

**AMERICAN BAR ASSOCIATION
LAW STUDENT DIVISION**

CLIENT COUNSELING COMPETITION

INSTRUCTIONS FOR JUDGING

On behalf of the participants, the American Bar Association, and everyone involved with the Client Counseling Competition, thank you for agreeing to judge this competition.

Please review the following information before the competition begins.

1. **PURPOSE OF THE COMPETITION.** The purpose of the competition is to promote greater knowledge and interest among law students in the client counseling functions of law practice. The competition seeks to encourage students to develop and use interviewing, planning, and analytical skills in the establishment of lawyer-client relationships.

2. **OVERVIEW OF THE COMPETITION.** The competition simulates a law office consultation in which law students, acting as lawyers, are presented with a typical client matter. Each team is provided with a consultation memorandum that contains information similar to that which a law office secretary might be given when a client calls to make an appointment. This information is all the students have. On the other hand, the client and the judges receive not only the short consultation memorandum given to the students, but also a longer “script” that details the client’s problem. The team members do not see this script. Each year, the competition has a general topic involved in all of the consultation situations. That topic is listed at the top of the page on the consultation situation.

The student lawyers must conduct an interview with a person playing the role of the client and then explain how they would proceed further in the hypothetical situation. You will see a client interviewed by two or three different teams. Your role during the teams’ performance is to watch and take notes in order to evaluate the teams based on the competition standards for judging. It is important to remember that, unlike a moot court competition, you should not interject during the students’ performance.

3. **THE BASIC FORMAT OF THE COMPETITION.**

Each team shall have a maximum of forty-five (45) minutes to complete the session. The session must include both a consultation session with the client and a post-consultation.

- a. **THE CONSULTATION WITH THE CLIENT (THE INTERVIEW).** Each team must conduct a consultation with the client during which the student lawyers are expected to elicit the relevant information, outline the problem,

identify issues (both legal and non-legal) and propose a solution or other means to resolve the problem. (See Standards for Judging found on page 4 of these instructions for more specific direction.)

- b. **THE POST-CONSULTATION (THE WRAP-UP).** Each team must also conduct a meaningful post-consultation discussion between the attorneys after the client has left the room. The teams may not leave the interview room between the consultation and the post-consultation. During this post consultation the student lawyers may review the facts, point out facts which have been omitted, offer a self-critique, comment on the substance, plan strategy, divide work, write a letter, dictate a memorandum, or otherwise use the time creatively. You should not ask questions during this phase of the competition.

The student lawyers may confer privately and then make a presentation to the judges. The students may either talk together loudly enough to be overheard by the judges or they may dictate a file memorandum on the interview, or both. The post-consultation performance may (a) summarize the interview, (b) indicate the scope of the legal work to be undertaken, or (c) state the legal issues that should be researched. An explanation of the position or attitude taken by the student lawyers may be useful, including the jurisdictional differences in the law. For example, it may appear to a “spectator” that the lawyers were a bit hostile to the client during the interview. The post-consultation performance might explain the purpose of such hostility.

The student lawyers may feel that some documentation is appropriate at this stage and should be dictated at this point. For example, the lawyers may want to write a letter to the client confirming their retention, the fee arrangement, etc. Or it may be appropriate, at the conclusion of the interview, for the student lawyers to write a letter to opposing counsel or to the party with whom the client is having his or her legal problem. Such a document may be dictated during this post-consultation period.

- c. **CRITIQUES.** An important educational aspect of the competition is the feedback from the judges regarding a team’s performance. In the rounds prior to the final round (rounds I, II, III, and IV (semifinal round)), the judges should provide a short critique of each team at the end of the post-consultation period. Tell the team what you saw as its strengths and weaknesses. The entire critique period should last no more than fifteen (15) minutes. Each judge should take no more than five minutes to ensure each has a chance to speak.

