UofT Faculty of Law: CPS Laboratory

Practical Application of CPS Tools

Creative thinking may mean simply the realization that there's
no particular virtue in doing things the way they have always been done.

- Rudolph Flesch

Operating a successful legal practice and being a skillful lawyer are two completely different things. It's quite possible to be an amazing practitioner and also a starving solo or small firm lawyer. The following sales philosophy and accompanying tools are intended to narrow that gap and keep it close. Lawyers arguably start further along a typical client sales lifecycle because our professional status lends a natural imprimatur of credibility that sellers in other industries may have to work at establishing. However, that does not mean there is no room for improvement. After all, we call it a "practice" for a reason.

Productive Selling

The best lawyers help clients solve problems, whether that's leading meetings, managing teams or developing and exploring solutions beyond fitting facts into a legal framework. More and more lawyers are now positioning themselves to help clients such as entrepreneurs and business owners to grow their business by applying legal skills to creatively solve broader business problems. The question is what are all the ways we might demonstrate to our clients (prospective and existing) that we posses the necessary skillset to meet these wider needs?

The answer probably depends on each lawyer's experience and particular area of practice. And yet if there's no one-size-fits-all approach to establishing one's value to a potential client, perhaps there is a broadly applicable approach that can be used to find and keep clients who appreciate the value a lawyer can bring to the solicitor-client relationship. One such proposed approach is the "Productive Selling" framework outlined by Tim Hurson and Tim Dunne in their book *Never Be Closing*.

Their premise is that selling is "not about the art of persuasion" but rather the "kind of selling that emerges naturally from your genuine interest in the person you're working with and your sincere desire to be of use." Their focus is on establishing a long-term relationship that is able to deliver value to clients. In order to better understand how to manage this, they conceptualize each sales conversation as a three-act structure:

- **Act 1 – Establishing Credibility**
    - Lawyers may often have pre-established credibility through (i) personal referrals from existing clients, colleagues or professional contacts and/or (ii) demonstrated expertise via publication, presentation or video.
    - When in doubt, reference may be made to (i) recognized expertise (e.g. certified specialist), (ii) years of practice, (iii) number of previously similar cases/transactions, (iv) size of previous cases/transactions or (v) circle of competent colleagues.
    - Where experience or expertise is underdeveloped (e.g. new calls), lawyers can lean on a professional implementation of the meeting process with an explanation of the agenda, timeline and approach to meeting.
- **Act 2 – Exploring Needs**
    - Once granted permission to ask probing questions, lawyers may often lean on best practices for client intake interviews learned through law school, bar courses, articling or professional development courses.
    - Learn to stay-in-the-question by suppressing instinct to blurt out ideas in favour of listening to the issue and capturing client's perspective.
- **Act 3 – Delivering Value**
    - Opportunity to flourish and focus on how *to be of use* to a prospective client by offering insights, resources, products or services.
    - Deliver value in three ways applying U-S-E:
        - **Understanding:** Assist client to see things differently and perhaps redefine client issues. Offer novel perspectives and insights.
        - **Sourcing:** Connect client to people with goods or services in your ecosystem to move them forward on identified needs, whether professional or personal.
        - **Exchanging:** Connect client to your products, services or ideas that may assist in resolving their issues or meeting their needs.
    - Make and follow up on promises to propel the relationship forward.

<u>Tools to Expand Thinking</u>

Two of the many tools in the Productive Selling toolbox are DRIVE and POWER. Using these tools can create opportunities to better prepare for and debrief after meetings, positioning us to create "win-win" opportunities with colleagues and clients. Cycling through the application of these tools a few times should lead to an enhanced perspective of knowing what you want to achieve out of each meeting and evaluating how you did once it is complete.

At first blush, these may appear to be relatively simplistic tools. As well-educated professionals we already do a lot this thinking; however, these tools are similar to long division – when we show our work, we may find opportunities to make connections that were previously missed. It's unlikely that any of us imagines ourselves to be the best golfer, fisherman or tennis player possible and I propose we look at our thinking in the same way. There's always room to get even better at how we do that. Law school taught us to "think like lawyers". Tools like DRIVE and POWER encourage us to be more mindful and deliberate in exercising those thinking muscles. They offer a disciplined approach to thinking more creatively and effectively about something we often do on autopilot. Should they prove helpful, consider the potential value these additional tools may bring to an already successful client intake process:

- **Q-Notes**: a strategy to recording and guiding your sales meeting by dividing note-taking into four categories: (i) questions to ask during the meeting; (ii) ideas to deliver at the end of the meeting; (iii) things discovered about the client; and (iv) ideas for follow-up activities.
- **The Three-Act Meeting Structure**: A creative way to design the sales conversation to explore client needs, offer solutions and deliver value.

Before Action Review - DRIVE

DRIVE is an easy-to-remember and simple tool that can quickly give you a solid sense of what a successful endeavor might look like. One possible use is to set the success criteria for an intake or client pitch meeting. This is not a detailed plan of action but rather a means of setting out what you want to achieve in order to evaluate how you did after the activity is completed.

