

**Legal Education at the Crossroads v. 3.0: A Conference on  
Assessment  
September 11-13, 2009**

**FORMATIVE ASSESSMENT FOR INTERVIEWING AND  
COUNSELING SKILLS**

**ASSESSING INTERVIEWING AND COUNSELING  
SIMULATIONS**

**ASSESSMENT FORMS**

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Name: \_\_\_\_\_

## PRACTICE INTERVIEW RATING SCALE

Rate your interviewing exercise as to which of the three descriptions in each category most clearly applies to you:

### I. Introduction

1. \_\_\_ At the initial meeting with the client, the lawyer puts the client at ease while maintaining a professional relationship. The lawyer provides a general overview of what is expected to occur during the meeting.

\_\_\_ At the initial meeting with the client, the lawyer makes little effort to put the client at ease, does not establish a professional relationship with the client or fails to provide a general overview of what is expected to occur.

\_\_\_ At the initial meeting with the client, the lawyer fails to establish a professional relationship, put the client at ease or provide an overview for the client. The lawyer "cuts to the chase" for hard information.

2. \_\_\_ The lawyer makes an effort to ascertain the client's goals and concerns as early as possible in the initial meeting, recognizing that this information is essential in assisting the client in eventual problem resolution. The lawyer summarizes the goals and concerns, thus verifying them as accurate or inviting additional information or correction from the client.

\_\_\_ The lawyer makes some efforts to ascertain client goals and concerns, but fails to elicit all of them by using summarization or verification techniques.

\_\_\_ The lawyer makes no effort to ascertain the goals and concerns of the client, assuming that s/he can make recommendations irrespective of what might be important to the client.

### II. Questioning Skills

3. \_\_\_ The lawyer starts information-gathering with open-ended questions, such as "Tell me about your problem".

\_\_\_ The lawyer starts information gathering with such narrow questions that the client is unable to provide a general picture of the problem.

\_\_\_ The lawyer does not use open-ended questions to begin a line of inquiry.

4. \_\_\_ When information gathering, the lawyer avoids leading questions and does not imply causal relationships; rather, the lawyer asks direct questions to focus on pertinent positive *and negative* points that need further elaboration. When helpful, the lawyer uses a "T-funnel" approach to elicit details.

\_\_\_ The lawyer gathers information by asking leading questions that often imply causal relationships.

\_\_\_ The lawyer fails to make the distinction in the use of open-ended and leading questions.

5. \_\_\_ The lawyer doesn't repeat questions, seeking duplication of information that has previously been provided, unless clarification or summarization of prior information is necessary.

\_\_\_ The lawyer occasionally repeats questions seeking the duplication of information. Such information is not sought for the summarization or clarification of information, but is a result of the lawyer's failure to take accurate notes or remember the information.

\_\_\_ The lawyer frequently repeats questions, either because of inaccurate notes or failure to remember information.

6. \_\_\_ The lawyer asks questions and provides information in terms that are easily understood, appropriate to the client, and free of legal jargon. If legal terms are used, the lawyer explains or defines the terms in a non-condescending manner.

\_\_\_ The lawyer sometimes uses legal jargon or confusing legal terms, failing to spontaneously define the terms for the client unless the client specifically requests that they be defined.

\_\_\_ The lawyer is indifferent to the use of jargon, or the explanation of legal terms to the client.

### **III. Data Collection and the Interview Sequence**

7. \_\_\_ After obtaining an overview of the problem, the lawyer proceeds to elicit detailed information concerning the facts of the client's current problem (when, where, situation surrounding event, addresses of those involved, letters, documents, witnesses, etc.) and all additional data relevant to the problem under discussion.

\_\_\_ The lawyer obtains some detailed information, but fails to obtain complete data relevant to the client's current problem.

\_\_\_ The lawyer gets side-tracked or is so unorganized that s/he fails to obtain relevant data, or misses an important piece of information.

8. \_\_\_ The lawyer obtains information in a logical, systematic and orderly progression, starting with the first event and following the progression of events to the present or to the conclusion of the event.

\_\_\_ The lawyer at times loses a logical chronology of events, jumping from topic to topic without a detailed exploration of each.

\_\_\_ The lawyer proceeds to obtain information in a haphazard and unrelated fashion, losing the significance of the chronology and related details.

