

# De Novo

Colorado Association of Legal Support Staff

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## Don't Be Afraid To Laugh! Involving humor in your work

by Trey Ryder

If you want prospective clients to trust you and believe you, you must help them connect with you as a living, breathing human being. Humor is one of the most powerful ways to form a strong emotional bond with prospects. It is an essential tool in persuasive communication. Humor brings you and your marketing message to life!

When used skillfully:

- ✓ Humor brings your prospect over to your side and helps him see you as a friend.
- ✓ Humor builds an atmosphere of trust.
- ✓ Humor helps your prospect enjoy your message.
- ✓ Humor (specifically, laughter) produces endorphins, which creates in your prospect a sense of well-being.
- ✓ Humor engages and entertains your prospect in a positive, uplifting way.
- ✓ Humor releases tension by physically and mentally relaxing you and your prospect.
- ✓ Humor makes your prospect more receptive to new ideas.
- ✓ Humor helps you present important and even controversial ideas in a non-threatening manner.
- ✓ Humor seizes and holds your prospect's attention throughout your presentation.
- ✓ Humor helps your prospect cope and get through threatening situations.
- ✓ Humor helps convey difficult messages and focuses attention on serious topics.
- ✓ Humor makes heavy material lighter and easier to digest.
- ✓ Humor makes key points easier to remember.
- ✓ Humor shows that you don't take yourself too seriously.

### When To Use Humor

I'm not suggesting that you use humor in every situation. Depending on the type of law you practice, you might be talking with a prospect who has experienced a personal tragedy. So, you be the judge. If you think humor is not appropriate, then avoid it.

Now, whether you're presenting a seminar, or talking one-on-one with a prospect, here's how to get the most mileage from jokes and funny stories.

Opening: A joke or funny story helps prospects shift their attention from whatever was going on before – to where you want their attention: on you.

During: If your subject is heavy or technical, insert something funny every 10 minutes or so. This helps prospects relax and take a short break from their heavy concentration.

Closing: You want prospects to leave with a pleasant, positive feeling – and a smile on their face. Make sure you close with a great joke or story.

### Where To Find Material

The most effective humor is in stories about your own experiences. Look for personal, self-effacing stories where the joke is on you.

Also, you can draw jokes and stories from publications. If you look in current newspapers and magazines, you may find that your prospects have already heard the jokes and stories. To avoid this problem, you might check in publications dated several years earlier.

The source I use most often for funny stories is *Reader's Digest*. The material is entertaining and inoffensive. And you usually can adapt the story to suit your needs.

By far, though, the largest source of funny stories and jokes is the Internet. Recently, I was looking for the setup to a joke for which I could remember only the punch line. I did a search for the punch line and, believe it or not, the joke appeared on the screen.

### 11 Tips On How To Use Humor

Tip #1: Humor is a serious subject. Don't take it lightly.

Tip #2: Use self-effacing humor. You are always safe when you make yourself the butt of the joke. This helps you appear human to your prospect – and you don't risk offending him or her in any way.

Tip #3: Avoid intellectual humor, unless you're sure your prospect will understand it. It's easy to tell a story that's so high-brow that it goes over your prospect's head. Instead, tell silly stories, which usually reach the lowest common denominator.

Tip #4: Make sure your prospect can relate directly to your story's topic. If you want to meet your prospect

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## From the Editor:

As I type this message, I'm looking out the window at the snowy white mountaintops and the winter-gray skies – and hearing on the radio that the temperature is in the 20s. It's hard to believe that spring is only a few short weeks away.

Mother Nature has chosen spring as the time of year to renew and refresh everything around us. We're all starting to think about spring cleaning, opening windows wide, and letting lots of fresh air into our houses that have been closed tight against the cold for so many months.

Spring also means we've reached the half-way point in our CALSS year. (I'm always amazed at how quickly the year flies by!)

But don't get lulled into thinking we're on the downhill slide . . . there are still three issues of *De Novo* to put together before the end of the year, and I'm still looking for articles to fill the pages. If you know of someone who might be interested in writing an article, if you've come across an article that you found particularly interesting, or if you've found some topical, timely tidbits, please send them my way! Submissions deadlines are listed in the box below.

The next issue will be out in May 2008.

Cathy Hansen, PLS  
*De Novo* Editor



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All correspondence regarding content should be directed to the editor. Original articles may be submitted for publication, as well as reprints of previously published articles. (In the latter case, please include author and publication information so appropriate reprinting permission may be obtained.)

Deadline for submission is the 15<sup>th</sup> day of the month preceding publication (i.e., December 15 for the January issue).

