention, and the mindful piece is the awareness brought to the experience of listening. Then, when the listener realizes “Oh, I'm thinking about something else,” she becomes aware that the mind has dashed off and brings her attention back to listening. So, too, when the listener begins to feel the pangs of agitation—for example, mounting anger or frustration, and with it the impulse to interrupt, talk louder, or end the conversation—she becomes aware of

communication and outcomes) and an end unto itself (becoming more mindfully aware).

**GPSolo:** Do you have a suggestion or instructions for a “mindful listening” exercise?

**Singerman:** Yes, an interesting exercise called “Do Not Interrupt” invites you to see if you can go for a chosen period of time without interrupting anyone. Let me begin by saying it's not about getting it perfect, which is why it's called a practice. I would start one's journey with what may be an achievable goal. For example, “I'm going to endeavor not to interrupt during a conference call that I have scheduled this afternoon.” One call. See how it goes. I believe that the goal of not interrupting during a single communication, or a series of communications, is going to prove to be immensely harder than one first thinks. For most of us, interrupting is so chronic as to be unconscious, unreflected upon, so natural. So target a conversation, target a conference call, target one meeting. In time, you may go a whole day. The key, however, is not merely to not interrupt, but to gather data during the moments of *wanting to interrupt*. In these moments, you can inquire how it feels to be aware

of the urge to interrupt, noting things you want to say, and even develop the ability to sit tight during such times and see what happens next. I submit to you that the discipline of the resistance to interrupting and working through it is no different from any other discipline and exercise. It takes a while to develop any skill, whether it's driving a car, or riding a horse, or working out in the gym. And sometimes it's not linear; it's a process, and there is in my estimation a high likelihood that consistently focusing on this awareness will result in the distraction of the resistance waning, and the benefits of not interrupting and gathering more and richer data will be profound.

**GPSolo:** In an article you wrote for the *Florida Bar Journal* on mindfulness, you referred to mindfulness practice as a form of data gathering—something you have already alluded to—and to the three buckets of data being (1) one's self, (2) one's counterparty, and (3) the environment. How does this connect to mindful listening?

**Singerman:** The first bucket, one's self, is for me the foundation of every other mindfulness practice. I know that sounds like a grand statement, but I think that's right. My ability to mindfully gather data from my counterparties, which is the second bucket, or from the environment, the third bucket, is enhanced or impaired by the level of my own self-awareness. The less self-aware I am of my thoughts, my feelings, my body sensations in the moment, the less accurate, rich, and robust will be my perception of the data being offered by my counterparty or the environment. Self-awareness is a filter. The more self-aware I am, the purer the data is that I take in, and the more clearly I can perceive it. In contrast, the less self-aware I am, the more contaminated, the more imperfect, the less complete the data I take in. And the decisions I make are directly dependent on the data I gather. Through the “Do Not Interrupt” practice, you become aware, very quickly, of a lot of data about the first bucket—yourself—and by becoming more skillful at being aware, observing, and, ultimately being less reactive, greater self-awareness arises and with it greater capacity to listen more

deeply to another and establish in their estimation that you are, indeed, listening such that they feel heard. That can be a game changer.

**GPSolo:** Some believe that practicing mindfulness is about clearing the mind of all thoughts or to not feel unpleasant emotions.

**Singerman:** I certainly do not believe that an end product of the study and practice of mindfulness is to forever dispatch unwanted thoughts, feelings, or sensations in the moment. I would submit to you that that's impossible. I think that the goal is to have the awareness, be it of a thought, a feeling, a sensation that may be impacting the way I am receiving data. Frequently, it is an agitating experience that prompts me to react by interrupting or to begin formulating my next question—in which my listening has dropped significantly—and the great benefit in that moment is that I do not interrupt. One of the disciplinary tools that I use, which I don't think is terribly common among lawyers in the business setting, is sharing with my counterparty some of these thoughts, feelings, and emotions—to explicitly put them out there in an effort to help dispatch them, to acknowledge them and come back to the subject of discussion. That said, I think it takes a good deal of authenticity and a willingness (and courage) to be vulnerable to do so—but it can make all the difference. In all likelihood your counterparty is having a similar experience. But it calls for awareness of one's experience to develop the skills to effectively communicate amid such challenging moments, to even take a considered step in this direction, and mindfulness practices help develop this capacity. It should be no surprise that this is useful in one's personal life as well.