Please stay within this time limit because the team must perform again in front of another panel of judges. Clients should not be present during the post-consultation or critique. After all teams have performed, you will

award points to the teams based on their relative performances in light of the standards for judging. (See “Standards for Judging” and “Awarding Points and Making a Decision” below.)

In the final round (round V), no critique is given after each team performs. Rather, the final performance is followed by a joint critique of all teams, during which you should provide your reaction to the teams’ handling of the consultation and post-consultation periods. In the critique of the final round, the client should be encouraged to participate in the critique and should be allowed to offer brief impressions. (See “Standards for Judging” and “Awarding Points and Making a Decision” below.)

- d. **CONSULTING WITH THE CLIENT BEFORE MAKING A DECISION.** To avoid the appearance of impropriety, once the round has begun, the judges shall not communicate with the client until all teams have performed. After all teams have performed and prior to making a decision, it is recommended (but not required) that the judges consult with the client. You may ask the client for his or her impressions, feelings, or reactions to the various teams. Remember that the client does not have a vote in determining the winning team.
4. **TEAM IDENTIFICATION AND ANONYMITY OF TEAMS.** The competition rules require that you do not know the identity of the teams that you are judging. The teams, therefore, will be designated Team A, Team B, etc. Do not ask the teams to identify themselves by school. Moreover, each team has been instructed not to mention its home state or refer to local law by name. Statements such as “in our state” or “in our jurisdiction” will be used by the students.
5. **NOTETAKING.** You are encouraged to take notes as you observe each team’s performance. Be aware that it is otherwise very difficult to recall specific dialogue after two or three teams’ performances. You should base your critiques on specific observations from your notes. Often, teams that perform first are placed at a disadvantage because the client is not as comfortable with his or her role, the judges are not as familiar with their roles, and the judges may have forgotten what the first team did when the final decision is to be made. Mere recognition of this fact will help offset this possible disadvantage. Moreover, the disadvantage of performing first will be lessened if you take extensive notes on each interview, so that you will be able to recall and review all performances fully prior to making a decision.
6. **ROOM ARRANGEMENTS AND OFFICE “PROPS.”** During the interview and the post-consultation, a team may use books, notes, and substantive materials. A team may also use office props (dictaphones, files, coffee cups, clocks, desktop furnishings, etc.). You should not give undue weight to the use of props. Thus, you are cautioned against being overly impressed or critical of the use of props.

Students may arrange the room in any reasonable manner that they wish. Students, for example, may move any furniture that can easily be picked up.

7. **APPLICABLE LAW.** The law to be applied in the competition is the law of each team's respective state unless otherwise indicated in the consultation situation. The teams, however, should not identify from which state or law school they originate.
8. **FEES.** Although the discussion of fees should be an integral part of any first consultation between a lawyer and a client, students should not be judged based upon the amount of the fee quoted to clients. All participants in the competition have been supplied with a uniform fee schedule so that no one will suffer because a judge disagrees with a team's decision as to how much to charge. The participants may decide to discuss fees at any appropriate point in the consultation, but this decision is subject to your evaluation.
9. **TIME LIMITS AND TIMEKEEPING.** During the competition, timekeepers are not provided. The student lawyers should limit the consultation and post consultation period to forty five (45) minutes. As judges, you should note the exact time the consultation begins (when the client enters the room).

In no circumstance will the student lawyers be given more than forty-five (45) minutes regardless of where the student lawyers are in the consultation or post-consultation process. At the end of forty-five (45) minutes, you should inform the team that their time has expired.

10. **TEAMWORK.** Team members are entirely free to decide how they will divide their work, but both students must interview the client as a team and their plan is subject to judging. (See "Standards for Judging" below.) The students may explain to you why they worked together in the way they did in the post-consultation period.
11. **PROHIBITED COMMUNICATION.** Team members may not communicate in any way with any observers during the course of their performance.
12. **STANDARDS FOR JUDGING.** You will be provided with a copy of the "Standards for Judging the Client Counseling Competition." The standards are to be used as the sole basis for judging the competition. The standards focus on the following ten areas:
 - a. **Working Atmosphere** – The lawyers established the beginning of an effective professional relationship and working atmosphere; if and when appropriate, the lawyers 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.), and

respond to client's concerns in a courteous, sensitive, and professional manner.

