

SOME SUGGESTIONS FOR SUCCESSFUL INTERVIEWING IN THE A.B.A. CLIENT COUNSELING COMPETITION

Interviewing and counseling skills are critical for effective law practice. The American Bar Association's Client Counseling Competition provides an opportunity for law students to practice, develop, and perfect these skills. Through consultation situations and critiques by practicing lawyers and other professionals trained in counseling, the law student participants learn in a unique and practical manner. This article is designed to help law students prepare for and succeed in the Client Counseling Competition. The suggestions and ideas are directly applicable to the competition. In addition, most of the techniques suggested in this article can be applied in the practice of law.¹

Professor Louis M. Brown of the University of Southern California Law Center originated the idea of a Client Counseling Competition in 1969.² It was called the "Mock Law Office Competition" at that time and was held on an interscholastic level between the University of Southern California Law School and the University of San Francisco Law School.³ The competition has continued annually since 1969; however, the American Bar Association, Law Student Division, has supervised and carried out the competition since 1973.⁴

Believing that the attorney-client relationship had to be taught and learned, Professor Brown developed the idea of the competition as a teaching tool.⁵ The format is designed so that two students role-play attorneys. They interview a third person who role-plays a client.⁶ The objective of the competition is to give the student an op-

1. This article focuses on the judging standards and gives suggestions for successful interviewing which can be utilized in the Client Counseling Competition but also can successfully be used in practice. Of course, the suggestions specifically directed toward the students' interactions with the judges will not be applicable in practice.

2. A.B.A. Law Student Division, 1985 Client Counseling Competition: Rules, Standards for Judging & Fee Schedule 1 (1985) [hereinafter referred to as 1985 Client Counseling Rules].

3. Brown, A Personal and Historical Introduction 1 (1978), *reprinted in* L. BROWN, CLIENT COUNSELING COMPETITION: EXPLANATION AND CONSULTATION SITUATIONS (1980).

4. *Id.*

5. *Id.*

6. A drama student usually works better than a law student because law students are often too familiar with legal terminology. It was found that the drama students helped depict a more true-to-life interviewing situation. *Id.* at 4. The rules now prohibit the use of law students as clients at the regional level of competition. 1985 Client Counseling Rules at 6.

portunity to experience an initial law-office consultation.⁷ The students are judged by professionals in the law and counseling fields. Although the concept of the role-playing format was initiated in a classroom setting, it was Professor Brown's desire to expand the role-playing to a competitive level in a way analagous to the moot court competition. This, in turn, led to the development of the interscholastic competition.

The level of participation in the competition has grown considerably.⁸ Schools eligible to participate in the competition must be American Bar Association approved or recognized Canadian law schools.⁹ Participating schools may choose their teams in any manner they wish. Many schools hold intramural competitions while others select their representatives from a Legal Interviewing and Counseling class. The Law Student Division encourages competitive team selection by furnishing competing schools with intramural consultation situations.¹⁰ After the individual school teams are selected, by whatever manner of selection, regional competitions are held. One winning team is chosen from each region to advance to nationals, and one winning team is chosen at the national level.¹¹

The Client Counseling Competition provides a number of benefits to the participants. It "promote[s] greater knowledge and interest among law students in the preventive law and counseling functions of law practice."¹² It also assists students in "develop[ing] interviewing, planning, and analytical skills in the lawyer-client relationship in the law office."¹³ It promotes "professional competence in legal practice, including the ability to conduct the initial interview with a client, perhaps redefining his or her problems; to suggest a plan for his or her future course of conduct, utilizing preventive law techniques; and to deal with the psychological overtones of the interview."¹⁴

The practical function of the competition is pointed out by Professor Brown in a comparison between the Client Counseling Competition and the Moot Court Competition. In the competitions' relation to law practice, the Client Counseling Competition stresses skills

7. Brown, *supra* note 3, at 1.

8. The 1969 Competition had 2 participating schools. In 1984, 110 schools participated in the Competition. *Client Counseling Winners Announced*, 12 *STUDENT LAW*, May 1984, at 54, 54.

9. 1985 Client Counseling Rules at 2.

10. *Id.* at 1-2.

11. *Id.* at 1-5.

12. *Id.* at 1.

