

NOTES ON INTERVIEWING

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There are two different stages at which interviewing of clients by attorneys takes place. First, at the point of initial contact and retainer by the client, and second at various steps in the preparation for negotiations or litigation. Occasionally these stages merge but generally they have their own specific objectives in addition to common techniques.

INITIAL INTERVIEW

Two major objectives of this initial interview is to make the client feel comfortable and to encourage confidence on the part of the client that the attorney wishes to understand the clients' problems or needs and is anxious to help.

Some basic rules should be adopted:

- (1) welcome the client **cordially** and exchange a few pleasantries.
- (2) encourage **the client to talk**.
- (3) at the beginning do as little talking as possible and listen carefully for **meaning**.
- (4) do not jump to assumptions or give off-the-cuff opinions but **appear to be knowledgeable**.
- (5) allow the room to be quiet and **limit distractions**, such as telephone calls.
- (6) **concentrate** on what the client is saying and on the client's body language.
- (7) communicate to the client by your **attentiveness** that what he or she is saying matters to you.

FORMALISING THE RELATIONSHIP

Before giving any opinion you should formalise the relationship. Having understood the nature of the problem, explain the legal work which will or may have to be done, e.g. writing letters, research and (a) in a civil matter, giving an opinion, drafting documents, preparing pleadings for instituting legal proceedings and (b) in a criminal case, applying for bail, visiting the *locus in quo* arranging for trial dates. Explain the costs and fees involved and if the client agrees to retain you, then -

- (1) take a retainer and have the client sign a letter of engagement;
- (2) take written instructions.

See JAMBAR NEWLETTERS dated October 98 and March 1999.

PREPARATION FOR FURTHER ACTION OR PROCEEDINGS

- (1) Ascertain if there are any relevant documents in the possession of the client or other parties.
- (2) Ascertain if there are any relevant witnesses, whether favourable or unfavourable.
- (3) Ask client to assist in arranging for witnesses to be interviewed.
- (4) Advise client of next step and time by which client is to return to you or you will communicate with client.
- (5) Probe the areas of weaknesses, uncertainties or improbabilities in client's and witnesses' accounts.

GENERAL GUIDELINES

- See the interview as an opportunity to connect with and to help another human being.
- Too much talking and not enough listening throws things off balance.
- Lawyers are expected to be good talkers - so you are more likely to distinguish yourself by showing that you are a good listener.
- Do not listen with mere formalism but intently so as not to tune out the person and turn off the client.,
- Remember although the client comes to get answers, it is to get answers to his/her questions not to the attorney's questions or what the attorney thinks are the client's questions.
- Listen through the problem so that you see it fully and from as many angles as possible and so that you are able to explore all the options and possible solutions.
- Be patient, since the client may be affected by anxiety or nervousness and may not be a good listener.
- Ask questions to clarify and fill in details as if to assist the client to bring out his/her concerns and the full story rather than to challenge or cast doubt on the client's account. The more probing queries should be delayed until the client feels that his/her account has been listened to with understanding and confidence has been created. At this stage you may explore the underlying feelings, any hidden agenda, built-up emotions and resentments which it is important to be aware of in order to avoid unforeseen embarrassment.