

Interviewing Tips for Young Associates

By Heidi Dalenberg

Interviewing as a first, second, or third-year associate is not the same experience as interviewing as a recent law school graduate. You now have experience practicing law, and employers will have different expectations of you during an interview. Below are some interviewing basics that still hold true and further suggestions for the young associate preparing for a new round of interviews.

Don't stumble out of the gate. You must be on time, and you must dress like a professional. It is almost invariably best to wear a suit.

Spend time on your résumé. Your legal experience should be the primary focus of your résumé. Include nonlegal experience only if it demonstrates something of significance, such as prior business experience in your chosen practice area or your ability to succeed academically while supporting yourself. Listing your personal interests on your résumé to fill space or demonstrate that you are well rounded can backfire—you may find yourself having repetitive dis-

cussions about an unusual hobby when you would rather be discussing your professional abilities.

Choose an appropriate writing sample. If you are asked to provide a writing sample, provide one that primarily reflects your work. A piece that was extensively edited by others is not helpful to the interviewer.

Demonstrate your discretion. Show that you can give an intelligent description of a matter and the issues involved without naming names. It is a fatal mistake, and unethical, to disclose nonpublic information about a client's matters either in your writing sample or in your interview.

Talk about the law. Take advantage of every opportunity that presents itself to showcase your ability to cogently discuss legal issues. If your interviewer begins discussing his or her own practice (rather than yours), show an interest, ask questions, and try to engage in a dialogue. No one can evaluate your analytical ability if you do not display it. It may sound like common sense, but talking

about the law is critical. If you conclude an interview without discussing a single point of law or legal experience you've had, the interview was a failure.

Be ready to explain why you are looking for a new opportunity. You are ready to interview only when you know why you are unhappy in your current position. If you can calmly and dispassionately explain why you have decided to make a change and why you think your target employer will be a better fit, you will display your good judgment, professionalism, and your ability to recognize that different people thrive in different environments. Above all, avoid the temptation to "trash" your current employer during an interview—it is unprofessional and unwise. Even in large cities, legal communities are surprisingly small, and your interviewer may have personal or professional connections to the lawyers you are criticizing.

Doing your homework on a firm's Web site and literature is not enough. If you are targeting a law firm, it is always a good practice to review the

firm's Web site and marketing material—but don't stop there. Those sources merely give you background information. If an interviewer asks if you have any questions about the firm, it is never a good idea to respond by saying, "No, I read your Web site." You could ask how your targeted practice group is managed and for examples of matters that the group is currently handling. You could ask how attorneys' responsibilities change over time as they become more experienced in your area of practice. Just ask something.

Research, but don't frighten, your interviewers. You may be told in advance who your interviewers will be. When I interview a candidate, I am impressed when the person has found reported decisions for matters I have handled and is interested in discussing those cases. I am unnerved when someone brings up my place of birth, the names of my family members, or my home address.

Consider the culture of your target employer. It is understandable for law students to be at sea about the "personality" of different firms. An associate who has been in practice can, and should, be better informed. Talk to other lawyers you trust and learn what you

can about the employer you are considering. Your goal should be to gracefully communicate to the interviewer that you understand your target employer's culture and want to be a part of it.

Show a long-term interest. Young associates' questions are often limited to such immediate concerns as an employer's system for handing out assignments and for providing merit reviews, feedback, and training. Questions about possibilities for advancement (and for a law firm, the necessary steps toward partnership) make a more positive impression, as they suggest that the associate is serious about his or her career and hopes to make a long-term commitment.

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READY RESOURCES

- *Changing Jobs: A Handbook for Lawyers in the New Millennium*, Third Ed. 1999. PC # 5110425. Law Practice Management Section and Young Lawyers Division.
- *Objection Overruled: Overcoming Obstacles in the Lawyer Job Search* (Manual). 2000. PC # V00000B. Career Resource Center.

To order online, visit www.ababooks.org.

Seller Disclosure Laws in Residential Real Estate

WHAT YOU NEED TO KNOW WHEN SELLING A HOME

By Hal D. Coffey

Do you remember that leak in the basement three years ago? How about the little termite infestation in the guest room and hallway? Or the third-floor toilet that takes two days to stop running, unless you jiggle the handle just right?

Well, if you do remember, or did anything about those types of defects in your residential property, and now you are getting ready to sell, pursuant to the Pennsylvania Real Estate Disclosure law and many similar state-law provisions, you must disclose these defects.

Generally, these disclosure acts set forth the conditions that must be disclosed by a seller prior to entering into an agreement to sell with a buyer. In most cases, the burden of disclosure is triggered by whether the issue in question is a material defect. Therefore, minor issues

such as peeling paint, landscaping problems, or light switches that don't activate any lights may not need to be disclosed.

Several of the disclosure acts codify the particular legal form that must be used to comply with the act. For example, the Illinois Residential Real Property



Disclosure Act and the New York Property Condition Disclosure Act both spell out the forms to be used. The New York form in particular is quite voluminous, requiring the seller to answer

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Four Easy Timesheet Tricks

By Erik C. Johnson

Falling behind on timesheets will damage your practice.

