

DIVORCE LAW GUIDE FROM A TO Z
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I. Tips and Techniques for Case Assessment and Vital First Steps

(9:00 AM – 9:45 AM)

A. Interviewing and Screening Clients – The “PNC” (Possible New Client) Interviews.

1. The initial telephone call to schedule the consultation. Setting the tone from the possible new client's initial contact with your office and screening the caller.

a. Designate one staff person to take all new client calls.

b. During the initial call, your staff member should speak from a "script" designed to relay information about you, your experience, your consultation fee, the range of your initial retainer fee, and gather preliminary facts about the client's case to determine if it is a case you are interested in taking. Your script can leave space for your staff person to fill in the facts about the case, confirm that the possible new client has acknowledged that they are aware of and agree to the consultation fee and accepts the retainer fee charged by your office.

i. Save each script with the client's information to a folder for conflict checks.

ii. Conflict Check Log:

* After you meet with a client for a PNC interview, it is imperative that their identification information, including their name, contact information,

spouse's name and date of marriage is saved to a log that is updated regularly. It is recommended that this log is kept as both a hard copy and in an electronic format.

2. Always, always charge a consultation fee for the initial client interview. The possible new client will regard your time as a valuable commodity if they are paying for it and are unlikely to pay a consultation fee if they are not serious about retaining your services. A client that balks about paying for an hour of your time for an initial consultation will be unlikely to pay your final invoice or even your first invoice. Furthermore, charging a consultation fee will likely make a possible new client think twice about interviewing many attorneys that they have no interest in retaining to "conflict out" several attorneys so that their spouse may not retain them. This will prevent you, as the attorney, from wasting many hours of your time and not being paid for it.

3. Clients that insist on speaking to the attorney on the initial phone call and tell your staff that, "I only have a quick question I need to ask before scheduling an interview" are problematic. It is never a good idea to take a phone call from a caller looking to schedule an initial client interview, but rather have a staff member take the call. Ninety-nine percent of the time the quick question leads to a 20 minute call and most people are simply looking for some free advice. Often times, getting on an initial telephone call could lead to the following problems for the attorney:

- a. Conflict of interest issues;
- b. Ambiguity from the caller as to whether you are representing them as a client;
- c. Issues of liability can arise.

4. Possible New Client "PNC" Procedure; The Initial Interview.

a. The initial client interview is by far the single most important event that occurs between the attorney and client and is a time for:

i. Realistic Goal Setting:

A. After listening to the facts, outline a strategy to reach closure, i.e., the client's "exit plan." A strategy is discussed and agreed upon between attorney and client.

B. Correct any unrealistic goals or "special" agendas the client may have; otherwise, decline representation. A few examples are:

1. The mother that is looking to control all timesharing or prevent a father from seeing a child;

2. A party that is discussing their plan to hide assets to avoid an equitable distribution;

3. A party seeking advice about false domestic violence allegations to gain exclusive use and possession of the marital home.

ii. Outline the probable case outcome, whether it be via settlement or trial, the realistic estimate of the length of time necessary to achieve these goals and the likely result in court if one or both parties refuse to settle. It is important to be candid, demonstrate knowledge, experience, skill and honesty.

b. Attorney Role:

i. The attorney should emphasize the importance of a full and frank disclosure from the client in order to ensure the strongest representation possible;

ii. Mutual trust and confidence based upon the skill, integrity, knowledge and candor that you have displayed is established at this initial meeting;

iii. The attorney should advise as to the procedural and substantive aspects of the entire legal process;

iv. The attorney should set up times for regular case evaluation discussions with the client, which should include any experts and family members.

c. Client Kit:

i. Give the client a copy of the relevant statutes, rules of procedure, deposition instruction, and co-parenting publications;

ii. Provide a copy of your resume and any background information about yourself;

iii. Send the client home with a copy of the financial affidavit form, a copy of Rule 12.285 and the standard Request for Production and Family Law Interrogatories.

5. Conflict Check: A Conflict Log, as discussed above, must be maintained in your office to avoid issues of a conflict of interest, wasting your time on a consultation wherein you have already met with the individual's spouse or even issues with the Florida Bar!

B. Annulment, Divorce or Separation: Helping Clients Understand Their Options

1. Annulment: Void or voidable marriages;

2. Divorce: When to serve the other party or attempt to reach an agreement without filing for dissolution of marriage.

3. Separation: Debunk the myth: there is no legal separation in Florida. Explain the pitfalls of a separation if the other spouse has access to the assets or charge accounts prior to filing for dissolution of marriage.

C. Organizing the Client File

1. Electronic v. hard copies, or both.

2. Client Information Sheet: Save all information to contacts or firm address book.

3. Maintaining a separate Billing File

4. Fee Agreements: What Provisions to Include in Your Retainer Agreement

a. What tasks you charge for: Everything!

b. Costs

c. Your fees

d. Expectations and obligations of clients

e. Ability to withdraw from the Representation

f. Charging Liens

g. Fee Disputes

5. Organization of Discovery

D. Using a Divorce Law Checklist as Your Guide

1. Relevant legal issues, case law, statutes and rules of procedure;

2. Timeline of Deadlines: responsive pleadings, and discovery deadlines.

E. Impact of Current Legislation and Case Law: Discussing with your client the impending legislation on the horizon.

1. Alimony Legislation: Will alimony as we know it be abolished?
2. Presumption for 50/50 Custody