13. *Id.*

14. Advertisement for 1984 Client Counseling Competition, 12 *STUDENT LAW*, Oct. 1983, at 44, 44.

which are "a frequent activity" in law practice, whereas the Moot Court Competition stresses skills which are "a rare activity" in law practice.¹⁵ In a survey of how attorneys spend their time, it was discovered that, on the average, attorneys spend less than 1.25 hours per week in court.¹⁶ In contrast, attorneys have an average of four meetings with clients, equaling approximately three hours or more, and four hours of time on the phone with clients each week.¹⁷

Since attorneys spend a significant amount of time with their clients, it is important to learn techniques for effective interviewing and counseling. In the past, this area of legal education has not been emphasized in curricula. Now, with the advancement of clinical training programs for law students, about seventy percent of the law schools have interviewing courses and slightly over half have counseling courses.¹⁸ These courses are usually elective. The Client Counseling Competition serves as an additional educational method for students to develop the aforementioned skills. The competition interview parallels an actual interview in a law-office situation. It assists in creating an educational environment tailored to the needs of the future practitioner interested in providing high quality professional services. It removes the student from the world of appellate cases read from a textbook to the real world in which attorneys must deal with human beings, their concerns, and their feelings, as well as their legal and non-legal problems.

Throughout the role-playing interview, the students are observed by judges. To assist the judges in determining the winning team in a round, judging standards were devised. The standards do not focus solely on legal analysis but also incorporate the humanistic factors necessary in successful interviewing. The judges must compare successive interviews with the same client and choose a winning team after they have observed all of the teams in that round.

The suggestions given in this article have been developed through the competition experience of the Creighton Client Counseling Board, an analysis of national and regional level competition videotapes,¹⁹ and the author's personal experience.²⁰ Of course, they

15. Brown, *supra* note 3, at 7.

16. This includes both trial and appellate level of court work, Smith, *A Profile of Lawyer Lifestyles*, 70 A.B.A.J., Feb. 1984, at 50, 50-52.

17. *Id.*

18. Survey and Directory of Clinical Legal Education, xvi (1978-1979).

19. The author, the Creighton Client Counseling Board, and the Law Review wish to thank the American Bar Association Law Student Division for its helpful assistance in making these tapes available for this research.

20. The author and her teammate, Mr. Brian Nolan, won the 1984 Creighton Client Counseling Intramural Competition and were Regional Finalists.

should be taken for what they are: merely suggestions. They are by no means intended to stifle a student's flexibility to adapt as necessary to situations presented by the "client."

PRE-COMPETITION PREPARATION

Student attorneys can do several things to increase their chances of success prior to the actual competition. At this stage, the students can do the following: 1) research the topic; 2) prepare general interview questions; 3) practice as a team; 4) increase awareness of the judging standards; and 5) learn the judges' names and professional backgrounds, if that information is available. An examination of each step of preparation follows.

Each year, a specific area of law is chosen as the subject matter of the competition, such as landlord-tenant law, family law, employment discrimination, trusts and wills, etc. A general knowledge of that area of law is important. Reading a treatise or the applicable section of a legal encyclopedia or a nutshell on the law helps familiarize the student with the topic.

Next, up to ten days prior to the competition, the student attorneys will be given a memorandum from their legal secretary that provides some, although usually minimal, information regarding the specific nature of the client's problem.²¹ When the memorandum is obtained, it is helpful for the student attorneys to examine it carefully. They may discuss the situation and the different possibilities in general. It is, of course, impossible to determine the exact situation and predetermine how an interview will progress, but it is helpful to think of some possibilities and prepare some general questions. It is also important not to jump to conclusions; for example, the client may be a female or a male and may or may not be the party with legal rights in the situation. By discussing the memorandum's con-

21. 1985 Client Counseling Rules at 3. Sample memoranda can be obtained for a nominal fee from the ABA/Law Student Division, 750 North Lake Shore Drive, Chicago, Illinois 60611. Ask for the copy of *Client Counseling Competition: Explanation and Consultation Situations*. An example of a memo used in the 1984 Intraschool Competition follows:

Consultation Situation for Lawyers:
Memorandum to File

TO: Lawyers
FROM: Secretary
DATE: November 1983
RE: Mr. Ray McInnis

I have scheduled an appointment with you for a new client. Mr. McInnis is the Business Manager of the Grand Hotel here in town. The hotel tentatively agreed to rent its ballroom to a local club, but now wants to get out of any commitment.

Id.

tents, the team can devise some general questions and think of some possibilities. Just thinking out loud together, as a team, about the situation ahead of time is a good way to prepare for the actual interview.