- b. **Description of the Problem** – The lawyers learned 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.
- c. **Client's Goals and Expectations** – The lawyers learned the client's goals and initial expectations and modified or developed them as necessary.
- d. **Problem Analysis** – The lawyers analyzed the client's problem with creativity and from both legal and non-legal perspectives, resulting in a clear and useful formulation of the problem.
- e. **Moral and Ethical Issues** – The lawyers, consistent with the analysis of the client's problem, recognized, clarified, and responded to any moral or ethical issues that may have arisen, without being prejudicial or judgmental.
- f. **Alternative Courses of Action** – Consistent with their analysis of the problem, the lawyers developed a set of potentially effective and feasible alternatives, both legal and non-legal,.
- g. **Client's Informed Choice** – The lawyers, as appropriate, assisted the client in his or her understanding of problems and solutions, and in making an informed choice, taking potential legal, economic, social, and psychological consequences into account.
- h. **Effective Conclusion** – The lawyers concluded 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.
- i. **Teamwork** – The lawyers, as collaborating counselors, worked together as a team, with flexibility and an appropriate balance of participation.
- j. **Post-Interview Reflection** – The lawyers, during the post-interview phase, provided for effective follow-up and gave evidence of having recognized their own and the client's feelings, the strengths and limitations of their interviewing and counseling skills, and their handling of the substantive aspects of the client's problem, both legal and non-legal, and provided for an effective follow up.

- k. **Overall Rating** – Synthesizing the criteria above, including how effectively the team used its time, rate the team’s performance.
13. **APPLYING THE JUDGING STANDARDS.** The judging standards recognize that there are many effective styles of interviewing and counseling, and that there is no set pattern of problems presented to lawyers by their clients. The criteria, however, are based on the belief that in order to work effectively with clients, lawyers would have to, at a minimum:
- (1) establish effective relationships with their clients;
 - (2) learn how clients view their problems and their situations;
 - (3) learn the clients’ initial goals and expectations;
 - (4) analyze the clients’ problems;
 - (5) develop alternative “solutions” for the clients’ problems;
 - (6) assist clients in their understanding and ability to make informed choices among alternatives;
 - (7) recognize and deal with moral and ethical problems;
 - (8) effectively conclude the interview; and
 - (9) be able, as legal counselors, to learn from their interviewing and counseling experience.

With regard to issue spotting, the failure to raise an issue may or may not be decisive. The failure to raise an issue at all must be balanced with the rest of the team’s performance. A team that did not raise an issue with the client during the interview might raise it during the wrap-up discussion. In general, raising an issue during the wrap-up should be judged as better than not raising it at all, but not as good as raising it with the client, unless there is an explanation for not raising it with the client. With regard to the accuracy and sophistication of legal advice, it is certainly better to know the law than to misstate it. Clearly erroneous legal advice should be penalized. However, you should not overly stress treatment of the law and ignore other factors in the judging standards. It is acceptable to advise a client in an initial interview that research is needed before legal advice is given.

The clients have been instructed to attempt to be as consistent as possible for all teams. Therefore, if a client makes up certain facts or deviates from their role in the first or second counseling session, they should be consistent in subsequent counseling sessions. If the client fails to be consistent, however, the lawyers should be neither penalized nor helped by inconsistencies in terms of judging.

Remember that no one aspect of the judging should make or break a team. Every team is relative to the other team(s) that you observe.

