

Everything I Ever Needed To Know About Live Communication I Learned From Konstantin Stanislavski: Common Mistakes and Best Practices

by Katherine James

I am a lucky woman. I have been an actor since I was five years old. I have had the great fortune of working with and studying under some of the finest disciples and practitioners of the great master of modern realistic acting: Konstantin Stanislavski. Studying and practicing acting involves learning how to make oneself believable, memorable and persuasive to audience and fellow actor alike. Twenty years into learning, honing and practicing the art and craft of acting I discovered that the wonderful lessons I had learned and was learning in the theater were actually the cornerstones of “live communication”. Further I realized that this “theater as live communication” lesson not only applied to real life but it applied to yet another discipline – the practice of advising lawyers and their witnesses as a trial consultant. And I’ve been applying, studying, learning, failing and succeeding at these lessons in life, onstage, in meeting rooms and as a courtroom advisor ever since.

In this article, I break down three of the great acting lessons I learned from my great teachers and directors into their live communication components. I hope that the deconstruction of each acting principle into its definition followed by its application to the theatre, real life, the meeting room and the courtroom will be useful to both trial consultants and attorneys. I also suggest exercises to perform and sign posts to consider when improving your own communication as well as the communication of your clients with each of the great acting lessons.

One of my friends has changed the old adage, “I teach best what I most need to learn” into a newer saying I embrace with this piece: “I teach best what I learn best – and I love what I teach.” It is in that spirit that I pass what I have learned and am learning about live communication on to you.

- **The Hardest Character To Play Is Yourself**

The Principle

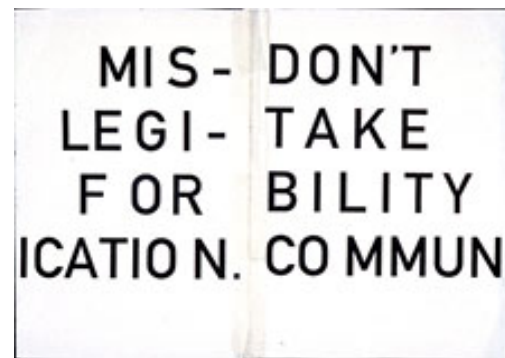
You need to strip away everything that is artificial and be “yourself”. If you are “fake” or “false” or “unreal” you are not really acting. You are “indicating” or “too big” or “overacting”. The problem is, of course, it feels so good to be fake onstage. Sigh. But... your fellow actors will know you aren’t acting like a person, the audience will know it, too, and the whole show will suffer.

In the Theater

In the theater, a young actor can spend a huge amount of time learning to be himself or herself onstage. That’s the purpose behind almost all beginning acting exercises: to get the actor “out of his or her head” and into “reality”. I must confess, if I had a nickel for every time a theater director or an acting teacher had to tell me to stop being so “over-the-top” I would be a rich woman today. I love filling a room up with my energy, pushing past everyone else’s flat little performances and just fearlessly flying without a net center stage. Although I have gotten better and better at being myself over the past 54 years of my life in the theater, I always go to some extreme over-the-top place sooner or later in rehearsal. I try to stay “grounded” in performance (even more difficult with the splendid magic of a live audience). There are other actors who have a different kind of problem: they are stiff and wooden. There is yet a third group who basically spend a whole part of the rehearsal process as if they are hardly even in the room – it is like there is a ghost onstage with you. A place holder for an actor you hope is going to show up on opening night. All three of these types: over-the-top, stiff and wooden, and too shy to be onstage are not “real” and will likely never be believed or trusted by their fellow actors let alone an audience.

In Real Life

In real life, this problem manifests itself in many ways. Think of that person in your life with the odd defensive laugh. You never know or trust exactly that he or she is being truthful with you. Or how about the person who greets you stiffly and distantly? Isn't your first response, "That guy hates my guts."? The shadow of a personality often makes others think, "This one doesn't want to be here. Okay. Moving on." In real life, these "fake" personas are all at their base some kind of shyness. This kind of shyness needs to be overcome if the person who manifests one of these "false fronts" wants to be believed.



In Meeting Rooms

Being fake can be lethal to communication. Have you ever been accused of acting like a "used car salesman" when you are meeting with a potential client? Think how quickly your mind wandered the last time someone made a presentation in a meeting you attended who was stiff as a board. You might have felt sorry for the person for about five seconds and then your mind started wandering to what was for dinner and you missed the whole middle of the speech. And as for the "zero" personality type – think about the number of times when adding up who was "in the room" this type of person was so "not memorable" that you left him or her off the list?