The next suggestion is to practice together as a team. The purpose of this is to develop a rapport with the teammate, to become aware of each other's styles, and to develop a smoothness in the team's approach. If teammates become comfortable with each other, it will become apparent to the client and the judges. It is important to learn not to interrupt each other, to learn which teammate handles certain situations more effectively, and so forth. If the team can get a third person to practice as a client, all the better. Of course, the actual interview cannot be duplicated because teammates will not have access to the confidential memorandum given to the competition client and judges, but interviewing and counseling techniques, nonetheless, can be practiced. The course of practice is also an easy way to share general information about the legal topic. This practice will also serve to increase the team's confidence when the time comes for the actual competition interview. It is helpful to remember that everyone is nervous to some extent when they try something new. Some may lack confidence in themselves, not because they cannot do well, but because they have not had the opportunity to develop the necessary skills. The pre-competition practice should lessen some of that nervousness and should encourage team members to realize that they can do well, with work and practice. When they have developed this confidence from practice, it is displayed to the client, who will feel more at ease and reassured, and to the judges, who will reflect it in their ratings.

Finally, at this point, teammates should discuss what they will wear at the competition. Generally speaking, they will want to portray a professional image.²²

During the pre-competition stage, the team should also become familiar with the judging standards. These are the specific counseling and interviewing skills by which the team will be judged. Knowledge of them is obviously very important because the winning team is selected by the overall rating on each of the individual standards. The next section of this article, "The Competition Interview," delineates specific suggestions under each of the judging standards. If a team practices ahead of time and works at developing its techniques in each area, the team will learn its strengths and weaknesses; time

22. Two references for appearance advice are J. MOLLOY, *DRESS FOR SUCCESS* (1975) and J. MOLLOY, *THE WOMAN'S DRESS FOR SUCCESS BOOK* (1977).

spent reviewing and practicing before the competition is always time well-used.

Prior to the competition, it is also beneficial to learn the names of the judges for individual rounds and the professional backgrounds of each, such as attorney, judge, psychiatrist, pastor, psychologist, social worker, or school counselor, if this information is made available before the round. The information is helpful because it makes it easier for team members to introduce themselves to the judges; more importantly, knowledge of judges' backgrounds sensitizes the team to which types of skills may be more essential to a particular panel.

In sum, if a team does this type of preparation before the competition, it will have increased immensely its chances of success at the competition level.

THE COMPETITION INTERVIEW

To provide an idea of what a competition interview is like, a brief overview of the interview in chronological order will be presented, followed by some specific suggestions.

A team will be assigned a room for the interview, where the judges will already be waiting.²³ When the team enters the room, the team members should greet the judges, make good eye contact, shake hands, and introduce themselves. If the team is competing at the regional or national level, it should not give its school name. After introducing themselves, the team members should examine the setting of the room. If necessary, they should rearrange the furniture so that the judges can observe both the student attorneys and the client. At this point, the team members may have a very brief discussion with each other prior to the client's arrival.

After the client arrives and is greeted, the team should explain to the client that there is some initial data which must be obtained, such as name, address, etc., and then the team will progress to the main part of the interview—communicating with the client about his or her reason for coming to meet with the "attorneys." Generally, after determining the client's problem, the student attorneys will explain and discuss the law involved. A collaborative plan of action is then formulated, in which the student attorneys help the client identify and consider the choices and their consequences. When a decision is made as to what plan to follow, it will ordinarily be time to conclude the interview and make follow-up plans. The client should be escorted out of the interviewing room, following which the stu-

23. If your team is the first to compete in a round, you may arrive before the judges.

dent attorneys will return for the post-interview reflection. At this time, the student attorneys should discuss the interview and any concerns or problematic areas, mention items they forgot to obtain during the interview, and discuss their plan of action. They may dictate a letter or a memorandum for their file. When this post-interview wrap-up is over, the student attorneys end the consultation session, and thank the judges. At this point, the judges may give a very brief critique.²⁴ The student attorneys then wait outside of the interview room until all teams in their round have completed their interviews. The judges will then call all teams back into the room for the judging critique, announce the winners, and give suggestions for future rounds.²⁵

The following specific suggestions for successful interviewing are arranged following the format of the 1985 Judging Standards for the Client Counseling Competition. As mentioned previously, this article is specifically aimed at the Client Counseling Competition, but many of the following techniques are equally applicable in actual law practice. The entire point of the competition is to help prepare students for the practical aspects of law practice.