# An Accountant's View: Financial trends that affect law firms

by Janet Ellen Raasch

With the approach of tax season, law firm administrators are eager to understand how the latest developments will affect their firms as financial deadlines draw near. These developments can be structural, like choice of entity, or strategic, like the use of key performance indicators. Either way, they are essential to a law firm's bottom line.

This subject was discussed by a panel of accounting experts at a core-competency session of the Mile High Chapter of the Association of Legal Administrators ([www.milehighala.com](http://www.milehighala.com)), held Nov. 14 at the Adams Mark Hotel in Denver.

Speakers were Paul Egan, Lori Gibson, Sean McBride and Shawn Windle – all CPAs with Denver-based accounting firm Ehrhardt Keefe Steiner & Hottman, PC ([www.eksh.com](http://www.eksh.com)).

## Choice of entity

Many older and more established law firms were formed as professional service C corporations. Many firms formed over the past 25 years were created as partnerships. Most of the law firms being launched today are being formed as limited liability companies.

“A C corporation is a taxpayer, separate and distinct from its shareholders,” said Egan. “Taxes can effectively be avoided by ‘zeroing out’ corporate income – paying professionals enough compensation to leave little or no taxable income.”

Many law firms were formed as PSCs in order to take advantage of retirement plans that could be used to shelter income. Today, this advantage no longer exists. However, because of the one-time tax costs incurred by making the switch to another entity, most existing PSCs have opted to remain as such. “For most firms,” said Egan, “to switch would be a tax disaster.”

S corporations, partnerships and LLCs are all “pass through” entities. The entity itself is not subject to tax; instead, its income and losses flow out to its shareholders or members – who include their share of the income on their own tax return or use their share of the losses to offset other income.

S corporations, LLPs and LLCs allocate income to owners on Schedule K-1. Separately stated items include interest income, dividend income, gains and losses on sale of assets, rental income or loss, charitable contributions and guaranteed payments to partners. What is left over is “ordinary income.”

## Other tax concerns

Other areas to watch closely at tax time are charitable contributions, meal and entertainment deductions, and sales and use tax.

“In a C corporation, charitable contributions are limited to ten percent of taxable income, with a five-year carryover,” said Egan. “When combined with the need to ‘zero out’ taxable income each year, administrators can

avoid a tax trap by paying a bonus to shareholders, which shareholders can use to make individual charitable contributions. These are valuable deductions. Use them, don't lose them.”

When individual lawyers file LLP/LLC tax returns, their charitable contributions are limited to 50 percent of adjusted gross income, also with a five-year carryover.

When it comes to meals and entertainment, 50 to 100 percent of certain expenses are non-deductible. However, the full amount can be deducted when:

- ✓ The value is stated on an invoice and billed to a client;
- ✓ The value is included in the income of the employee or independent contractor;
- ✓ The expense is for an internal meeting meal, or for meals and other expenses incurred for recreational, social or similar activities primarily for the benefit of employees; or
- ✓ The expenses are too small to reasonably be accounted for.

Finally, as public jurisdictions try to maximize their revenue sources, many law firms are being audited on sales and use taxes.

“When it comes to sales and use tax, you really have to know the law and look closely at every invoice,” said Egan. “Materials prepared for distribution at a live seminar are not taxable, but those prepared for distribution via mail or the Internet are taxable. UPS or postage is not taxable, but shipping and handling is. Original court reporter transcriptions are not taxable, but copies are. If you aren't sure, ask for help.”

## Financial planning

In the area of financial planning, law firms should attend closely to issues raised by cash-basis accounting, client trust accounts and funds advanced as part of client costs.

Most law firms operate on a cash-basis accounting system – which records financial events based on cash flows and cash position. “Lawyers like to be able to look at income statements and see what their actual distribution will be,” said Gibson.

The advantages of cash-basis accounting are that a firm does not have to pay income tax on outstanding invoices until the cash actually arrives. Plus, it is possible to bring the books to “zero sum” at the end of the year merely by paying more or less of the outstanding payable and distributing bonuses to partners.

“On the negative side, a firm might not recognize losses as fast,” said Gibson. “Because revenues and expenses are not matched, financial statements can be way off if a firm is growing or shrinking dramatically. If 100 percent of net income has been distributed, this may create the need for a capital call – never a popular option.”

*(continued on page 7)*

# SO . . . You're a Leader!

by Audrey Brekel, CALSS Parliamentarian

What are the qualities of an effective leader?

Good judgment – a good leader knows when to strictly enforce the rules and when strict enforcement disrupts the flow of business; a good leader knows how to conduct meetings to fit the organization; a good leader will be able to see a “fit” between the members of the organization and the work that needs to be done.