In The Courtroom

The courtroom holds a huge amount of danger for those who are not "real". Any attorney or witness who can't be "real" risks the conclusion by any judge or juror that he or she is lying. People are in court to judge whether people are lying or telling the truth. If a person can't act truthfully, why should anyone believe them? I think of past painful moments in court after the trial team on which I was playing came in second place (I refuse to call it winning and losing – I prefer to think of it as a competition with blue ribbons and red ribbons at the moment, thank you very much). A juror commented that one attorney, "Had that creepy pushy fake smile all the time – like a pediatrician about to give you a shot." About another attorney a juror said, "I stopped listening after he introduced himself in *voir dire*. He was stiff as a board. God, he was boring. Is he married? How can his wife stand it?" When asked about an argument made by a "disappearing" type yet another juror said, "Really? She said that? Huh. I don't remember that part at all."

Best Practice

It isn't easy to find the real you. There is a wonderful acting exercise that I highly recommend. First, get in mind the speech or the oral argument you are going to deliver. Next, get in mind a story from your real life that you remember vividly – for example, the first time you met your spouse or the best times you had with your favorite relative or something of that nature. Now, turn on a video camera. Talking to the camera, alternate at about a paragraph at a time the opening/speech and the story of the memory. Now play it back and watch yourself. Do you have two personalities – the "fake" one who delivers the speech/argument and the "real" one who talks about the memory of the loved one? The goal is to work with the camera until eventually you are able to deliver the speech/argument as the "real" you.

- **Acting Is Reacting**

The Principle

Listen with your eyes first and then your ears second to what the other actor is saying to you. Then say your line out of what you see and hear rather than because it is your next line.

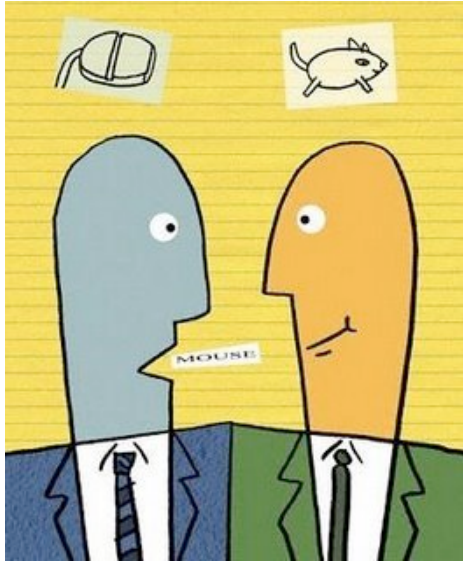
In the Theater

In the theater, one of the first mistakes a young actor makes is to only memorize his/her lines and to just wait to say them when it is his/her "turn" to talk. The automatic lines come out with no connection to what the other actor is saying either with body language

or the other actor's lines. In one of the funniest plays about the theater, *NOISES OFF* by Michael Frayn, the character of Brooke Ashton does just this causing howling laughter in every audience who sees the show.

In Real Life

How often in real life do we make this same error? How often does it turn out to be “not that funny”? I am on my daily early morning walk in my neighborhood. I always see a number of likeminded early morning walkers – we are all “regulars”. I greet them one by one with, “Great day for it, huh?” Each has his or her standard line back to me. The woman in her eighties always chimes back brightly, “Oh, my, yes – aren't we lucky?” and then we laugh. It really is like doing a show – eight shows a week, same lines. Only this is real life. Last week I greet her with, “Great day for it, huh?” and then I see that she is walking slowly, crying softly, her face a puddle of fear as she mumbles, “Oh, my, – oh my, oh my.” So the script changed that day. Why? I actually listened. If I had listened with my eyes first instead of just spewing out my line like a bad actor, I might have seen that she was totally distraught and changed the words before I automatically spoke them. I felt less like a total live communication “zero” when she told me I was the first walking “regular” to notice that there was anything wrong.



In the Meeting Room

In the meeting room this live communication error can completely alienate and shut down the person with whom you need to communicate almost before you begin. I am in a meeting room with an attorney and a witness in a witness preparation session. The witness is barely concealing his anger. I know that because his lips are pressed together, he narrows his eyes, he thrusts his hand to me and says, “How are you?” Before I can say, “I would be happier if I was meeting you at a wedding!” the lawyer is already talking for me. “She’s fine – whatever – let’s get started,” and is off and running with a list of rules about deposition. I watch and listen as the witness gets angrier, more and more distant and distraught. I force my way into the “speech” of the lawyer who is on a kind of automatic pilot that would have made any theater director who made the mistake of hiring him as *HAMLET* fire him on the spot. “Let’s talk about why he’s so angry first,” I say. The lawyer comes out of the automatic pilot coma. I can tell because he stops talking and he doesn’t have that glazed look in his eyes anymore and he actually looks at the witness. I don’t celebrate by patting myself on the back. I’m old enough to admit that I’ve made errors like this myself. This time it was the lawyer’s turn and not mine.