The first standard is "Working Atmosphere." Here, the judges will be observing how effectively the team has "established the beginning of an effective professional relationship and working atmosphere and, if and when appropriate, oriented the client to the special nature of the relationship, including confidentiality, fees, mutual obligations and rights, after hours availability, duration and plan of the interview, etc., in a courteous, sensitive and professional manner."²⁶

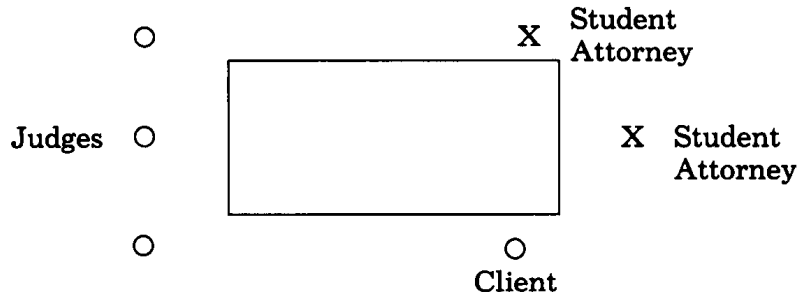
The working atmosphere for conducting the interview should be comfortable, private and quiet, yet promote a business-like environment. Granted, every competition interview room may not be designed to promote these qualities, so the student attorneys will have to work with what they have available. In any event, they should arrange the seating to promote effective communication. Both attorneys and the client should be able to make eye contact readily, and the judges should be able to see the faces of the students and client from where they sit. Often, a barrier to communication is created when both student attorneys sit behind the desk and the cli-

24. 1985 Client Counseling Rules at 4.

25. The judges use the format of the judging standards. Students usually have an opportunity to ask the judges questions.

26. 1985 Client Counseling Rules at 10.

ent sits across from them.²⁷ If a desk or a table is used, a more suitable and favorable arrangement is the following:



Another method that some student attorneys have used successfully is an informal seating arrangement without a table or a desk. Whichever approach is used, the room should be set up to the student attorneys' satisfaction prior to bringing the client into the interview room. The student attorneys should also make sure the interview room is neat before the client enters. For example, wastebaskets should be moved out of direct sight and clutter should be removed from desks.

The mechanics of opening the interview are relatively simple. One of the student attorneys should go to the waiting area or the door and personally greet the client and introduce him or herself. The client should be brought into the interviewing room, and the teammate should be introduced to the client.²⁸ One of the student attorneys should show the client where to be seated. They should ask the client how he or she prefers to be addressed. If the team has water available, they may ask the client if he or she would like some.²⁹ This period is the time when the team should make the client feel welcome and when the development of rapport begins. A few moments of general conversation, perhaps about the weather or some pleasant topic, is appropriate, but this conversation should be kept brief.³⁰

At this point, the team can begin with the initial part of the interview. Something similar to the following is appropriate and effective.

27. This may be the best approach, however, when there are two "clients."

28. See Videotape No. 159, 4/1/79 Nationals, Round III, Wyoming (good example of greeting clients). This videotape and all further cited videotapes are available from the A.B.A./Law Student Division, 750 North Lake Shore Drive, Chicago, Illinois 60611. There is a charge for shipping and handling.

29. Water and other props may be used. It is a matter of team style. Some judges like the idea, and others do not.

30. See Videotape No. 160, 4/1/79, Nationals, Round III, Washington (example of how to develop initial rapport with client).

Student Attorney: "When we first meet with a new client, there is some initial information we need to obtain to open the new file. Let me ask you these few routine questions, and then I'll explain what will go on today."

Client: "All right."³¹

Next, it will be necessary to present some explanations to help the client feel at ease and comfortable. One way to introduce these explanations is to ask whether the client has ever seen a lawyer before, if this is not apparent from the secretary's memorandum. Often, clients have not.³²

Student Attorney: "We realize when you come to see an attorney for the first time, there are some initial concerns you may have."

Client: "Yes, I'm worried about anyone knowing what I'm going to tell you, and the money you'll charge for your help is a real concern."

Student Attorney: "Everything you tell us will be confidential. You may see us take a few notes. This is to help us with our memories so we can dictate a memo for the file. The secretary will also keep information confidential."

Client: "That helps to know. But what about those fees you charge?"

Student Attorney: "Our fees are \$25.00 for this first interview today, and then, if you want us to continue working for you after today, our work will be billed at \$50.00 per hour."³³

Client: "That's not as bad as I thought it would be. But there are two of you here. Does that mean I'll be charged double?"

Student Attorney: "No. Both of us are here today because it is our firm's policy to have two attorneys present at the first interview. The charge for today remains \$25.00 even though both of us are here. That way, we are both familiar with your situation, and if you should call in and need something, and one of us is in court or out of town, the other will be here to help you."

