

COMPILING A FAMILY HISTORY

C O N T E N T S

A. Chapter Competencies	D. Assignment 3.2 (instructor as new client)
B. Students Interviewing Each Other	E. Assignment 3.3 (interviewing a married person)
C. Assignment 3.1 (What does the client want?)	F. Ethics in Practice

A. Chapter Competencies

After studying chapter 3 the student should know or be able to:

1. identify the major topics covered in many retainers in family law cases.
2. ask probing questions of a client in order to avoid surface assessments of what the client wants.
3. identify some of the major guidelines on conducting an interview.

The student should also know:

1. when a family law office is likely to need to compile a comprehensive family history of a new client.
2. the function of a letter of nonengagement.
3. the function of a letter of authorization.
4. the function of a retainer.
5. the kinds of questions to ask a client when seeking to compile a comprehensive family history, with particular emphasis on obtaining information on the financial resources and needs of the family.

B. Students Interviewing Each Other

In addition to (or in lieu of) any of the assignments in chapter 3, you may want to consider having the students interview each other in the manner described below.

Pair the students. Every student will play the role of a client in one interview and will play the role of the interviewer in another interview. Hence each student will go through two interviews: once as a client and once as an interviewer. It is recommended that a student have a *different* “partner” for each interview.

The interviews should take place outside of class. Tell the students to arrange meeting times on their own for the interviews. Also, let the interviewees know that they can make up answers to the questions asked. Tell the interviewers that they can add any questions to the checklist of questions in Chapter 3 in order to make the interview even more comprehensive.

Most of the questions in Figure 3.3 do not cover substantive family law. You may want to add a substantive area of the interview. For example, you could tell the students that in every interview the client is seeking a divorce on the ground of cruelty (or any other relatively uncomplex ground used in your state). Tell the students to use the guidelines of *fact particularization* covered in Appendix A to help them collect facts on this and on any other topic. They should also consult the General Instructions for the Interview Assignment in Appendix A for ideas on formulating questions.

The interviewer should submit a written report on the interview he or she conducted. The report should be in the format of an intake memorandum as outlined in the General Instructions for the Interview Assignment in Appendix A.

C. Assignment 3.1 (What does the client want?)

- a. Why does she want to commit her husband? Has outpatient care been considered or tried? Does she really want to divorce him, but feel that a divorce would be too difficult to obtain? Is she seeking revenge against him? Does she need police protection? Does she know what a mental institution is? What is her understanding of what a mental institution will do? Is she attempting to obtain from him some of her property which he controls?
- b. Why does she want him placed in a juvenile home? Has she sought family counseling? Does the son need medical attention? Are there physical or medical problems causing him to act out? Mental problems? Has professional help been sought? Does the parent work all day or all evening? Is he or she concerned that there is no one to look after the son? Are there any community options available?
- c. Why does she want to place the child for adoption? Is the reason primarily economic? Have public assistance options been explored? Is the other parent contributing support? (Will the new support enforcement laws help?) Does the parent feel emotionally incapable of caring for the child? Has counseling been considered? Does the parent have medical problems? If such problems were taken care of, would the parent still want the child to be adopted? Does the parent know that adoption severs (terminates) all parental rights?

D. Assignment 3.2 (instructor as new client)

Make up your answers to questions the students ask while they interview you. To prepare for the interview, jot down some notes on a wide range of topics such as assets (or categories of assets) you have accumulated in your life. Make many of them obvious, e.g., salary from one of your current jobs. But also make many not so obvious, e.g., you are a named beneficiary in the will of your dying brother. See if their questioning will uncover such assets. Do the same for all other categories of facts that should be pursued when compiling a family history.

As you are being interviewed, use the blackboard to write down categories of questions the students are pursuing at any given time, e.g., real property assets, living expenses, custody of child #1.

At the end of the interview, tell the students what areas or categories of inquiry they failed to probe through their questions or what areas they covered only superficially.

E. Assignment 3.3 (interviewing a married person)

Encourage the students to select a married person who will take the interview seriously even though this person will be asked to make up all of the answers to the questions asked during the interview.

Conscientious students will feel a bit uncomfortable asking sensitive questions about a marriage. Good. One of the objectives of the assignment is to have the students confront such feelings. During a later class discussion of the assignment, ask the students about any awkwardness they felt. One of the realities of a family law practice is the exposure to raw, intimate, and potentially embarrassing details.

F. Ethics in Practice

The paralegal has given legal advice. He or she answered the legal question of a particular person who was a client of the law firm. The paralegal was not giving general legal information to the public at large. It is irrelevant that the paralegal gave the correct answer or that the paralegal was a personal friend of the client. Giving legal advice in such a situation is the unauthorized practice of law. The case might be different if the paralegal's attorney supervisor told the paralegal to tell the client that both spouses can be required to pay alimony. There is no indication that occurred here.