

Model Interview Assignment - Contracts Course
Stone Soup Dispute Resolution Knowledge Project
hosted by the University of Missouri

Note: This model assignment can be adapted to fit your instructional goals.

Overview

The goals of the assignment are to provide you with the opportunity to: (1) learn from someone's experience in an actual case; (2) practice interviewing skills including developing rapport and protecting confidentiality; and (3) reflect on how concepts we discuss in class may (or may not) apply in real life.

You will interview someone who has been involved in a substantial contract transaction negotiation or dispute resolution process. For the purpose of this assignment, the process is considered "substantial" if it took at least an hour.

The subject should be someone you know, such as a relative or a friend. Ideally, the subject should be a party in the matter, though you may interview someone acting as a lawyer, mediator, arbitrator, or other professional.

You should assure the subject that you will not disclose his or her name or other identifying information. The interview might take about an hour, though it could be longer or shorter than that.

A dispute resolution process could involve negotiation outside of litigation, negotiation during litigation, mediation, arbitration, and/or court adjudication.

The process might or might not be successful. For example, parties might try to negotiate a deal or dispute settlement and they might or might not reach agreement. If they do reach agreement, the parties may or may not fully perform the agreement and they might or might not feel satisfied.

The facts could be unusual (like some of the cases in the textbook) or fairly routine. So you should not particularly look for cases that are strange.

Pay attention to anything that seems seem to fit the rules you have learned in this course – as well as anything that seems different from the rules. In other words, you should not assume that the subjects' experience neatly fits the rules.

We will discuss your interviews in class on [date]. Be prepared to briefly summarize the case and anything that seemed particularly noteworthy or surprising to you.

[If you require students to write a paper summarizing the interview, include requirements such as the following:] You will write a report summarizing the answers to the questions described below and describing insights you gained from the interview.

The report will be due [at the beginning of class on date]. The report should be [say, 2] double-spaced typed pages, with one inch margins on each side, in Times New Roman 12 Font.

This assignment will not be graded. [If you plan to grade this assignment, revise this statement accordingly.]

About the Interview

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

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 a chronology of events 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.

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

Suggested Questions

[Note: You should adapt the list of questions to fit your instructional goals.]

The following is a list of questions you might ask if relevant. Feel free to modify these questions or ask other questions as appropriate.

The subject matter of the case

- Please describe the parties, without identifying them by name.
- Were the parties trying to resolve a dispute or to plan a transaction?
- What type of issue was involved (e.g., real estate, consumer transaction, business deal)?
- What conflict or event prompted the situation?

The parties and the context of the case

- Did the parties have a relationship before the matter began?
- At the outset of the matter, did the parties expect to have a continuing relationship after the case was over?
- [If applicable] Did the lawyers have a relationship before the case began?
- What do you think was most important to each party in this case?
- [If applicable] Did lawyers represent any or all of the parties during the matter?

- [If applicable] Did the parties start to negotiate before litigation or arbitration was filed?

The negotiation or dispute resolution process

- What, if anything, did you do to prepare for the case?
- How did the matter begin?
- What was the sequence of events after that?
- [If applicable] When did the parties start to exchange numbers?
- Was there any discussion of non-monetary issues?
- [If applicable] 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)?
- [If applicable] Did the parties reach an agreement?
- [If applicable] Why do you think that they [reached / did not reach] an agreement?
- [If applicable] What happened in the mediation / arbitration / litigation process?

Assessment of the matter

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

[If You Assign a Paper:] 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 (not legal terminology)**, and generally avoid expressing your judgment about the parties, actions, decisions, etc.

Your narrative should begin with a brief description of the interview subject and other key people involved in the matter, 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 report MUST avoid using specific dollar amounts and should instead use general descriptions. For example, reports might use language such as "more than \$10,000" or "in the low six figures." When there is an exchange of offers, the reports should include information indicating how the figures compare with each other without using specific figures. For

example, a report might state that a plaintiff demands \$X and the defendant offered \$X - \$100,000. Or a defendant offered \$Y and plaintiff demanded \$5Y (i.e., five times Y).

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."

The main part of the paper should focus on 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, simulations, and class discussions.

[This part of the assignment should focus on any issues you want students to address. You may give students complete discretion to discuss anything that seems significant to them or you might direct them to discuss particular issues.]

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