Client: "Okay, that sounds fine. Now you said \$50.00 an hour. How many hours will it take?"

Student Attorney: "After you've told us about your situation, we'll give you an estimate of the approximate number

31. See Videotape No. 197, 3/28/81, Finals, Round II, Boston (explanation of how interview will proceed); see also Appendix *infra* for information to obtain during interview.

32. If the client has previously seen a lawyer, then the student attorneys can recap these explanations by saying, "Then you know that everything you tell us is confidential."

33. 1985 Client Counseling Rules at 13. All students must use this uniform fee schedule.

of hours of work it will require. Now, we are going to have you explain your situation to us shortly. We may ask questions. We'll try to explain why the information is necessary. If, at any time, you have any concerns or questions, please let us know. We'll work together to try to come up with some approaches to help you and decide what each of us will do. We've asked the secretary to hold our calls. Would you like to tell us now why you are here today?"³⁴

This approach helps put the client at ease by addressing his or her initial concerns. It also provides the transition into the next judging standard, "Description of the Problem," by asking an open-ended question—"Would you like to tell us now why you are here today?" Under this standard, the judges will evaluate how well the student attorneys "[l]earned how the client viewed his or her situation, using a combination of listening and questioning, drawing out both information and feelings, as appropriate, to develop a reasonably complete and reliable description of the problem."³⁵ The use of an open-ended question here allows the client to explain his or her situation in his or her own words. An approach such as this one assists the client in verbalizing, helps the client feel more at ease, and allows the student attorneys to listen and observe non-verbal behavior. When the client stops talking, the student attorneys can use more open-ended questions to encourage information flow, such as "Tell me more about" Another approach that can be used is for the student attorneys to summarize and validate what the client has initially said and then to say, "Start at the beginning again and tell us what happened in as much detail as possible."³⁶ The student attorneys should try not to interrupt the client, even if he or she is giving some legally irrelevant details. Sometimes a useful function of an at-

34. See generally any of the following videotapes for alternate successful methods of interviewing styles:

1978: No. 134, 4/1/78 Nationals, Afternoon, Marquette (First place winners); No. 132, 4/1/78, Nationals, Afternoon, New Mexico, (Second Place).

1979: No. 159, 4/1/79, Nationals, Round III, Wyoming (First place); No. 158, 4/1/79, Nationals, Round III, Valparaiso (Second place); No. 160, 4/1/79, Nationals, Round III, Washington (Third place).

1981: No. 200, 3/28/81, Finals, Round III, Texas (First place); No. 197, 3/28/81, Finals, Round II, Boston (Second place); No. 198, 3/28/81, Finals, Round III, Cooley (Third place).

1982: No. 232, 3/26/82, Finals, Round III, Pittsburg (First place); No. 227, 3/26/82, Finals, Round II, McGeorge (Second place); No. 230, 3/26/82, Finals, Round III, Wisconsin (Third place).

35. 1985 Client Counseling Rules at 10.

36. See Videotape No. 227, 3/26/82, Finals, Round II, McGeorge (technique of validation: "I want to give you some feedback as to what we're perceiving here . . . is that what you meant?") and No. 228, 3/26/82, Finals, Round II, Wyoming (technique of summarizing).

torney is to be a good listener to someone who just needs to "blow off steam" or who is upset about a problem. Of course, in an extreme case of rambling the student attorneys may want to interrupt. Most of the details should come out with this approach.³⁷

If there are still specific questions the team needs to raise, they can be asked a little further on in the interview. Leaning forward slightly helps show interest in what the client is saying and will facilitate communication. Nodding your head or saying "Mm-hmm" will also help the client communicate. Good eye contact is also very important.³⁸ If one of the student attorneys is taking notes, the other must maintain eye contact with the client. Since comprehension is critical to communication, the student attorneys must be sure to use language that their client is able to understand. If some special legal terminology must be used, it should be explained in "plain English" to the client. Another important part of communication with the client is the display of empathy as the client is talking.³⁹ For example, if the client has experienced unfortunate events or hardships, it is good to express sympathy—"I am sorry to hear that," or concern—"You must be going through a difficult period." If the situation is an emotional one, it may be helpful to have a tissue nearby for the client who is crying. By using these techniques, the student attorneys should get a good idea of the client's view of the situation, develop a good rapport with the client, and readily determine the problem.