Teachability – a good leader is willing to learn the procedures of an organization and to use them fairly and judiciously.

Listening skills – a good leader listens to what the members are saying and what verbal and non-verbal signals are being given; a good leader will listen to differing opinions and all sides of an issue.

Calmness – a good leader has the ability to keep peace if the meeting, differing opinions, or vocal discussions become argumentative.

Humility – a good leader does not take offense with the actions (or inactions) of the members; a good leader realizes that there will be differing personalities and many ways to get the job done.

Firmness – a good leader follows proper procedures and does not allow members to take shortcuts when doing so will impede the rights of other members; a good leader keeps firm control of the meeting to accomplish the objectives of the organization.

Impartiality – a good leader has the ability to allow many different personalities to be an integral part of an organization, but does not let the motives of individual members (or her own motives!) become an issue; a good leader allows the presentation of both the pro and con sides of an issue without voicing her own personal opinion.

Every leader has her own style in conducting meetings, accomplishing the duties of her office or chairmanship, and dealing with people. There is not necessarily a right or wrong, as long as the leader is protecting the rights of the members and is working for the good of the organization. The good of the organization should be first and foremost in the mind of any leader in her actions during her term of office.

To be an effective leader:

Consider your audience when you prepare for a meeting or a presentation. It is important to keep in mind what they need to know, what they already know, etc.

Establish your objectives and what information you need to convey and how you can best convey it.

Be organized! It is essential for the members to understand what you want to convey without fumbling around for the information.

Capture the attention of your audience with interesting opening remarks. Your opening remarks set the tone of what will follow.

Keep in mind any time limits. It may also be important to allow time for questions and answers.

The use of visual aids will add interest and will reinforce what you are trying to convey to the members.

Need to build your confidence as a leader? Rehearse your speech – even if it is in front of a mirror! Take time to pause in the right places and to catch your breath.

Does public speaking scare you?? Hesitant to do a job because you've never done any public speaking?

Helpful hints to keep in mind are:

- ✓ Script out what you want to say – try to imagine every possible scenario and plan for it. However, you don't need to read your script word for word – be conversational, as if you were talking with a group of friends (because you are!).
- ✓ Take your time. Don't rush through it!
- ✓ Don't stand at the podium like a stick, clenching the podium with both hands. Be natural and animated. Use hand gestures, drink water, move around. However, rocking back and forth is a no-no – it says you are nervous.
- ✓ Make eye contact with the audience. Connect with them. Get them to nod their heads to acknowledge what you are saying – that will show they are paying attention to what you are trying to convey.
- ✓ Make sure that what you are saying is right for your audience. What works great for teenagers probably won't work for a professional organization.
- ✓ Have fun!

You don't necessarily need to get up in front of the membership and conduct a meeting to be a leader! You can also be an effective leader of a group by scheduling speakers, putting together a seminar, publishing a newsletter, recruiting and corresponding with new members – just participating, being active, coming up with ideas, and being involved in the purposes and goals of an organization. An organization cannot and will not flourish and grow without the involvement of its members.

Be the kind of leader that the members can count on! 🍀

*Audrey Brekel is a past president and charter member of CALSS. She currently serves as CALSS parliamentarian. Audrey has earned the reputation of parliamentary guru of the association, having written a number of articles and presented many seminars on the topic. Comments and questions may be directed to [audrey.brekel@hro.com](mailto:audrey.brekel@hro.com)*



# The Grammar Queen: Let's Be Precise

by Darlene Johnson

Let's be precise. No, really — that's my topic this time. When it comes to writing, let's be precise. Let's choose words and punctuation that make our writing so clear that we don't need to explain ourselves further.

Allow me to illustrate. I have in my hand an invitation to a "pre-wedding reception" (what used to be known as a bridal shower, I guess). It's nicely designed and tells me who and where and when — all very well and good. Then, in small type at the bottom, it says "Gifts not required."

What does that mean, really? That they really *want* gifts, but they'll let me in the door without one? That the happy couple has everything they need, but they recognize that some people just can't arrive at a reception empty-handed? That I'll get a better seat or larger dessert if I do bring a gift? Are they just trying to mess with my mind? (If so, it's working.)

Lack of precision in communications is also frustrating at work, causing extra effort and delay. For example, Deb sends an e-mail to her supervisor: "The

deadline for the awards dinner is today. Do you plan to attend? If so, how many seats should I reserve?" The supervisor responds: "Yes."

