

Model Interview Assignment

Overview

You will interview someone who has been involved in a “significant” estate settlement. The interview should take about an hour. You will write a report summarizing the answers to the questions described below and describing insights you gained from the interview. You may interview family members, friends, or members of the community for this project.

The goals of the assignment are to provide you with the opportunity to: (1) learn from someone's experience in an actual estate settlement; (2) practice interviewing skills including developing rapport and protecting confidentiality; and (3) reflect on how concepts we discuss in class may apply in actual estate planning.

The report will be **due Thursday, November 9** at 8am uploaded to Blackboard. The report should be 3-6 double-spaced typed pages, with one inch margins on each side, in Times New Roman 12 Font. About 1 page should address your insights from the experience, as described below. It is worth up to 10 extra credit points.

Additional points will be awarded for those willing to present their report to the class in a ten minute discussion on **Tuesday, November 14**. This presentation is worth 5 extra credit points.

About the Interview

The person you interview could be one of the parties in an estate settlement (a child, spouse, or other relative for instance), an attorney who represented a party in the case, or an estate administrator or personal representative. A “significant” estate settlement is one that took a substantial amount of time. You will ask the subject to describe their experience with this estate settlement. This may or may not have been a positive or negative experience. You will find out in the interview why the subject perceived the experience to be positive or negative and what, if anything, could have been done to better prepare for this process to make it go more smoothly.

There is a small risk that you could be subpoenaed to testify about what you learn in an interview about an entire case. This situation seems unlikely to arise for several reasons. First, the interview would have to involve a situation that would end up in litigation in the future. Second, it will be unlikely that other parties would know about the interviews and, even if they did, you probably wouldn't learn significant relevant information and it wouldn't be worth the expense to pursue this.

If you prefer, you could do an assignment with less or no risk. For example, you could interview someone about situations involving the necessity for a power of attorney, etc. There are other options for alternative assignments. If you would like to do an alternative assignment, please discuss this with the professor. Your points will not be affected by what assignment you do.

You will contact the person you want to interview and arrange to conduct the interview in person, by phone, or by video. If you need help identifying someone to interview, contact the professor at least two weeks before this assignment is due.

You **MUST** send a document (preferably an email) to the subject describing the interview. You may send it to request the interview or, if you arrange the interview in person or by phone, to confirm the interview. A model for this document will be provided separately.

At the outset of the interview, you **MUST** remind the subject that you will not disclose his or her name or anyone mentioned in the interview. To further protect confidentiality, you **MUST** tell the subject not to mention anyone else's name and, instead, use generic descriptions such as the person's client or lawyer, the other lawyer, a manufacturing business, etc. You **MUST** tell the subject not to provide any information that might be relevant in future litigation.

In general, you should adopt the mindset of a tactful investigator to get as thorough and accurate understanding of a case and the process as possible, especially an understanding of the sequence of significant events. Instead of simply accepting statements at face value, you should ask questions probing for other possible explanations of the events.

Start the interview by asking about the subject's background. After deciding what case to discuss, ask the subject to tell the story of the case. Although the questions below focus on a final negotiation, there may have been preliminary negotiations about substantive or procedural issues that you may ask about. Also, consider that there might not be a single final negotiation event.

You are free to conduct the interview however it would be most effective. Ask follow-up questions that seem important to you, especially to clarify things that you don't understand. Often, it is a good idea to wait to ask follow-up questions until after you finish learning the chronology because the follow-up questions may distract from the chronology and cause you to miss important events. Pay particular attention to anything that seems unusual or surprising and ask follow-up questions. Whenever appropriate, ask the subject about others' perceptions of particular issues. For example, you might ask how the other side viewed an issue.

In any case, your report must include information about the questions listed below, **particularly about the chronology of events** and your insights from the interview.

After you finish asking about the chronology of the case, review the following list of questions and ask any that the subject did not previously address. You do not need to ask these questions if you know the answers from responses to earlier questions.

More information about conducting and summarizing interviews will be provided separately.

Questions to Be Addressed

The subject

- ! [If you don't know] What do you do for a living?
- ! [If you don't know] What was your role in this case?
- ! How often have you been involved in this kind of case?