9. \_\_\_ The lawyer seeks verification of the client's responses and encourages open communication, using various techniques to provide recognition.

\_\_\_ The lawyer frequently fails to verify responses, and risks inaccurate information in the process.

\_\_\_ The lawyer makes no effort to verify or clarify client responses, accepting proffered information at face value.

#### **IV. Feedback**

10. \_\_\_ Periodically, or at the end of a specific line of inquiry, the lawyer summarizes the data or information obtained from the client in an effort to verify and/or clarify the information or as a precaution to ensure that no important data was omitted.

\_\_\_ The lawyer sometimes summarizes data at the end of a line of inquiry, but fails to use this technique consistently.

\_\_\_ The lawyer fails to use this technique at all, accepting information at face value as complete and accurate.

11. \_\_\_ The lawyer does not prematurely judge the client, nor does the lawyer prematurely judge or assess the nature of the legal problem presented prior to full investigation of the facts of the case.

\_\_\_ The lawyer tends to be premature in some instances in assessing the client or the strength or weakness of the case, risking inaccuracy as the case progresses.

\_\_\_ The lawyer "cuts to the chase" in prematurely judging the case, omitting a full and fair investigation of the facts, and depriving the client of an objective assessment.

12. \_\_\_ The lawyer is alert to possible (perhaps subtle) concerns expressed by the client throughout the interview, and is responsive to those concerns regardless of whether the concerns are immediately relevant to the client's present problem (marital or financial concerns, substance abuse, domestic violence, for example). The lawyer is able to discuss the concerns sensitively and explore them in sufficient depth without personal bias.

\_\_\_ The lawyer is able to detect concerns expressed by the client unrelated to the present problem, but is not comfortable with the discussion or fails to explore the concerns in sufficient depth.

\_\_\_ The lawyer is insensitive to possible concerns unrelated to the client's present problem, even though those subtle concerns may have future implications for the well-being of the client.

13. \_\_\_ The lawyer consistently provides the client with positive reinforcement and feedback to encourage trust and open communication (e.g., an occasional smile, nod of the head, active listening, reacting to the client's emotions).

\_\_\_ The lawyer is neither overly positive or negative in dispensing feedback and reinforcement.

\_\_\_ The lawyer provides the client with virtually no support or positive reinforcement. The job of a lawyer is to solve legal problems only.

## **V. Rapport**

14. \_\_\_ The lawyer maintains good eye contact with the client throughout the interview.

\_\_\_ The lawyer makes some eye contact; however, the frequency could be increased.

\_\_\_ The lawyer makes no eye contact, burying him or herself in notes instead.

15. \_\_\_ The lawyer is attentive in attitude and body language and allows the client to complete statements without undue interruption.

\_\_\_ The lawyer is usually attentive, but interrupts the client unduly.

\_\_\_ The lawyer views him or herself as a detached information-gatherer, frequently interrupting in an attempt to just get the facts the lawyer deems important.

## **VI. Closure of the Interview**

16. \_\_\_ At the close of the interview session, the lawyer encourages the client to discuss any additional points or concerns, or ask additional questions (e.g., "We've discussed many things. Are there any questions you would like to ask or anything we should discuss further that might be helpful to your case?").

\_\_\_ At the end of the interview, the lawyer provides some opportunity for the client to discuss additional points, but does not encourage the client to do so (e.g., "Is there anything else?").

\_\_\_ The lawyer wraps up the session, convinced that he or she has fully gathered all relevant information and concerns.

17. \_\_\_ The lawyer clearly specifies future plans, such as the next steps by the attorney, documents the client might need to bring in, formalization of the relationship (signing a retainer agreement), whether the client understands the fee or billing arrangements, or the time and date of the next communication or meeting.

\_\_\_ The lawyer only partially details the plans for the future, either failing to formalize the attorney-client relationship or leaving a "dangling" client in terms of future steps and actions.

\_\_\_ The lawyer fails to specify any future plans, fails to formalize the relationship or fails to terminate it.

**Overall, my greatest strengths are:**

**Overall, I really need to work on:**

**LAW FIRM:** \_\_\_\_\_

## **PRACTICE COUNSELING RATING SCALE**

Rate your law firm as to which of the three descriptions in each category most clearly applies to your videotaped exercise:

### **I. Preparatory Explanation and Review**

1. \_\_\_ The counselor begins the session with a complete explanation of what will occur at this meeting, emphasizing that the final decision as to the course of action to be taken will be left to the client.