AWARDING POINTS AND MAKING A DECISION IN THE PRELIMINARY ROUNDS. You will score the round by awarding points. After you have seen all the teams, you should discuss each team’s performance. You are encouraged to consult with the client but only after all the interviews have taken place. Although

judges should discuss the teams outside the presence of any observers, you should individually rank the teams in the preliminary rounds. Judging independently, you must give one (1) point to the one (1) team that, in your opinion, performed the best in light of the judging standards.

Then, based on the relative performance of each team, you should give two (2) points to the second place team, and three (3) points to the third place team. You may not award half points. There cannot be a tie.

SCORING THE SEMIFINAL AND FINAL ROUND. After seeing all of your assigned teams perform, you should, outside the presence of any observers, consult with the client and together discuss each team's performance. You should by a majority vote decide which team performed the best in light of the judging standards. If there is not a majority, you should continue to confer until a winning team is selected. In the final round, the judges also select a second place team.

14. **FILLING OUT THE SCORE SHEET AND REPORTING RESULTS.** Follow the directions on the score sheet provided to you and return it to the professor or students in charge of the competition. Be sure to correctly enter the team identification (Team A, Team B, etc.) on the sheet.

CLIENT COUNSELING COMPETITION FEE SCHEDULE

We have decided to adopt a uniform fee schedule for all contestants so that no team will suffer because a judge disagrees with its decision as to how much to charge. All judges and competitors will be given this schedule:

1. The initial interview with both counsel will be billed a flat rate of \$100 total. Further work will be billed at \$200 per hour of either lawyer's time.
2. Fees will be waived or suitably reduced in cases of financial hardship, either for persons of low income or for persons of ordinary income faced with very large fees.
3. Work will be done on a contingency basis in appropriate cases. If it is not apparent that the case in question is one in which there is a good chance of recovery, the office may require a preliminary investigation at hourly rates before entering into a contingent fee arrangement.
4. The office may require the client to pay a retainer prior to commencing any further legal services. [The amount of retainer requested, if any, will not be considered for judging purposes, as standard amounts may vary significantly across regions. However, if a retainer is requested, the attorneys should be able to explain how it will be applied against the fees incurred.]

**American Bar Association
Law Student Division
CLIENT COUNSELING COMPETITION**

Judge's Score Sheet
Preliminary Rounds

Judge: _____ Room: _____

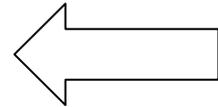
Date: _____ Profile: _____

Each judge scores the teams independently and **CANNOT** give ties.

Following discussion by the judges among themselves and possible consultation with the client, each judge, judging independently, must give one (1) point to the one team that performed the best in light of the judging standards. Then, based on the relative performance of each team, each judge must give 2 points to the team, which performed second best, and 3 points to the team, which performed third best. Judges may **NOT** award half points. There may not be ties between teams.

First Place	Team Letter _____	<u> 1 </u> (1 point)
Second Place	Team Letter _____	<u> 2 </u> (2 points)
Third Place	Team Letter _____	<u> 3 </u> (3 points)

Have you filled in all the blanks to the left?



Judge's Signature _____ Cell Phone _____
(in case of scoring discrepancy)

Please return to _____ in Room _____.

Be sure to fully fill out the scoring sheet including the room and profile number (1, 2, or 3). Please personally hand in your own score sheet. Do not leave until a competition official has checked over your sheet to make sure it is filled out accurately. You should also turn in your written comments on the Evaluation Forms at this time.

Received & confirmed: _____
Host School Representative

Thank you for your participation in the ABA Law Student Division Competitions Program.

**American Bar Association
Law Student Division
CLIENT COUNSELING COMPETITION**

Judges' Semifinal Round Results Sheet

Judge: _____

Room: _____

Date: _____

After seeing both of their assigned teams perform and after consultation with the client, **the judges should together discuss each team's performance** and by a majority vote decide which team performed the best in light of the judging standards. If there is not a majority, the judges shall continue to confer until a winning team is selected. After a decision has been reached, the judges should record their decision on the Judges' Semifinal Round Results Sheet.