**GPSolo:** How long did it take for you to detect any benefits or changes after you began to practice mindfulness—and mindful listening?

**Singerman:** I noticed profound changes nearly immediately. Now what does that mean? Does that mean I was instantaneously a better listener? No. I think the most profound realization was how dreadful my listening practices had been

before, how much I interrupted unconsciously, unmindfully, and with it a sense of regret for what I had missed along the way. I think this is an ongoing journey for me. I hope that I can continue to make net progress. It's not always linear. I have interactions with others in which I kick myself when I reflect on having been a sub-optimal listener. Did I miss X, Y, or Z? How can I have participated in that conversation and feel uncertainty now about a point that is as potentially important as this one? It's a journey. It's a process.

**GPSolo:** A little earlier when offering the “Do Not Interrupt” practice, you said it was not about being perfect. Lawyers do tend toward perfectionism.

**Singerman:** Seeking perfection may be one of the biggest distractions of all. In my life and in our law firm we've identified a core value of *continuous improvement*. I'm much more comfortable talking about a goal of continuous improvement than I am of perfection because I'm not sure I understand the connection between perfection and the human condition generally. And way beyond the scope of mindful listening, but I think squarely within the scope of enhancing our performance in all we do, I think that there is a role for being kind to ourselves and forgiving ourselves when we miss the mark. And I believe this notion of perfection, this theory of something called perfection, can be a cruel taskmaster.

**GPSolo:** Recently you've begun to discuss how mindfulness practice can help to “control the future.” Might you elaborate, as this sounds a bit too good to be true.

**Singerman:** Yes, I know it sounds grand, but in this thinking I am doing about this subject I can see direct and profound benefits. It goes like this: If, as a result of mindful listening, I am better able to understand my counterparty's point and I haven't interrupted and missed crucial data by not being fully engaged in receiving the data and getting it wrong, I forbear from next comments or actions that could take my life and the subject matter of the discussion in an unnecessary, inefficient, or even injurious direction. In this way, I've controlled the future by

not having to spend time later fixing the problem that might have been avoided in the first instance.

**GPSolo:** Any closing comments?

**Singerman:** I find that I fare better in my personal and professional life when I am mindfully listening and gathering data about myself and others. I'm reminded of when we shared with our children how beneficial it can be to refrain from making major decisions when you're tired, dirty, or hungry. Now, how do I connect those dots? With awareness. The awareness of fatigue or being tired, the awareness of being hungry or out of sorts, or being dirty and uncomfortable, is closely connected to an awareness of our thoughts, feelings, and body sensations. And so in my personal life, a decision to defer executing because of an awareness of some thought, feeling, or sensation that may impair judgment is huge. Secondly, in my dealing with friends, my wife, our daughters, I am aware, for a very long time regrettably, before I began my study and practice of mindfulness, that I wasn't being respectful, I wasn't being present and doing all I could to give my counterparties, my family, my friends, my colleagues at work, the attention that they deserved by being less than a mindful listener, by thinking I could multi-task, by not turning around and listening to them, by not sometimes saying, “I want to give you my full attention, but I can't do that right now. This is important for me. Can we talk at a different time?” And I think that it's improved the communication flow with my family members, friends, and colleagues, and they've appreciated the respect even when the request is to speak at a different time. To adopt in practice and study the discipline of mindful listening doesn't mean that every counterparty controls the calendar and agenda of the listener's day. It doesn't mean that I have to accept the schedule of my counterparty and drop everything to focus on the counterparty at that moment. And one of the tools of mindful listening can be a clear communication about when one is not capable of showing up to mindfully listen. ■