In the Courtroom

This, of course, is lethal in the courtroom. I am watching an attorney question a juror in voir dire. I love that the “script” is really great – open-ended questions, follow up questions – just like every litigation consultant’s dream. But wait – why are the jurors shutting down one by one instead of opening up one by one as they should be with this “ideal” voir dire script. The attorney is looking at the question, reciting it, and then vaguely looking up at the jurors. The jurors know that the attorney will just go on with them or without them. If the attorney had only looked first... assessed the body language of the jurors... said something radical like “Good afternoon” and noted who responded and started with those jurors... wow... but it is all over in an instant. And that moment is lost forever. I’ll never forget the look on a juror’s face who once told me in a post-verdict interview, “I hated that guy from voir dire. He was like a bad party guest – you know – the kind of person who is just waiting for your lips to stop moving so that they can talk about themselves?”

Best Practice

Look. Make eye contact. What information are you getting from the person to whom you are about to speak about their emotional state, about their ability to get new information in this moment, about whether or not they like you enough to listen to what you have to say? Listen. Is this person talking? Is what you are about to say a response? Could it be? Are you willing to put aside what you “must” communicate for a moment and start your conversation based on what this person is saying to you first? I suggest you try this in your professional life first and then let it spill over into your real life. In your professional life there is often some semblance of control whether it is a meeting room or a courtroom. Real life – so unpredictable! Once you get the hang of it you are going to want to do it all the time – but – you are never going to be perfect. Oh, well.

• An Actor Always Needs To Be Heard And Understood

The Principle

Your words need to be heard and understood by the other people on stage with you and the audience.

In the Theater

“Understood” has two meanings in the theater. One has to do with literally hearing every word because it is properly “projected” and “articulated”. A director will admonish the actor, “stop whispering!” with the first issue and “get the marbles out of your mouth!” with the second. Stanislavsky, despite rumors to the contrary by some of his American disciples, never encouraged actors to speak softly and to mumble.

The second meaning of “understood” in the theater is the language being used needs to be easily understood by the audience. Clear, active, simple, regular English is not only ideal, it is generally expected that this is what is delivered to the actor by the playwright. This is also the norm when actors create their own dialogue through improvisation.

In Real Life

In real life, not speaking up and not articulating cause real problems. “You would think that medical professionals would be professional enough to speak up and stop swallowing their words,” snaps my mother as we stand by my father’s hospital bed. In real life, speaking words that are not understandable in meaning by the audience can be a nightmare. “I think he has been telling us for years that we could either give the money to the government or we could put it in our SEP IRA’s,” says my husband to me. “Really?” I say. “I don’t think he ever said that.” “You’re right – he just said it in English today. I think he has been telling it to us in Accounting all this time.”

In the Meeting Room

In the meeting room, not speaking up and not articulating cause great misunderstandings. I am thinking right now of a certain trial consultant who said great things but no one heard her. Literally. She had the vocal projection of a television on mute. The lips were moving, but she couldn’t be heard. After a great brainstorming session, the client requested that she not be included as a part of the trial team in the future. “Why not?” I said. “I thought her ideas were great!” “What ideas?” he said. “She never opened her goddamned mouth.” Who has not been in a room with someone who sounded as though he or she was speaking a foreign language? Pat McEvoy of Zagnoli, McEvoy, Foley told me a brilliant apocryphal tale of a study in which it was determined that 100% of the time anyone who is speaking believes that what he or she is saying is clearly understood by everyone in the room... and that 80% of the time, at least one person in the room doesn’t understand what is being said.