We find that the order of finish in the semifinal round is:

First Place Team Letter _____

Second Place Team Letter _____

Judges' Signatures:

Cell Phone # (in case of scoring discrepancy)

Thank you for your participation in the ABA Law Student Division Competitions Program.

American Bar Association
Law Student Division
CLIENT COUNSELING COMPETITION

Judges' Final Round Results Sheet

After the judges have seen all three teams perform, the judges, after consultation with the client, **should together discuss each team's performance** and by a majority vote decide which team performed the best in light of the judging standards. If there is not a majority, the judges shall continue to confer until a winning team is selected. The judges shall also select a second place team. After a decision has been reached, the judges should record their decision on the Judges' Final Round Results Sheet.

We find that the order of finish in the Final Round is:

First Place Team Letter _____

Second Place Team Letter _____

Third Place Team Letter _____

Judges' Signatures:

Cell Phone # (in case of scoring discrepancy)

Thank you for your participation in the ABA Law Student Division Competitions Program.

**CLIENT COUNSELING COMPETITION
JUDGES' TIME SHEET**

Each panel of judges should appoint one of the judges as timekeeper. The timekeeper should use this sheet to keep track of the time and should stop a team at the time indicated.

1st team

Time round started (when attorneys greet client): A. _____

Determine time round must end by (45 minutes after round started)
Stop the team at this time! B. _____
(time from A plus 45 minutes)

Time round ended (after post-interview consultation)
(Must be 45 minutes or less from time round started) C. _____

2nd team

Time round started (when attorneys greet client): A. _____

Determine time round must end by (45 minutes after round started)
Stop the team at this time! B. _____
(time from A plus 45 minutes)

Time round ended (after post-interview consultation)
(Must be 45 minutes or less from time round started) C. _____

3rd team (Doesn't apply to semifinal round.)

Time round started (when attorneys greet client): A. _____

Determine time round must end by (45 minutes after round started)
Stop the team at this time! B. _____
(time from A plus 45 minutes)

Time round ended (after post-interview consultation)
(Must be 45 minutes or less from time round started) C. _____

**CLIENT COUNSELING COMPETITION
EVALUATION FORM**

JUDGE: _____ STUDENT ATTORNEY: _____

DATE: _____ STUDENT ATTORNEY: _____

ROOM: _____ TEAM LETTER _____

NAME OF CLIENT IN PROFILE: _____

Please use the following scale in order to assess the performance of the team. Any additional comments may be written in the blank spaces below the ratings.

a = highly effective **b** = effective **c** = somewhat effective **d** = ineffective **e** = very ineffective

- | | | | | | |
|---|----------|----------|----------|----------|----------|
| 1. Working Atmosphere: Established effective relationship with client. | a | b | c | d | e |
| 2. Problem Description: Learned how client views his or her situation and problems. | a | b | c | d | e |
| 3. Client's Goals: Learned the client's initial goals and expectations. | a | b | c | d | e |
| 4. Problem Analysis: Analyzed the client's problems. | a | b | c | d | e |
| 5. Moral/Ethical Issues: Recognized and dealt with moral and ethical issues. | a | b | c | d | e |
| 6. Alternative Courses of Action: Developed alternative solutions. | a | b | c | d | e |
| 7. Client's Informed Choice: Assisted client in understanding and making informed choices among possible courses of action. | a | b | c | d | e |
| 8. Effective Conclusion: Effectively concluded the interview. | a | b | c | d | e |
| 9. Teamwork: Worked together as a team; balance of participation. | a | b | c | d | e |
| 10. Post-interview Reflections: Effectively analyzed interview and client's problem(s). | a | b | c | d | e |

* Please note: Students are instructed to apply the law of their jurisdiction and judges should presume the accuracy of their application despite differences in the law of the host jurisdiction

PLEASE make comments below

Team strengths: _____

Areas for improvement: _____