\_\_\_ The counselor either does not adequately explain the purpose of the meeting or neglects to emphasize the client's decision making role.

\_\_\_ The counselor immediately starts discussing possible options without explaining the purpose of the meeting or emphasizing the client's right to make the final decision.

2. \_\_\_ The counselor briefly summarizes the pertinent information obtained previously, including the client's desired result, fills the client in on what new information s/he has obtained since the last contact, and asks the client if there have been any new developments.

\_\_\_ The counselor summarizes the information obtained previously, but either neglects to fill in the client on what s/he has been doing or to ask about new developments.

\_\_\_ The counselor either neglects to summarize the information obtained or distorts or misstates the client's objectives, and fails to fill the client in on what s/he has been doing or to ask about new developments.

### **II. Identifying Alternatives**

3. \_\_\_ The counselor lays out all available options in resolving the client's problems, explaining them sufficiently to be meaningful to the client, and asks the client for options s/he has thought of before discussing the consequences of any particular choice.

\_\_\_ The counselor lays out a number of options for resolving the client's problem but fails to include an obvious option, does not explain them in meaningful terms or forgets to ask the client for options s/he sees.

\_\_\_ The counselor does not present a sufficient number of options, does not explain them or forgets to ask the client for options s/he sees.

4. \_\_\_ Where there are a large number of options available, several possible outcomes and many possible consequences, the counselor makes the information more comprehensible to the client by giving him a written outline or laying out the information in an orderly manner.

\_\_\_ The counselor copes with a large number of options, outcomes and consequences, with the result that the client is more confused and uncertain of the best course than s/he was before the meeting.

\_\_\_ The counselor is *unable* to cope with a large number of options, outcomes and consequences, with the result that the client is more confused and uncertain than before the meeting.

5. \_\_\_ The counselor is prepared to discuss legal options with the client in terms which are understandable to the client. The counselor is versed on applicable law, having done advance research where necessary. The counselor anticipates legal questions the client may ask, and is prepared to respond.

\_\_\_ The counselor is prepared to discuss legal options, but discusses them, and answers client questions, in legal jargon which the client may or may not understand.

\_\_\_ The counselor fails to present legal options, has not done advance research, and fails to anticipate, or answer, client questions concerning legal options.

6. \_\_\_ In deciding which alternative to discuss first, the counselor asks the client's preference or discusses first the alternative that will come closest to achieving the client's desired result.

\_\_\_ The counselor discusses the options in an order that appears logical from a lawyer's perspective but fails to take into account the client's concerns.

\_\_\_ The counselor discusses the options in no apparent order so that it is difficult for the client to follow and anticipate the progress of the discussions.

### **III. Analyzing Consequences**

7. \_\_\_ The counselor predicts the possible outcomes of a given alternative (very good likelihood of success, not so good, etc.) in terms that are meaningful to the client, explaining the basis of his/her opinion and revealing any uncertainty about the accuracy of the predictions.

\_\_\_ In predicting the possible outcomes of a given alternative the counselor either makes references or uses legal jargon that the client may not understand, or fails to disclose the basis of his/her opinion and degree of certainty.

\_\_\_ The counselor forgets to make predictions, or makes unsupportable predictions.

8. \_\_\_ The counselor encourages the client to explore the financial and personal consequences of each option under consideration, letting the client know that it is appropriate to discuss non-legal considerations when they may influence a decision and tactfully raising such considerations if the client appears reluctant to do so.

\_\_\_ The counselor is open to discussing financial and personal consequences if raised by the client, but appears willing to allow the client to make a decision before discussing such consequences.

\_\_\_ The counselor overtly or subtly discourages the client from discussing financial or personal consequences or plays down their importance in decision making.

#### **IV. Facilitating Client Decision Making**

9. \_\_\_ If asked to state a preference by the client, the counselor repeats that the final decision is the client's and summarizes the advantages and disadvantages of the most feasible options in light of the client's concerns, concluding with a request to the client to consider the options further and reach his/her own decision.

\_\_\_ After explaining and discussing the various options, outcomes and consequences, if the client appears uncertain how to decide, the counselor will state what option s/he thinks is best for the client and explain why.