- **Desired Outcomes** – What do you want the meeting to do for you and for your client?
- **Risks** – What are the possible outcomes of the meeting that you want to avoid?
- **Investment** – What are you prepared to invest in the sales effort? What resources, what time, what research? Would you be happy to meet the same client ten times to make the sale? What are your not-to exceeds?
- **Vision & Values** – What do you want your client to know you are as a result of your interaction? How will your vision or your values be conveyed by what you say and what you do?
- **Essential Outcomes –** What are they key, observable, measurable outcomes of the meeting that will indicate success? This is more precise than the Desired outcomes in the first column. You may want certain outcomes, but the outcomes in this fifth column are the ones that are absolutely necessary in order for you to consider your meeting a success.

Desired Outcome[1]	Risks to Avoid	Investment Not to Exceed	Vision or Values	Essential Outcomes
• Secure client mandate	• Talking too much	• 1 hour pre-meeting research	• Usefulness	• Establish usefulness
• Discover client's needs	• Losing focus	• Pre-meeting strategy discussion with mentor	• Listener	• Demonstrate understanding /empathy
• Identify decision-maker	• Addressing wrong problem	• 30 min complimentary intake meeting	• Problem solver	• Offer assistance
• Understand client's process in establishing professional relationships	• Underestimating scope	• 1 follow-up email	• Friendly	• Make at least one promise
• Find personal follow-up opportunity	• Lack of payment clarity		• Alignment	• Establish clear next steps
• Find business follow-up opportunity	• Giving premature legal advice		• Commitment to cause	• Establish issue credibility / professionalism

After Action Review – POWER

POWER is ideal for distilling the meaning of what happened during your client conversation – and for identifying where you might need to develop/get stronger/areas of opportunity. POWER stands for Positives, Objections, What Else, Enhancements and Remedies. It's a structured way of analyzing and understanding any activity.It was developed based on US military "Opposing Forces" war games. When completing a POWER sheet, it's important not to censor yourself. Write down whatever occurs to you, whether it seems important or not. It's all too easy to think of an item and then self-criticize it out of existence. Defer your judgment. Write down anything and everything. Once you've completed your POWER exercise, your next step is to focus on the items you want to improve before your next meeting.

- **Positives** – What was positive or useful about the way you managed the meeting? What did you do that moved the meeting forward toward success? What were your strengths? Where did you shine?

[1] Simple guidelines to completing the chart: (1) Use divergent, creative thinking to create as long a list as possible; (2) Do not judge; just list. Irrelevancies and redundancies can be removed later; (3) Consider using sticky notes in a group setting; (4) Select key items to generate final list of "success criteria" to achieve at the meeting (usually fewer than 10). Challenge yourself.

- **Objections –** What was problematic about the way you managed the meeting? What did you do that moved the meeting away from success? What were your weaknesses? Where did you stumble?
- **What Else?**[2] What else occurs to you about the way you ran the meeting? About its ups and downs? Its pacing? The way you asked questions? The way you answered them? What else about how you bridged between thoughts? About how you catalyzed? How you analogized? What else about how you began the meeting? How you brought it to a close? About your small talk? What else about the unexpected occurrences during the meeting, both welcome and unwelcome, and how you handled them? What else about yourself, about your process, about your emotions?
- **Enhancements** – How might you enhance all the Positives you listed? How might you make your performance even stronger, even more likely to succeed?
- **Remedies** – How might you overcome the Objections you listed? How might you eliminate or reduce your weaknesses and give yourself and your process a greater chance to succeed?

POSITIVES (Good things about how the meeting was run.) • Learned lots about CLIENT through small talk (e.g. interest in personal health/nutrition) • Credibility established with reference to work with MENTOR X and COLLEAGUE Y. Good to not assume "being a lawyer" is automatic credibility threshold. • Appreciated taking a step back to discuss CLIENT objectives before offering pros/cons of legal options.	ENHANCEMENTS (How to improve what was Positive.) • Build on shared interest (send link to Bootcamp & "28-Day Transformation") • Ask about how outside interest finds its way into success at work. • Be sharper about looking for differentiating questions. • Streamline meeting by sending pre-meeting "homework" to CLIENT to review beforehand
OBJECTIONS (Not so good things about how the meeting was run.) • Too blasé? Discussing needs of another social entrepreneur should be done with same enthusiasm for each intake. • Establishing more cred by controlling meeting worked well, but maybe came on too strong. How might I demo cred strongly but still be more conversational?	REMEDIES (How to overcome each Objection.) • Listen better! Let CLIENT lay the foundation before redirecting to "Four Buckets" conversation. Then get excited about sharing model/information. • Check in with CLIENT periodically to ascertain how information is being digested.
WHAT ELSE? (Other observations about how the meeting was managed.) • CLIENT is a big ideas person. Maybe riff on strategy/30,000 foot view occasionally. (Note: share info on creating Teal Organizations). • Improv is a shared interest too! Could have used that to connect. Listen, listen, listen! • Getting PARTNER into these meetings could demonstrate depth of firm bench and increase speed to credibility.	

[2] What Else is a catchall bucket. It's designed to make sure you don't miss anything. You can add What Else comments any time during the POWER process. As you go through each of the other categories, it's likely that additional What Elses will occur to you. Throw them in the What Else bucket for now. Then review the list and sort its contents where they belong. You may decide that some items fit best in a different category.

Resources

Tim Hurson and Tim Dunne, *Never Be Closing*, (New York: Penguin Group, 2014).

Tim Hurson, *Think Better*, (New York: The McGraw-Hill Companies, 2008).