

The initial client interview

- I. **Purposes:** A primary purpose of the initial client interview is to identify the client's problem and to gather enough facts to identify a range of appropriate ways to address the problem. However, the interview also serves as an opportunity to develop a relationship of trust and open communication between the lawyer and client.
- II. **Preparing for the Interview:** Before the initial client interview, you should review the client's file, draft (or at least have prepared) questions for the interview, and prepare the interview location.

- A. **Review the file:** You should review any documents or correspondence that you have in your possession regarding the client's case before the initial interview. If there are additional documents that the client is likely to have in their possession that will be important to the case, you should ask the client to bring them to the interview.
- B. **Draft questions for the interview:** Use the "funnel" approach. Begin with open-ended questions to generate broad, general information. To the extent that you can predict that the client's case will implicate specific causes of action or legal theories before the interview, focus some of the open-ended questions on topics that will elicit broad, general information relating to the prima facie elements of those causes of action or legal theories.

Follow up the open-ended questions with narrower questions that clarify specific facts relating to those causes of action or legal theories.

Note: The interview should include a combination of open-ended and narrow questions. The client generally does not know what information is relevant, so you need to ask enough general questions to identify all of the potentially relevant discussion areas. Once you have identified those broad areas, you can drill down to obtain specific facts through narrower questions.

If you only ask narrow questions, you may fail to learn about important facts, but if you only ask general questions, you may fail to identify important details.

- C. **Prepare the interview location:** The location for the interview should be clean, comfortable and non-distracting. This will help to build the relationship of trust and open communication and will help your client build confidence in you.
- III. **Structure of the Interview:** When conducting the actual client interview, remember that the interview is a conversation and your goal, throughout, is to develop an open, trusting relationship while eliciting factual information. Active listening will be essential to the interview. You may find it useful to use the following structure for the interview:
 - A. **Introductions and roadmap:** Introduce yourself and allow the client to introduce themselves. Explain the purpose of the interview and indicate whether there are any

time limits or other restrictions on the interview.

Let the client know that their conversations are confidential and that you will discuss legal rights and solutions at the end of the interview. You may want to discuss formalities regarding fees and the attorney-client relationship at this point as well.

- B. Open-ended questions:** Ask general questions that prompt the client to tell their story in their own words. You can keep the client talking with prompts like “what happened next”? At this point, you will be able to preliminarily identify the client’s problem. When the client has completed their response to the preliminary general questions, you should summarize your understanding of the problem and the client’s interests and concerns for the client. You may have some thoughts regarding potential causes of action or legal theories that the client might pursue based on their responses to the initial questions.

After this initial phase, you will probably want to ask additional general questions, but focused a little more directly on elements of the causes of action or legal theories that you have begun to identify as potentially relevant.

- C. Specific questions:** After asking the open ended, general questions, you should ask more specific and narrow questions to fill in important details that were not addressed by the client in response to the general questions or to clarify facts that were addressed by the client. You should avoid asking leading questions unless you are confirming facts that were previously provided by the client or you are trying to obtain information that the client may be reluctant to provide.
- D. Summarize and identify clear next steps:** Summarize your understanding of the facts that the client has provided to you, provide the client with a brief summary of their rights, and identify any issues that you need to research before providing additional information to the client. You should also develop an action plan for the case, describing to the client what you plan to do next and when you will get back in touch. In addition, you should indicate to the client when and how you will communicate updates on the case to them.

IV. Conducting the Interview: As you conduct the interview with the client, the following tips may be useful:

- A. Listen to the client:** One of the most important things that the lawyer must do in all of their communications with clients is to be an active listener. In the initial client interview, you should give the client the opportunity to fully explain the facts, as well as their interests in resolving the dispute. Don’t cut off the client. The interview is an opportunity to build a relationship of trust as well as to obtain necessary facts. The client needs to feel confident in your abilities and you need to know that you can work with the client.

Techniques: Throughout the interview, you should let the client know that you are listening through non-verbal and limited verbal communication that demonstrates engagement. (i.e. head-nodding, eye contact, responses to the client that reflect

the client's concerns and respond to the client's concerns)

- B. Be professional:** Exhibit a professional manner at all times. Be friendly, courteous and polite, but confident. Speak to the client in terms that the client will be able to understand. After developing a communication plan, follow through with the plan, return calls and e-mails promptly and keep the client informed and connected.
- C. Manage expectations:** In your communications with clients, don't make promises that you can't keep. If a client presses you for advice regarding the likelihood of success in a case or for a prediction of the likely outcome of a dispute, remember that the ultimate outcome may depend on a variety of factors that are outside of your control or may be uncertain. Don't build up unreasonable expectations.

If you don't know the answer to a question, tell the client that you don't know the answer and will look into it and get back to them.