\_\_\_ The counselor's tone of voice, facial expression, language or timing signal to the client the alternative s/he prefers or the counselor expressly states that the client should or should not follow a particular course.

10. \_\_\_ Throughout the discussion the counselor watches and listens carefully for indications from the client that s/he is confused, asks questions or uses "mirroring" techniques to determine the source of the client's confusion and clarifies where needed.

\_\_\_ The counselor explains things reasonably clearly, but neglects to ask for feedback from the client to test how much the client really understands and/or ignores signals of client confusion.

\_\_\_ The counselor fails to explain things in a way that suits the client's personality and experience or discourages the client from voicing his/her confusion, such as by talking non-stop.

11. \_\_\_ The counselor deals with the client's questions and concerns when they arise, even if they are out of order according to the session's structure, unless s/he obtains the client's consent to postpone the answer or discussion until a more logical point in the discussion.

\_\_\_ The counselor sticks to the format, dealing with out of order questions by explaining to the client that they will get to that point later (and actually do).

\_\_\_ The counselor fails to deal with the question at the appropriate time, or at all.

12. \_\_\_ After discussing all options, along with outcomes and consequences, the counselor summarizes as objectively as possible the pertinent factors the discussion has raised, inviting the client to weigh those factors in reaching his/her decision and refraining from pressuring the client to reach a decision unless the matter is urgent.

\_\_\_ The counselor summarizes the pertinent factors raised in the discussion, but either does not do so objectively or pressures the client into reaching a decision.

\_\_\_ The counselor expects the client to reach a decision immediately after discussing the alternatives.

## **V. Handling Common Counseling Dilemmas**

13. \_\_\_ If the client suggests an alternative that is unethical or illegal, the counselor explains forthrightly but without condescension why an attorney cannot participate in such an alternative, distinguishing situations where the counselor's decision not to take particular course of action is based on personal principle, in which case the client may wish to consult another attorney.

\_\_\_ If the client suggests an alternative that is unethical, illegal or violates the counselor's personal standards, the counselor refuses to discuss such an alternative with the client.

\_\_\_ The counselor fails to recognize that an alternative suggested by a client is unethical or illegal, or fails to confront the fact that a suggestion may conflict with a counselor's personal standards, although s/he knows that if the client chooses that alternative, the lawyer will not be able to adequately represent the client.

14. \_\_\_ If the counselor believes the client has made an extremely detrimental decision, s/he counsels delay and reconsideration wherever feasible, explaining the specific reasons as to why the decision may be detrimental. The counselor attempts to convince, but not coerce, the client.

\_\_\_ The counselor becomes argumentative or insulting when faced with a client who wants to make a decision the counselor feels would be extremely detrimental.

\_\_\_ The counselor does not attempt to dissuade the client from making a detrimental decision or attempts to do so through coercion, rather than persuasion.

## **VI. Wrapping Up the Counseling Session**

15. \_\_\_ Before concluding the session, the counselor makes sure the client has been able to ask all questions and discuss all issues s/he is interested in.

\_\_\_ The counselor is satisfied with concluding the session whenever the client appears to have made a decision.

\_\_\_ The counselor objects to answering questions at this stage, impliedly criticizing the client for not having thought of them earlier.

16. \_\_\_ The counselor makes sure s/he completely understands the client's decision, assuming one was made, and makes sure the client is aware of the next steps by the lawyer and the client. If no decision was made, makes sure the client is aware of decision deadlines, and that the counselor is available for further discussion if needed.

\_\_\_ The counselor is content with only a general understanding of the client's decision, or leaves the client unclear as to decision deadlines or next steps.

\_\_\_ The counselor concludes the session without the client having made a decision or understanding when a decision must be made.

**Our law firm's greatest strengths are:**

**Our law firm's greatest weaknesses are:**

PRACTICE INTERVIEW  
EVALUATION

Interviewing Problem:    Wilson      Smith    (circle one)

Critique of .....

Critique by .....

Please respond thoroughly to the following questions (Use extra paper if necessary). Be specific! Use these questions as a guide and expand your discussion of a particular area if you think it appropriate.

I.      Did you have this interview recorded? \_\_\_\_\_ Did you watch the recording before you filled out this evaluation? \_\_\_\_\_

II.      Introduction. How did the lawyer handle the initial phase of the interview? Did she/he put you at ease? How? Did the lawyer explain what would occur during the interview? Did the lawyer appear interested in your problem?