In Deb's workplace, this is simply annoying and time consuming, but what if the same imprecise answer takes place in, say, a surgeon's office? Deb: "Is it Mr. Decker's new heart that is on the way? Or is it the heart for Mrs. Norris?" Surgeon: "Yes, it's on its way."

When it comes to communications, especially written communications, a little precision goes a long way. \_\_\_\_\_

*Darlene Johnson is the Managing Editor at Continuing Legal Education in Colorado, Inc. When she's not busy making sure all the i's are dotted and the t's crossed, Darlene enjoys baking scones and spending time with her husband and daughter. Please send your grammar questions to Darlene at [djohnson@cobar.org](mailto:djohnson@cobar.org).*



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## Advocates for Children Seeks CASA Volunteers

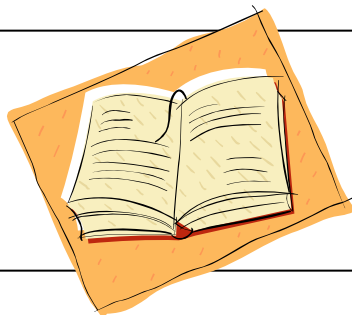
Each year in Colorado, more than 10,000 children find themselves without a safe, permanent home because of abuse or neglect. Advocates for Children serves these abused and neglected children by providing them with Court Appointed Special Advocates (CASA) volunteers. CASA volunteers get to know the children and make reports to the court. Judges use the information provided by volunteers to make decisions that serve the children's best interests.

If you would like to help victims of child abuse in Arapahoe, Douglas, Lincoln, and Elbert Counties, consider becoming a CASA volunteer. To serve as a CASA volunteer, individuals must be 21 years of age or older; pass a criminal and Central Registry background

check; participate in thirty hours of training; volunteer approximately ten hours a month for at least eighteen months; and appear in court on behalf of children. Advocates for Children is part of a national organization that includes approximately 900 agencies in all 50 states. For more information, call 303-695-1882 or visit [www.adv4children.org](http://www.adv4children.org). \_\_\_\_\_

*Reprinted with permission. 62 The Colorado Lawyer February 2008.*

*Editor's note: For Colorado counties other than those listed in this article, contact the court system and ask for the CASA or special advocate for children organization.*



**NOTE TO READERS:** If you prefer to read a non-graphic version of *De Novo*, you can view all of the articles in straight text format at [www.calss.org](http://www.calss.org) (log in to the Members Only page, and follow the links to the Publications Page).

**Laugh!** (continued from page 1)

eye-to-eye, your story must focus on something that is within your prospect's knowledge or experience.

Tip #5: Use stories and jokes that relate directly to the topic of your presentation.

Tip #6: Make sure your story or joke is clear and to the point.

Tip #7: Check your story or joke against the AT&T principle: It is appropriate? Is it tasteful? Is it timely?

Tip #8: Make sure the topic of your story doesn't reflect on your knowledge or competence. We're striving for unquestioned credibility, so don't say anything that could undermine your prospect's confidence in you.

Tip #9: Practice and perfect your joke or funny story. Look for ways to make the story appear spontaneous. Then connect it with the most important parts of your marketing message.

Tip #10: Focus on the story's pace, intonation and pauses. Often, the silent pauses in stories are as funny as the punch lines.

Tip #11: Never use humor that is – or might be perceived to be – in bad taste. This includes anything relating to race, gender, religion, ethnic origin or disability. Make sure your jokes and stories are squeaky clean.


After these tips, I can't close without a story. Here's one of my favorites:

One night, thinking no one is home, a burglar breaks into a house. He discovers the frightened owners in bed watching TV.

"What's your name?" he asks menacingly of the wife at gunpoint.

"E-E-Elizabeth," she replies.

"This is your lucky day," says the burglar. "I can't shoot anyone named Elizabeth because that was my dear mother's name." He turns to the husband and demands, "What's your name?"

"My name's Harry," says the man. "But all my friends call me Elizabeth." 

Reprinted with permission from *The Docket 1* (February 2008).



Trey Ryder is a law firm consultant who specializes in education-based marketing for attorneys. He offers lawyers three free articles by e-mail: *11 Deadly Assumptions That Kill Your Marketing Program*, *Marketing Secrets of a Powerful Web Site*, and *17 Fatal Marketing Mistakes Lawyers Make*. To receive these articles, send

your name and e-mail address to [trey@tretryder.com](mailto:trey@tretryder.com) and ask for his free e-mail packet of articles.

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**Financial Trends** (continued from page 3)

Gibson also encouraged law firms to pay careful attention to the trust accounts used for funds held by an attorney for the benefit of a client.