The next judging standard by which the student attorneys will be assessed is their ability to determine the "Client's Goals and Expectations." The criterion for this standard is how well the student attorneys "[l]earned the client's goals and initial expectations and modified or developed these as necessary."⁴⁰ Determining what the client wants makes the entire interview much simpler. There is no reason to suggest litigation if the client wants to avoid going to court. A simple method of determining the client's goals and expectations is to ask an open-ended question at this point in the interview, such as, "How would you like this to come out?" Careful listening and observation of the client can also assist in determining the client's goals and expectations. The student attorneys should use the process of reflection to help the client verbalize these goals and expectations. For example, in response to a client who asks, "Can they really do that to

37. See Videotape No. 159, 4/1/79, Nationals, Round III, Wyoming, (approaches to use if refocus of client is needed: "I wonder if we could refocus on . . ."; "Getting back to the agreement . . .").

38. *Id.* (demonstrates communication facilitators).

39. See Videotape No. 197, 3/28/81, Finals, Round II, Boston (how to demonstrate empathy appropriately).

40. 1984 Client Counseling Rules at 10.

me?" the student attorney may respond, "You seem quite concerned about what might happen." This entire process helps the client express his goals, such as determining legal rights and courses of action that he or she might take. If the student attorneys encourage the client's communication through these techniques, the client will feel more free to offer his or her feelings, thoughts, and questions. If the client is uncertain as to what he or she wants from the student attorneys or what should be done in the situation, the student attorneys should help the client clarify his or her goals.⁴¹ Sometimes, the client may have unrealistic goals or intentions of progressing with actions that are unwise or even illegal. In those situations, the student attorneys will need to explain the consequences and help the client reconsider his goals. Failure to do so may raise important issues of professional ethics.⁴² The student attorneys' primary consideration is eliciting the client's goals and expectations at this point in the interview so that the remainder of time in the consultation can be used effectively.

The next judging standard is "Problem Analysis." Under this standard, the judges determine how effectively the team "[a]nalyzed the client's problem with creativity and from both legal and non-legal perspectives, resulting in a clear and useful formulation of the problem."⁴³ It is very important for the student attorneys to be flexible at this point. Although it is imperative that the team prepare well ahead of the interview and perhaps have a checklist of necessary data to gather, the team should not be so inflexible and rigid that it lets preconceived notions guide it rather than what is actually occurring in the interview. The student attorneys should continue to pay close attention to all communication from the client. If more details are necessary and they were not gathered from the open-ended questions asked earlier, direct questions should be asked to finish gathering the essential information. This process of gathering the facts should lead the team to intelligent formulation of the problem. Attention should be given to both the legal and non-legal aspects of the problem. Indeed, in analyzing the problem, it is helpful to distinguish between these two aspects.⁴⁴

One of the student attorneys should explain the governing law to the client and the legal issues involved. As previously noted, this in-

41. See Videotape No. 159, 4/1/79, Nationals, Round III, Wyoming (example of how to clarify goals).

42. See note 47 and accompanying text *infra*.

43. 1985 Client Counseling Rules at 10.

44. See Videotape No. 159, 4/1/79, Nationals, Round III, Wyoming (demonstrates excellent problem analysis).

formation must be communicated skillfully in language that the client can comprehend.⁴⁵ In analyzing the non-legal aspects of the problem, the student attorneys should be tactful and considerate. The client should be assisted in looking at consequences. It is often helpful if the client is brought to see the weak and strong points in relation to the legal and non-legal aspects of the situation.⁴⁶ If there are areas in which the team is unsure of the law, the client should be told that the student attorneys will have to do some research for specifics; to the extent that it can be done, however, the student attorneys should explain the general principles of law.

The fifth judging standard, "Moral and Ethical Issues," ties in with "Problem Analysis." Here, it is significant that the team "[r]ecognized, clarified and responded to any moral or ethical issues which may have arisen, without being prejudicial in judgments."⁴⁷ It will be easier to recognize moral and ethical issues if student attorneys remember that they are dealing with a human being, not just a legal problem. They must, however, not only recognize moral and ethical issues, but respond appropriately to these issues in a nonjudgmental manner. The student attorneys should not show a negative reaction to the client's statements or actions, even when they are contrary to their own beliefs or values. If the situation presents a professional ethics dilemma, the student attorneys should explain the professional code of ethics involved and should show concern for the client's comprehension of the explanation.⁴⁸

After analyzing the legal and non-legal problems and recognizing and responding to the moral and ethical issues presented, it is time to present alternative courses of action to the client. "Alternative Courses of Action" is the sixth judging standard. Here, the judges will determine how effectively the team, "[c]onsistent with the analysis of the client's problem, developed a set of potentially effective and feasible alternatives, both legal and non-legal."⁴⁹ The student attorneys must consider their particular client. They should look at the client as a human being and ask themselves, "What options are appropriate for this person? What are the possible outcomes and consequences of each option?" Common sense is an indispensable resource in this process. Some possibilities for the legal solutions are the fol-

45. See Videotape No. 197, 3/28/81, Finals, Round II, Boston (skillful explanation of the law).

46. A good question to accomplish this sort of consideration is "What would the opposing side say was the reason this situation occurred?"