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III.      Fact Gathering and Questioning. What kind of questions did the lawyer use? Was the lawyer systematic and logical? Did the lawyer seek clarification and elaboration? Did the lawyer use legal jargon? Did the lawyer gather all pertinent information?

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III. Feedback. Did the lawyer periodically summarize data to verify it? Did the lawyer refrain from premature judgments and suggestions? Did the lawyer compliment or encourage you during the interview regarding your participation in the interview process? Did the lawyer explain the strengths and/or weaknesses of your factual situation? Did the lawyer indicate what additional information he or she needed to obtain after the initial interview?

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IV. Rapport. Did the lawyer make good eye contact? Did the lawyer listen and avoid interrupting? Was the lawyer respectful? Did the lawyer establish what your goals were? Did the lawyer indicate that he/she understood your problem and/or your feelings? Were you comfortable with the lawyer? Why?

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V. Decision to Retain Lawyer. Would you hire this lawyer to represent you? If so, discuss the primary factors upon which your decision was based. If you would not, discuss the primary factors upon which you rejected representation by this lawyer.

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VI. Overall what is this lawyer's greatest strength? What is his/her greatest weakness?

Strength.....

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Weakness .....

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Students Names \_\_\_\_\_

PRACTICE INTERVIEWING AND COUNSELING EXERCISE  
SELF CRITIQUE FORM

Please evaluate your performance in each category. Consider how well you followed the model, whether you accomplished the goal for that phase, whether you kept the client involved in the process, and what techniques were used to enhance client decision making. Be sure to include what you think worked well and what you need to improve on as well as any specific problems you encountered.

**1. Preparatory Explanation**

**2. Confirmation of Goals**

**3. Gathering Additional Facts**

**4. Identifying and Setting Out the Alternatives**

**5. Explaining the Law**

**6. Analyzing and Weighing the Legal and Non-Legal Consequences**

**7. Reaching a Decision and Wrapping Up**

**7. Handling Counseling Difficulties**

**8. General Considerations:**

**A. Rapport with client:**

**B. Overall clarity and organization:**

**C. Team interaction**

**D. Thoroughness**

**E. Greatest Strengths**

**F. Greatest Weaknesses**

### **Preparing for the Graded Interviewing and Counseling Exercise**

The following suggestions should help you prepare for the graded exercise.

1. Divide responsibilities evenly. Each partner must participate in both the interviewing and counseling aspects of the meeting.
2. The interview segment:
  - a. Do not obtain a chronological overview as if this is your first meeting with the client.
  - b. Do identify and clarify the client's goals and concerns
  - c. Prepare questions in those areas that are unclear, that are relevant to the client's legal position, or that affect the alternatives available to the client. Be prepared to adjust your legal analysis and/or alternatives depending upon what the client tells you or does not know.
  - d. This part of the meeting probably will take less time than the counseling aspect.
3. The counseling segment:
  - a. You must know the law to counsel the client adequately. Apply the law to the facts and analyze the strengths and weaknesses of the client's legal position. Explain the legal issues in terms that an intelligent client would understand.
  - b. Do not present too many alternatives. Keep the client involved in discussing the advantages and disadvantages of each alternative.
  - c. Discuss what happens next.
  - d. While you should be organized and prepared, this is the client's meeting. Make sure you have dealt with his goals and concerns.
4. If you give your client any written material, have a copy for me at the start of your meeting. Take good notes during the meeting. You may not see your videotape before your papers are due.
5. Do not pretend to offer your client food or drink. If you plan to offer, have it there.
6. Keep your own time. You may put your watch down on the table.
7. Do not shuffle through a mound of papers.
8. Dress like lawyers for this meeting.

