

THE ART OF THE DEAL

by

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What are the basic elements of closing a “deal”? In the claims business, we close contractual and civil damage “deals” every day of our working lives. We do this work on behalf of our insureds and our employers on such a routine basis it becomes second nature to any claims professional of even limited tenure. Occasionally, I run across someone who seems truly gifted with superior negotiation skills which brings to mind several points about this critical aspect of claims handling.

1. *Yes, settling a claim is just like “closing a deal.”* I am frequently amazed how few people in our business see themselves as sales people. I attended an industry seminar a few years ago which was primarily directed at the agency side of the insurance business. One of the key note speakers was a V.P. with a very large national brokerage firm. In her presentation, she made the point that her company had determined that a seasoned claims handler was as a superior candidate for an account representative position in an agency (versus an underwriter or marketing person) because the claims candidate was already well versed in coverage and sales skills. Their company viewed the process of settling claims as the most difficult and challenging sales assignment in the entire insurance industry. I agree.

Before I saw the light, I began my insurance career as (please do not hold it against me) an agent. I really did make door-to-door sales calls as part of that experience. By comparison, door-to-door sales calls were a minor challenge and a pleasant experience relative to many of the claims I have concluded. In door-to-door sales, I would occasionally be invited in to a prospect's home for a glass of tea or coffee...how often does that happen to most claims adjusters?

It is not inappropriate or unprofessional to visualize a big part of our professional responsibilities as *sales*. Acceptance of this simple reality makes the application of traditional “sales” techniques to the claims process much more relevant in most people’s minds.

2. *Good negotiators are made -- they are not born!* Anyone can improve his or her negotiation skills. I have yet to meet the “born” negotiator. There are some individuals who may come to the process with more basic negotiation skills than others. The fundamental skills of negotiation can be learned by virtually anyone. Mastering these skills will improve work related performance and add enjoyment to the business of claims handling. The claims and legal professionals I find who have superior negotiation abilities are ordinary people who have practiced becoming better at the process. They fine tune their skills each and every time they close a deal.

Structured training is not required to become a superior negotiator. Some professionals I meet have been through extensive, formal training programs sponsored or paid for by their employers. Others have read a few paper back books on negotiation techniques and applied what they learned to their jobs. I have always made a point of studying the styles of my counterparts -- especially those that obtained lopsided victories based on my evaluation of the case. What processes were involved that enabled them to obtain concessions and results that went well beyond my expectations of settlement? Did I simply under

evaluate the case? Did I overlook some critical factual or legal detail, or was there something else involved which contributed to the final result?

3. *Now you see it...now you don't!* Much has been written about becoming a good listener. To become a good negotiator one must go beyond just listening with the ears. I try to become a human sponge in my dealings with my counterparts. I attempt to absorb as much information, both verbal and non-verbal, as possible. This process begins with my very first interaction with my counterpart. For example, if my first encounter with the other side is a letter of representation, what (if anything) can be learned from their correspondence beyond the content of the words on the page? The answer to this question could cover a small volume, however, here are some ideas:

- Are there any typos, grammatical or punctuation errors in the correspondence -- errors may indicate that the other side does not consider the case as seriously as the tone of the correspondence suggests;
- What quality stationary does your counter part use...was the correspondence smudged or marred by ink stains, coffee spills, etc?

Get the idea? Here is another example of the human sponge concept:

- When you come face to face with your counterpart, take note of his/her body language throughout your interaction. This is somewhat like looking for clues from the players in a poker game. Posture, gesticulation, eye movements may provide insights into your counterparts' confidence, veracity, strengths and weaknesses;
- How is your counterpart dressed -- it a novice's mistake to presume that formal attire indicates a more qualified opposition or a better case. Frequently, casual attire indicates your counterpart is so *comfortable and confident* in their case they do not need to impress you with a designer suit.

Recognizing and understanding non-verbal cues and body language are a huge part of becoming a successful negotiator. This process goes on every time you interact with another person whether you realize it or not. The point here is to recognize the existence of non-verbal cues and improve your skills in gathering the insights they may provide. Keep in mind that this is a two way process. That is to say that your conduct, appearance, presentation, etc. can provide the same information to your counterpart, therefore, be mindful of these issues before and during all your interactions with the other side.

4. *Win-Win philosophies* -- The single greatest step forward anyone can take in becoming a better negotiator is to separate the people from the problem. It is very easy to loose sight of the underlying facts and issues during a negotiation. Sometimes this happens by design when one side clouds or confuses the issues by intention, however, more often than not, it happens as a by product of the process itself. The obvious factors are bias and/or preconception when one or both sides presupposes critical aspects regarding the issues or their counterparts' intentions. This most common of causes is the easiest to remedy -- **don't do it!** (See how simple that was!)

Your expectations affect your results. If you expect hostility and lack of cooperation from the other side, you should not be surprised when you get it. No one wants to be pre-judged or stereotyped, therefore, do not allow yourself to do to your counterpart that which you would not wish done to you. Someone has to start this process, so why not let it be you. There are numerous benefits to be gained from taking the moral high ground even if your counterpart will not extend you the same courtesy.

Lastly, I would suggest to you that it is far more important to be a good winner than a good loser. A skilled negotiator understands the benefits of being both a good winner and a good loser, however, there is some inherent tolerance in the negotiation process for bad losers. A sharp advocate will see the advantage in consoling the “loosing” side (besides, what do you have to loose...you just won the case, right?). It is normal to want to do your victory dance after a perceived victory, however, only a fool gloats on his success in any way which might get back to the other side. The nature of our business means we will probably see this advocate again sometime in the future on another case. Is it wise to make an enemy for life today by being a poor winner when the tables may be reversed at your next negotiation with the same adversary?

Becoming a better negotiator is step-by-step process anyone can master. There are numerous ways to improve your skills. One of the easiest ways is to learn from your opponents. The benefits of developing these techniques will manifest themselves in virtually aspect of your professional and personal life. I recommend the Harvard Negotiation Project's, *Getting to Yes*, as a handy, easy to read reference every claims professional should possess and utilize. Conflict resolution is one of the most critical aspects of our jobs and can actually be very exciting and enjoyable...if you know how to close the deal.