47. 1985 Client Counseling Rules at 11.

48. See Videotape No. 160, 4/1/79, Nationals, Round III, Washington (dealing with ethical problems).

49. 1985 Client Counseling Rules at 11.

lowing: talk with the involved persons, negotiate, settle, or litigate. In the non-legal areas, the emotional, social, and financial aspects must also be pointed out. Referrals may need to be made to assist the client in obtaining shelter, food, therapy, or some other type of non-legal assistance. It is helpful to be aware of the available social agencies in the community.⁵⁰

Probabilities and risks of all alternatives should be considered. The options presented should be practical and realistic. The team must be careful to not give false hopes or promises which it cannot fulfill.

At this point, the student attorneys will have assisted the client in understanding the problem and will have helped the client identify and evaluate alternative courses of action. Now it is time for the client to choose a course of action. The judging standard in this area is entitled, "Client's Informed Choice," and the team is judged on how well it "[a]s appropriate, assisted the client in his/her understanding of problems and solutions and in making an informed choice, taking potential legal, economic, social, and psychological consequences into account."⁵¹ Respect must be given to the client's feelings, opinions, and choices. The client ultimately must choose what he or she feels is best under the circumstances. The student attorneys' role is to present a range of options and point out consequences, but the client must be free to decide what will work out best, provided it is within the acceptable limits of representation.⁵²

When the client chooses an alternative, the student attorneys should determine how it will be accomplished. Will more information be needed, such as copies of documents? Will persons need to be contacted on the client's behalf? Will further legal research need to be done?⁵³ If the student attorneys have told the client earlier that they would give the client an estimate of fees, they should be sure to do so now. At this point, a firm determination of what both the client and the student attorneys will do is essential. Once the student attorneys have determined specific tasks for which each will be responsible, it is time to begin the "wrap-up" of the interview.

50. See Videotape No. 228, 3/26/82, Finals, Round II, Wyoming (legal alternatives presented well); No. 159, 4/1/79, Nationals, Round III, Wyoming (non-legal alternatives presented well).

51. 1985 Client Counseling Rules at 11.

52. See Videotape No. 159, 4/1/79, Nationals, Round III, Wyoming (presentation to client to develop an informed choice: "What do you think would be a fair statement?"; "We're curious as to what your feelings are about going into court and testifying.").

53. *Id.* (explanation of requiring further research: "We need to look into this further. At this time, it would be hard for us to tell you exactly what the law says about that."). *Id.*

An "Effective Conclusion" is the eighth judging standard. Under this standard, the team will be evaluated on how it "[c]oncluded the interview skillfully, and left the client with a feeling of reasonable confidence and understanding, with appropriate reassurance, and with a clear sense of specific expectations and mutual obligations to follow."⁵⁴ One technique that has worked extremely well in the author's experience is to ask a final open-ended question at this point, such as, "Is there anything else you can think of that would be important for us to know?"⁵⁵ After dealing with whatever information this elicits, the student attorneys should be sure specific plans and expectations are understood. They should make the arrangements for obtaining needed documents, obtain permission to contact others involved in the situation, and arrange a specific follow-up appointment if appropriate. In the author's opinion, this approach works much better than something indefinite, such as "We'll be in touch," or "Let's get together next week." This final "once-over" of the plans serves to reassure the client and make sure that everything is clearly understood. As a result, the client's confidence in the student attorneys will be boosted. In closing, the student attorneys can give the client their business card and tell the client how they may be reached in case of an after-hours emergency. A practical method for the student attorneys in the competition is to write their names on a business card or piece of stiff paper the size of a business card. Finally, the student attorneys should escort the client out of the office, shake hands, and reassure the client that "We will do our best for you."

POST-INTERVIEW REFLECTION

In the Client Counseling Competition, a post-interview consultation between the student attorneys occurs next. Throughout the interview and during the post-interview consultation, the student attorneys are judged on [Teamwork:] "as collaborating counselors [how they] worked together as a team, with flexibility and an appropriate balance of participation."⁵⁶ There should be a smooth flow between teammates, a balance of participation, and flexibility. It is best to avoid stereotypical roles. For example, if student attorneys are a male-female team and the female takes all the notes while the male explains the law, it may be looked upon unfavorably by the judges. It

54. 1985 Client Counseling Rules at 11.