9. You may practice with a non-lawyer playing the client.
10. I will ask the client how she felt about each team in terms of rapport, organization, clarity, confidence, and professionalism
11. If you have questions, contact me. I will check my voice mail (736-1156) and e-mail (sande.buhai@lls.edu) regularly.
12. Keep the following grading criteria in mind when preparing for your exercise.
  - I. Introduction:
    - A. Welcome and opening: put client at ease
    - B. Explanation of procedures (process, client role, goal of meeting; confidentiality)
    - C. Were explanations clear, appropriate and effective?
  - II. Client's Goals and Concerns
    - A. Were goals thoroughly obtained?
    - B. Were other client concerns obtained?
  - III. Fact Gathering
    - A. Were additional facts gathered systematically and thoroughly?
    - B. Did the lawyers identify important topics and pursue them?
    - C. Did the lawyers follow-up on answers?
  - IV. Legal Issues and Information
    - A. Did the lawyers discuss legal issues clearly and accurately?
    - B. Did the lawyers respond to client questions?
    - C. Did the lawyers discuss ethical issues clearly and accurately?
  - V. Alternatives and Consequences
    - A. Did the lawyers set out a range of alternatives?
    - B. Were the alternatives discussed thoroughly and clearly?
    - C. Was the client engaged in the process?
    - D. Did the lawyers refer to the client's goals and concerns?
  - VI. Miscellaneous
    - A. Did the lawyers build rapport with the client?
    - B. Did the lawyers maintain good eye contact?
    - C. Did the lawyers make a good team and interact well?
    - D. Were the lawyers organized?
    - E. Were the lawyers flexible?
    - F. Were costs discussed appropriately and accurately?
    - G. Did the lawyers establish an agenda for the future?

**Graded Interview/Counseling Evaluation – Misrepresentation by Lawyer**  
**Waters v. Palermo**

I. **Introduction (10)**

- A. Welcome/Opening \_\_\_\_\_  
 B. Explanation of procedures \_\_\_\_\_

II. **Gathering Information (25)**

A. **Client Goals/Concerns**

1. Client status \_\_\_\_\_
2. Damages: value of land, other \_\_\_\_\_
3. Costs if sell \_\_\_\_\_
4. Punish Palermo thru Bar \_\_\_\_\_
5. Family relationship \_\_\_\_\_
6. Other ways to resolve \_\_\_\_\_
7. OTHER \_\_\_\_\_

**Use of active listening**

B. **Factual Information**

1. Map/physical setup \_\_\_\_\_
2. Background in NY \_\_\_\_\_
3. Work history \_\_\_\_\_
4. Surveyor \_\_\_\_\_
5. 20 lots \_\_\_\_\_
6. Palermo aware of fee split \_\_\_\_\_
7. No discussion of road during quitclaim \_\_\_\_\_
8. Boone conversation: 5 miles \_\_\_\_\_
9. Palermo's son owns cabin \_\_\_\_\_
10. Pete's attitude \_\_\_\_\_
11. OTHER \_\_\_\_\_

III. **Legal and Ethical Information (25)**

A. **Legal malpractice**

1. Generally \_\_\_\_\_
2. Is she a client \_\_\_\_\_
3. Third party beneficiary \_\_\_\_\_
4. Fraud/negligent misrep \_\_\_\_\_
5. Breach of fiduciary duty \_\_\_\_\_
6. Other causes of action \_\_\_\_\_
7. Damages \_\_\_\_\_
8. OTHER \_\_\_\_\_

**B. Ethical issues**

1. Conflict of interest  
Buyer/seller \_\_\_\_\_  
Joint representation \_\_\_\_\_
2. Insufficiency of waiver \_\_\_\_\_
3. State bar procedures \_\_\_\_\_
4. OTHER \_\_\_\_\_

**IV. Alternatives and Consequences (25)**

**A. Options**

1. Settle \_\_\_\_\_
2. Litigation \_\_\_\_\_  
-Claims  
-Chances of success
3. Arbitration \_\_\_\_\_
4. Mediation \_\_\_\_\_
5. State Bar \_\_\_\_\_
6. OTHER \_\_\_\_\_

**V. Miscellaneous (15)**

Use of client goals and concerns?

Client interaction and involvement?

Rapport? Empathy? Active listening?