In the Courtroom

In court, not projecting the voice and mumbling can mean the difference between life and death. I’ll never forget one of the first trials I observed 32 years ago when starting my trial consulting business. It was a death penalty case. It was the defense attorney’s closing argument. I couldn’t hear much of what he said... but then, I was in the gallery. The judge leaned over halfway through and said, “You’d better speak up, son. No one’s heard a word you’ve said so far.” Worst part? The attorney didn’t choose to start over so that his client’s case could be heard. My most humiliating articulation story concerns the time I let a witness on the stand keep saying over and over again that one of the unique properties of a certain patented material was its “whiskers”. He was from The South so it sounded like he was saying “whiskahs” to me. I’ll admit it did cross my mind that it was a little weird that this material would have whiskers but – hey, I am a creative type and the pictures of it looked to me like there were whiskers. The judge was the savior in this story, too. He said, “Are you saying ‘whiskers’ – like a cat?” “No,” replied the witness, “Whiskahs – like ‘sticky.’” “Oh – viscous,” said the judge. I got two strikes that day – because “sticky” is not only easier to pronounce, but everyone knows what it means. The attorneys had all heard

“viscous” but the judge and I had heard “whiskers”. Thank God someone was smart enough to figure out that whiskers probably weren’t a part of this patent. Too bad I didn’t catch it early enough to be able to keep from violating the second meaning of the word “understand” – clear, active, regular, simple English.

Best Practice

Being heard means that your voice has to reach the ear of the person with whom you are communicating. Imagine you are speaking from the center of your body, just below your belly button. Take a breath into that place. Now exhale and speak from that center and aim for a spot just behind the head of the person to whom you are speaking. This keeps your voice from landing at your own feet or somewhere between you and that person. Articulating means that you are understood as far as the actual mechanics of producing speech are concerned. I often advise people with this issue to over-enunciate words as though they are talking to someone who has forgotten to wear his or her hearing aids. If you have ever had experience with those people (and if not, let me introduce you to every female relative I have ever had on my mother’s side of the family) the procedure is as follows: 1) make eye contact, making sure that the person can see your mouth. 2) speak as though they are reading your lips. Being understood as far as the meaning of the words is actually trickier. You can say over and over again, “Do you understand what I am saying to you?” and get nods and smiles and encouragement that the person does understand what you are trying to communicate. Sometimes this is just a lie. They are just hoping against hope that you will start saying something that they do understand. I know that’s what we did with our accountant. Your best bet is to always speak as simply as possible. If you want to make sure you know what simple speech is, go to the Children’s section of your local library. Enter the non-fiction section. Pick out a book on a topic about which you know absolutely nothing at about a third grade level. Isn’t it amazing how after you read it you understand the topic? That’s because the words are so simple and clear.

- **Conclusion**

The three acting principles that I have discussed here are just the tip of the iceberg of what I have discovered while applying theater to live communication in the past decades. I imagine I have raised a few “ah ha!” moments from your own past with the stories from my own. I hope that as you work with the Best Practices exercises and tips that you find new and valuable ways to improve not only your own communication, but that of your clients as well.

Katherine James with husband and partner Alan Blumenfeld is the founder of ACT of Communication, a litigation consulting firm that specializes in live communication skills for lawyers and witnesses. An active theater artist, she acts, writes and directs. ACT's website is www.actofcommunication.com.

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Editor's Note

This is a very cool issue of *The Jury Expert*. We have an array of articles we think you'll find interesting, thought-provoking and fun to read. First, we have a look at gender and race in the courtroom over time and recommendations for how litigators might use this information with reactions from two trial consultants. Then a look at how the internet has been intruding into the courtroom (it isn't just with jurors) and recommendations on how litigators and judges can minimize the impact through clear and specific education and instruction. Third, we have an article on how research into damage assessments can inform settlement negotiations. Following that, we have a introductory bibliography on the GBMI/NGRI verdicts with thoughts from three trial consultants on learning about this specialty niche, educating jurors, and voir dire. We all pay attention when jurors nod. But what does it mean and when should you really pay attention? Read our fifth article and find out. Our sixth article takes lessons an experienced trial consultant has learned over three decades about communication in the courtroom (and more decades on the stage). Learn about common mistakes and best practices as well as the identity of Konstantin Stanislavski.

Most of us already know who Antonin Scalia is but did you know it's not a good idea to 'poke Scalia'? What can litigators learn from observing our Supreme Court in action? And finally, an instructive piece on 3D animation (with lots of examples) accompanied by an overview of the 3D animation process and recommendations on when to use 3D and when to not use it.

November's issue of *The Jury Expert* also features advertising for the very first time. Publishing this journal has been a very exciting undertaking for the American Society of Trial Consultants (ASTC) but not one that has been without cost. We are grateful to our growing readership base and we are especially grateful to those advertisers who believe in us and show their support by advertising on our website and in the downloadable pdf version of [The Jury Expert](#).

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