"A lot of money flows through some of these accounts," said Gibson. "Often, they are not as clean as they should be. Jan. 1, 2008, changes to the rules of professional conduct will tighten requirements as well as enforcement. For example, a partner rather than an employee will now be liable for reconciliation in these accounts."

In an audit, the IRS will be looking in particular for accounts where the case has been settled and payment has been made to the client – but the attorney fees have been retained in the trust account for the sole purpose of deferring taxable income.

Finally, litigation expenses paid in advance by attorneys on behalf of their clients have long been treated as loans for tax purposes; since there is an expectation of recovery, they have not been deductible. "In 2008, a new rule will allow this cost to be incorporated into a lawyer's contingency fee – which would make it deductible," said Gibson.

**Key performance indicators**

The use of key performance indicators can help law firms identify, investigate and manage emerging trends in key business activities in a timely fashion.

"Most likely, a law firm administrator is already tracking some key metrics," said McBride. "However, these metrics might not be the most meaningful for your

firm, or might not be analyzed sufficiently to interpret trends and identify root causes.

"Generally, KPIs for law firms measure productivity of the fee earners, value delivered to the client and producer efficiency, and the profitability and efficiency of firm infrastructure," said McBride. "When choosing KPIs, firm must ask 'what are the key drivers of our practice, and how can we best track and manage them.'"

*Utilization KPIs* compare a firm's billable hour expectations with gross production. They include utilization (average number of billable hours), blended rate (gross fees divided by gross billable hours), number of non-partners divided by number of partners, and utilization rate (number of billable hours divided by total producer hours).

"Utilization KPIs can indicate an excess or shortage of capacity, an inappropriate percentage of time being spent on administrative activities by fee earners, or work that is being inappropriately leveraged within the firm," said McBride.

*Realization KPIs* measure the value delivered to the client and the efficiency of producers. They include write-downs (produced billable fees not billed), net fees (gross fees less write-downs), realization percentage (net fees divided by gross fees), net fees per partner, and net fees per full-time employee (net fees divided by total FTE).

"If a firm's write-offs are too large," said McBride, "you may be discounting work in order to win it. If

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**Financial Trends** (continued from page 6)

write-offs are too low, it is usually an indication that the market will bear a higher fee for your services.”

Finally, *margin KPIs* can be used by law firms to measure profitability and efficiency of operations. “Cash is king – the lifeblood of any professional service organization,” said McBride, “so keeping a close eye on the efficiency and effectiveness of billing and collection activities is critical.

“It is important for firms to understand how well the current structure can support a financial return that allows the firm to reward its people and invest in continuing practice development,” said McBride.

These metrics include salaries and benefits/net fees, other operating expenses/net fees, days in accounts receivable (average AAR/(net fee/365), days in unbilled work in progress (average unbilled WIP/(net fees/365), collection percentage (fees collected/fees billed), average unbilled WIP/gross fees, and a listing of incurred but unpaid expenses.

Once a firm has established its KPIs, it can track and analyze trends. Benchmarks and interrelationships can be established and used for goal-setting. “Then, administrators and managing partners can “read between the lines” to assess difficult-to-measure activities like leadership development and client satisfaction,” said McBride, “correcting behaviors or activities that are counterproductive to the firm’s strategic and financial goals.

“Don’t try to track all of these KPIs,” said McBride. “You will get hopelessly bogged down in detail. Pick four or five that you find most useful.”

**Strategic planning**


Strategic planning is an ongoing process undertaken by a law firm’s management team to identify where an organization wants to be in the future, and how it plans to

get there. This plan should be reflected in the firm’s one-, three- and five-year budgets.

“Without planning,” said Windle, “law firms tend to focus almost exclusively on today’s pressing issues and not on the future of the practice. They work *in* the business, not *on* the business.”

Strategic planning should be a multi-year process and is often most effective when facilitated by an outside consultant. “Most firms assume they will accomplish their strategic objectives in the expected timeframe,” said Windle. “If you choose five things you’d like to accomplish over three years, you are doing very well if you accomplish just three of them. Deep change takes more time than you think.”

The strategic planning process can be used to determine a firm’s strategic competitive advantage. “It can also be used to plan for succession, partner ins and outs, increased billings and profitability, new service or geographic offerings, marketing, office space, people (planning, recruitment, retention and culture), technology and governance,” said Windle.

As financial deadlines draw near, law firms should examine how structural changes like choice of entity affect taxes. They should also examine how strategic changes like the use of KPIs and strategic planning can lead to improvements in a firm’s bottom line. \_\_\_\_\_

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*Science has never drummed up quite as effective a tranquilizing agent as a sunny spring day.*

*- W. Earl Hall*