55. See Videotape No. 228, 3/26/82, Finals, Round II, Wyoming (alternative method for wording wrap-up of interview: "Is there anything else you're concerned about today?").

56. 1985 Client Counseling Rules at 12.

is more effective for both team members to carry a note pad and share in responsibilities.⁵⁷ If one student has been less active during the actual interview, the time to try to make up for that is in the post-interview consultation. The "Post-Interview Reflection" standard provides: "During the follow-up phase gave evidence of having recognized their own and the client's feelings; the strengths and limitations of their interviewing and counseling skills; their handling of the substantive aspects of the client's problems, both legal and non-legal, and provided for an effective follow-up."⁵⁸ One effective approach is to have a brief discussion of the facts and issues, identify information still needed, divide the work to be done, set up an attorney-attorney follow-up appointment, and dictate a memorandum. It may not be necessary to dictate a memorandum at the intramural level of competition, but it is impressive to judges at that level. It is generally expected at Regional and National Levels. A recording device may ordinarily be taken to the interview for this purpose.⁵⁹ Punctuation and paragraphs may be said, just as in an actual dictation to a secretary.⁶⁰ Some students have also received favorable comments from judges when they dictated a letter on the client's behalf at this time.

The student attorneys should not be afraid to comment on information that they realize they should have obtained and did not or if they think they should have handled a situation in a different manner. The post-interview reflection is the time to point such matters out.⁶¹ Most judges will generally give the team credit for it.

If a team has followed the suggestions in this article, it should fare well in the competition. The final judging standard is the "Overall Rating." The judges will determine which of the following categories the interview was viewed as: "Highly Ineffective, Ineffective, Somewhat Ineffective, Somewhat Effective, Effective, Highly Effective."⁶² The judges will determine the winning team and call all of the teams in for a critique. This critique is an important aspect of the learning process. Close attention should be paid to what is said. Team members should learn as much as they can. Those teams that advance in the competition will, of course, have an opportunity to put the suggestions into effect shortly thereafter. But it is important for

57. See Videotape No. 228, 3/26/82, Finals, Round II, Wyoming (effective distribution of tasks between male and female teammates).

58. 1985 Client Counseling Rules at 12.

59. See note 29 and accompanying text *supra*.

60. See Videotape No. 227, 3/26/82, Finals, Round II, McGeorge (how to dictate).

61. *Id.* (an appropriate way to point out information that the student lawyer failed to obtain during the interview).

62. 1985 Client Counseling Rules at 12.

the teams to evaluate critically the quality of the suggestions; a team should adopt them only after they are convinced that the suggestions are indeed good ones.

The Appendix contains a sample format to help arrange notetaking during the interview. This sheet is merely a guide, and a team should adapt it to its own particular needs. It serves as a memory refresher during the interview and works particularly well when it is time to dictate a memorandum because it organizes all the information obtained during the interview.

CONCLUSION

The Client Counseling Competition is an excellent educational tool. Students are urged to take advantage of this opportunity to expand their learning of a practical, important skill that will be needed in law practice: communicating with clients. The Competition provides a unique chance to practice those skills that will be used everyday in practice and to receive valuable feedback on those efforts. The suggestions made in this article hopefully will enrich this learning experience.

Debra L. Zorn—'86

Appendix

INITIAL DATA

Name _____
 Address _____
 Phone _____
 2nd place of contact _____

Marital Status _____
 Spouse's name _____
 Seen another attorney? _____

How chose our firm? _____

Atty-Client Relationship:
 Confidentiality _____
 Why both Attys. Present _____
 Fees _____
 Estimate fees after interview _____
 No interruptions _____

Tell us what brought you here today.

PROBLEM

Tell us more or Chronological Overview?
 How would you like this to come out?

Other persons involved?
 Specific Details:

LEGAL/NON-LEGAL ANALYSIS

Explain law:

Alternatives:

Legal:	Non-Legal:
Talk	Social
Negotiate	Economic
Settle	Psychological

Litigate

Outcomes/Consequence

No false guarantees.

CONCLUSION/WRAP-UP

Documents needed.
 What we'll do.
 Estimate of fees.
 Next appointment _____
 Give business card.
 Post-Interview
 Dictate memo:
 Facts:

Issues:

Problems:

Info still needed:

Moral/Ethical Issues:

Division of Work
 Next appointment.