The subject matter of the case

- ! Would you describe the decedent, without identifying them by name?
- ! Was decedent's passing expected or unexpected?
- ! What state did decedent live in when he/she passed away?
- ! Would you please describe the interested parties in this estate, without identifying them by name?
- ! Would you please describe your relationship to the decedent?
- ! Did the decedent have a plan in place for the estate at death?
- ! What was that plan?
- ! If the decedent did have a plan was it up to date? Did the parties involved know about the plan? Were minor children involved? Was a spouse involved?
- ! If the decedent didn't have a plan, why not?
- ! What type of property was involved in this estate? (real estate, business property, stocks, personal items, etc?)
- ! If the decedent had real estate, was any of it located in another state?
- ! How many different estate settlement proceedings were necessary to finalize the estate?

The parties and the context of the case

- ! Did the interested parties in this estate have a relationship before the matter began?
- ! Did the interested parties have a continuing relationship after the settlement of the estate was over?
- ! Were lawyers involved in this case? If so, did the lawyers have a relationship before the case began?
- ! What do you think was most important to each interested party in this case?
- ! Did lawyers represent any or all of the parties during the matter?
- ! Was a probate court involved in this matter?
- ! If a court was involved, was it the decedent's intention to involve the probate court? If it was not the decedent's intention to have his/her assets go through probate, what happened to cause probate of the estate?
- ! How long did the estate settlement process last?
- ! How much did it cost?

The process

- ! What, if anything, did you do to prepare for the estate settlement?
- ! Who initiated the settlement of the estate? Why?

- ! How did the settlement of the estate begin?
- ! What was the sequence of events after that?
- ! How did the parties go about finding and securing property of the estate?
- ! Was there any negotiation regarding settlement of the estate between the parties?
- ! [If relevant] How much, if at all, did people talk about legal issues or what would happen if they went to court?
- ! How much, if at all, did people talk about their real goals underlying their positions (as opposed to the justifications of their positions)?
- ! Were the interested parties satisfied regarding the settlement of the estate?
- ! Why do you think that they were or were not satisfied?

Assessment of the case

- ! What do you think were the critical factors causing the estate settlement to turn out as it did?
- ! How satisfied were you with the outcome? Why?
- ! How satisfied were you with the process? Why?

Writing Your Paper

You have limited space to summarize the interview, so carefully decide what is most important to include. In general, the purpose of this assignment is for you to learn about the reality of a case in some detail, including the subject's assessment of it. In describing this part of the assignment, **be objectively descriptive, use plain English**, and generally avoid expressing your judgment about the parties, actions, decisions, etc.

Your narrative should begin with a brief description of the interview subject including information that would help readers assess the report (such as the subject's past experience with similar cases, if any). Your report should include brief descriptions of the key people and entities in the negotiation, but they **MUST NOT include any details that could reasonably identify the subject or any parties. The report MUST use pseudonyms referring to the people and entities in the case. The pseudonyms MUST be sufficiently different from the real names that it would be impossible to identify them.** In keeping with the serious nature of this assignment, the report must use plausible names, not silly ones.

The report MUST NOT include specific dates. The chronology should begin with the first relevant event and refer to subsequent events in relation to other events in the chronology. For example, a narrative might identify the timing and sequence by saying "two months later."

The report MUST avoid using names of property that might be identifiable and should instead use general descriptions. For example, reports might use language such as "[D]ecedent owned the Exxon in Gulfport." Instead, it should say "[D]ecedent owned a gas station in his local town."

The report MUST identify the state(s) where the estate settlements occurred.

Your paper **MUST** prominently include the following legend at the top: "Note: Details of this case, including the names of individuals, have been omitted or changed to protect the confidentiality of the data."

Following the narrative, under a separate heading, your report must address possible alternative explanations of the events. For example you might describe limitations of the accounts due to getting only one person's perspective, limitations of the subject's memory, subject's role in the dispute, the subject's desire to present a positive image.

After the discussion of possible alternative explanations, under a separate heading, discuss your insights about what you learned from the interview and how the case was similar and/or different from concepts discussed in this course. In this part of the paper, you may use legal terminology and refer to course readings, exercises, and class discussions. You should also discuss what might have been done in this case to improve the experience for the subject, interested parties, etc.

This final section should also describe how this case affects your thinking about handling cases in the future. Of course, you won't encounter the exact same situation in the future, considering differences in parties, lawyers, facts, issues, etc. So any lessons for the future necessarily should be qualified.

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