Organization

Team Interaction

Time management

Thoroughness and follow-up

**Comments:**

GRADED INTERVIEW/COUNSELING GRADED WRITTEN ASSIGNMENTS

Misrepresentation by Lawyer

MEMO

LETTER

I. FACTS

A. Goals/Concerns

- 1. Client status \_\_\_\_\_
- 2. Damages: value of land, other \_\_\_\_\_
- 3. Costs if sell \_\_\_\_\_
- 4. Punish Palermo thru Bar \_\_\_\_\_
- 5. Family relationship \_\_\_\_\_
- 6. Other ways to resolve \_\_\_\_\_
- 7. OTHER \_\_\_\_\_

B. Factual Areas

- 1. Map/physical setup \_\_\_\_\_
- 2. Bkgd. in NY \_\_\_\_\_
- 3. Work history \_\_\_\_\_
- 4. Surveyor \_\_\_\_\_
- 5. 20 lots \_\_\_\_\_
- 6. Palermo aware of fee split \_\_\_\_\_
- 7. No discussion of road during quitclaim \_\_\_\_\_
- 8. Boone conversation: 5 miles \_\_\_\_\_
- 9. Palermo's son owns cabin \_\_\_\_\_
- 10. Pete's attitude \_\_\_\_\_
- 11. OTHER \_\_\_\_\_

II. QUESTIONS PRESENTED

- Ethics
- Substantive

III. SHORT ANSWERS

IV. DISCUSSION

A. LEGAL MALPRACTICE

- 1. Generally \_\_\_\_\_
- 2. A/C relationship \_\_\_\_\_
- 3. Third party beneficiary \_\_\_\_\_
- 4. Fraud/negligent misrep
- 5. Other causes of action
- 6. Damages \_\_\_\_\_
- 7. OTHER \_\_\_\_\_

B. ETHICAL ISSUES

- 1. Conflict of interest jt. representation \_\_\_\_\_
- 2. Insufficiency of waiver \_\_\_\_\_
- 3. State bar procedure \_\_\_\_\_
- 4. OTHER \_\_\_\_\_

V. COURSE OF ACTION

- 1. Client Decision
- 2. Further fact investigation
- 3. Next steps

VI. WRITING AND ORGANIZATION

- 1. Format instructions
- 2. Clarity and concision
- 3. Writing mechanics
- 4. Organization (macro and micro)
- 5. Citation

I. PURPOSE OF LETTER

II. SUMMARY OF SALIENT FACTS

III. CLIENT GOALS & CONCERNS

IV. SUMMARY OF LEGAL INFO.  
Substantive and Conflicts  
Predictions

V. DISCUSSION OF ALTERNATIVES  
Identification  
Analysis of pros and cons

VI. CLIENT DECISION

VII. FUTURE COURSE OF ACTION  
dates and deadlines

VIII. COSTS AND RETAINER

VI. WRITING AND ORGANIZATION

- 1. Format instructions
- 2. Clarity and concision
- 3. Writing mechanics
- 4. Organization (macro and micro)
- 5. Tone
- 6. Lack of legalese

GRADED INTERVIEWING AND COUNSELING  
SIMULATION  
EVALUATION SHEET

STUDENTS: \_\_\_\_\_

- I. Introduction: 10 \_\_\_\_\_  
A. Welcome and opening: put client at ease  
B. Explanation of procedures (process, client role, goal of meeting; confidentiality)  
C. Were explanations clear, appropriate, and effective?
- II. Client's Goals and Concerns 10 \_\_\_\_\_  
A. Were goals thoroughly obtained?  
B. Were other client concerns obtained?
- III. Fact Gathering 15 \_\_\_\_\_  
A. Were additional facts gathered systematically and thoroughly?  
B. Did the lawyers identify important topics and pursue them?  
C. Did the lawyers follow-up on answers?
- IV. Legal Issues and Information 25 \_\_\_\_\_  
A. Did the lawyers discuss legal issues clearly and accurately?  
B. Did the lawyers respond to client questions?  
C. Did the lawyers discuss ethical issues clearly and accurately?

- V. Alternatives and Consequences 25 \_\_\_\_\_
- A. Did the lawyers set out a range of alternatives?
  - B. Were the alternatives discussed thoroughly and clearly?
  - C. Was the client engaged in the process?
  - D. Did the lawyers refer to the client's goals and concerns?
  - E. Did the client reach a decision with the help of the lawyers?

- VI. Miscellaneous 15 \_\_\_\_\_
- A. Did the lawyers build rapport with the client?
  - B. Did the lawyers maintain good eye contact?
  - C. Did the lawyers make a good team and interact well?
  - D. Were the lawyers organized?
  - E. Were the lawyers flexible?
  - F. Were fees and costs discussed appropriately and accurately?
  - G. Did the lawyers establish an agenda for the future?

TOTAL \_\_\_\_\_