Family Law Education Reform Project

Hofstra FLS Instructions - Supervisors (Divorce)

OVERVIEW

This document contains a list of instructions for supervisors for the client interviewing skills exercise. Please refer to other Family Law with Skills (FLS) documents to aid in this and other exercises

EXPLANATION AND COMMENTS

This document should be given to all supervisors/evaluators prior to the skills exercise.

ABOUT THE AUTHOR

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Professor Schepard is the Chair of the Family Law Education Reform Project co-sponsored by Hofstra Law School and the Association of Family and Conciliation Courts. He is an attorney member of the Judicial Conference of the State of New York. Professor Schepard is also Program Director for the National Institute of Trial Advocacy's course in Modern Divorce Advocacy and has served as Program Director for NITA's Child Advocacy, Deposition and Trial Advocacy courses.

Professor DiFonzo has had a wide-ranging two decades of law practice before becoming a full-time professor, including stints as a federal prosecutor and as a litigator in the areas of family law, criminal defense, negligence, and professional malpractice. In all, he conducted over 30 jury trials and several dozen appeals. He has taught at Hofstra since 1995. From 1995-2003, he served as Director of the Criminal Justice Clinic. From 2005-2008, he served as Director of the LL.M. Program in Family Law.

The Family Law Education Reform Project is co-sponsored by the Association of Family and Conciliation Courts, Hofstra University School of Law Center for Children, Families and the Law and William Mitchell College of Law.

Family Law with Skills
Hofstra University School of Law
Fall 2008

ALLEN MARITAL DISSOLUTION –
CLIENT INTERVIEWING EXERCISE

<u>INSTRUCTIONS FOR SUPERVISORS</u>

I. PRELIMINARY MATTERS:

- First, thank you all for taking time out of your busy schedules to assist us and our students by supervising the client interviewing skills exercise. We would not be able to give our students the benefit of this exercise without your time and help.

- Each supervisor has been assigned to a designated room and group.

- Attached you will find four additional sets of instructions -- one set is for the student lawyers (one for the Husband's lawyer and one for the Wife's lawyer) and the other set of instructions is for each client (one for the Wife and one for the Husband).

- Also attached is a copy of the Background Facts, which all students will receive a copy of and should be familiar with the information contained therein.

- Please report directly to your room at the start of class (noon) on Friday, September 5, 2008.

- The exercise should begin promptly as each student should have approximately fifteen (15) minutes to interview the perspective client and receive feedback on his or her performance.

- Each student has been assigned a role as either a perspective client or lawyer and will be provided with separate instructions and a fact sheet based upon his or her role in this skills exercise.

- The students should know the facts contained in their respective factsheets and stay in role. They may have the fact sheet with them during the exercise. Ideally, they should not be repeatedly referring to a factsheet during this exercise, as this will slow down the pace and the flow of the exercise. However, some reference may be made to the fact sheet when necessary.

- The students will receive separate instructions regarding their roles. Prior to this exercise, all supervisors should review student instructions so you know what is expected of them in their respective roles.

II. SET-UP & PROCEDURE:

(1) Depending on your group, each group will have been assigned either a husband or a wife as the perspective client for this interview.

(2) The student-lawyers should be arranged in a semi-circle with the perspective client seated in a chair front and center to the semi-circle or similar office setting for conducting the client interview. Depending on the size of the assigned room you may need to improvise.

(3) The discourse should be as if there is only one lawyer and one perspective client in the room meeting for the first time in a fact gathering session.

(4) The student-lawyers should have NO PRIOR KNOWLEDGE of the client's situation. In other words, the students playing the clients should not be sharing their fact sheets or the information contained in their fact sheets prior to this exercise.

(5) The perspective client should start and continue through his or her facts and should not, ideally, repeat the same facts over and over, but some repetition is inevitable.

(6) Beginning from a designated side of the semi-circle, and proceeding systematically down the line, each student-lawyer should receive approximately 10-15 mins. to do a piece of the interview with the client and receive feedback. The feedback should be constructive, focusing on two or three key points that the student can work on improving in the future.

(7) Prior to the start of this exercise, you may want to consider assigning a core element of the exercise to each student-lawyer.

III. SKILLS DEMONSTRATION:

- The CORE ELEMENTS that the student-lawyers should be focusing on and demonstrating an understanding of in this exercise are as follows:

  (a) Initial Welcoming and Starting the Interview (e.g., friendly and open, helping the client to feel comfortable and putting them at ease, asking how they were referred and beginning with an open-ended question such as, "What brings you here today?");

  (b) Explaining Attorney/Client Privilege & Confidentiality;

  (c) Explaining Retainer Agreement, Fees & Scope of Representation;

  (d) Building Trust, Honesty and Confidence in the Attorney/Client Relationship;

(e) Fact Gathering, Active Listening and Verifying Facts with the Client; and

(f) Prioritizing Client's Needs and Interests. **NOTE:** Although the students should be aware of the client's needs and have an idea of what his or her client's interests are, we are not expecting, nor do we want, any of the student attorneys analyzing any issues or giving any legal advice during this initial interview. We want to set a clear distinction between client interviewing and client counseling. Nonetheless if a student lawyer were to venture that far in this exercise, please not that the exercise is set in New York and therefore <u>New York's divorce law</u> would govern at the time of this interview, which is in the <u>Fall of 2004</u>.

IV. EVALUATIONS

- Supervisors are asked to complete a student evaluation form, rating each student-lawyer's performance. Upon completion of these forms, and at the close of the exercise, please give the completed evaluation forms to Tena Vitkovich.

- Each student is required to complete a self-evaluation form and should place this form in his or her journal for collection at a later date. Please remind the students to do this before they leave class.

Should you have any questions, comments or concerns prior to the start of this exercise, please speak with Professor Andrew I. Schepard or Tena Vitkovich.

Thank you.