Valuable hours are lost, partners are frustrated, and the accuracy of your bills suffers. These simple strategies can keep you on track:

1. Keep electronic timesheets open during the day. If most of your day is spent in front of your computer, type in your activities and time as you go. Don't close the file between entries. Even small, extra steps such as reopening the file each time will break the routine.

2. Modify your "to-do" lists. Task lists keep you focused. They can also double as billing records. At the start of every day, list the projects you plan to accomplish in a timesheet

format. Input the work required as you finish each project, or fill it in at the end of the day. Unfinished tasks can be copied to the next day's list.

3. Carry a sheet of paper in your back pocket. Jot notes as you handle projects, sit in meetings, or take calls. Client information can appear in the left margin, a brief description in the center, and increments of time (for example, "+.25," "+.4") on the right. At the end of each day, leave the paper for an assistant to type, add up your time, and provide a draft report. The simplest answer is sometimes the best.

4. Dictate. Many smart attorneys carry voice recorders throughout the day. As they

leave a meeting or finish a project, they dictate the activity and time spent. Others dictate their timesheets during the drive home. Regardless of your system, get your time documented daily. By the next day, you'll forget something.

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What Women Lawyers Want

By Griselda Vega

ABA Young Lawyers Division members are making their voices heard. In January 2007, the YLD constituents of the Women in Law Leadership (WILL) Academy planning committee circulated a survey to the 33,000 self-identified female members of the Division accepting email communications. The purpose of the survey was twofold: (1) to find out what focus and format women YLD members prefer for the WILL Academy Conference being held in Chicago November 8-9, 2007, and (2) to assess the issues that are significant to

women lawyers and how women want to receive information on those issues.

Over 1,300 responses made it the largest survey in YLD history. The WILL Academy committee was excited and surprised at both the number and content of the responses. Below are some of the top things women lawyers want.

Issues most significant to you (in order):

1. work-life balance
2. networking/self-marketing
3. concerns with managing part-time/flex-time

Preferred format for the WILL Academy Conference:

1. panel discussion session 36.6%
2. combined panel and small-group discussion sessions 36.1%

One thing you want to take away after the session:

1. practical advice 66.5%
2. solutions 9.8%

Over 71% of the respondents said they would participate in sessions such as these even if there were no CLE credit given.

These responses made clear that maintaining a successful professional and personal life is critical to YLD members and that they want to get involved and see their input realized. ABA sections and forums are taking notice of the survey results, and the WILL Academy planning committee and other leadership will take this powerful feedback into account when planning the WILL Academy Conference and future programming.

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Seller Disclosure

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whether there was asbestos or lead plumbing in the home as well as whether a landfill ever existed on the property.

The Pennsylvania act left the creation of the disclosure form to the State Real Estate Commission. The act outlines a number of requisite areas of concern, including information about the roof, structural problems, electrical system, and legal issues affecting title. This act also imposes an ongoing duty on the seller to update any changes to the disclosure form that are found to be inaccurate.

Most acts allow a seller to make a notation of "unknown" or "not available" for categories where the seller has no knowledge. The disclosure acts also do not impose an affirmative duty on the seller to make specific inquiries into each matter listed on the disclosure document. Rather, the disclosures made must not be false, deceptive, or misleading.

The disclosure acts also exempt certain transactions, including those between certain levels of relatives and transfers by an estate representative. They also allow sellers to amend or revise the disclosure prior to closing or another specified time agreed to by the parties.

Real estate agents are sometimes exempted from any liability on behalf of their clients, so long as they do not participate in any deception or hiding of material defects and provide the disclosures in a timely manner pursuant to the disclosure act. With all that in mind, if a seller does fail to comply with an act by hiding a material defect or failing to disclose a past remedy, the act provides general and specific remedies and courses of action.

The Illinois act provides for actual damages and court costs, as well as attorneys' fees to the prevailing party when the defendant knowingly violates the act, fails to perform an enumerated duty, or discloses a fact he knows to be false. In the interest of the free alienation of

real property, and possibly because statutory damages are available, the Illinois act sets a one-year statute of limitations.

The New York statute provides a unique remedy of \$500 in credit toward the purchase price if a seller fails to provide the codified disclosure statement prior to the buyer signing a binding contract of sale. Any further damages are limited to situations where there is a willful violation of the act.

To avoid a breach of your state's residential property disclosure act, follow these best practices:

1. Keep handy the inspection you had performed when you first purchased the home. This will provide you with an early indication of any preexisting defects in the home that you will want to remedy and will need to disclose when you sell.

2. Keep records of any major repairs that you have done to the house. Ignorance is not a defense. For example, if you had the work done and simply forgot to keep the records from the water-damage restoration work you had done in the basement, you can be held liable for failing to disclose.

3. Before you fill out the disclosure form, consult a realtor who will do a walk-through with you in your home. A realtor will provide a neutral eye and may help you recall a defect or repair you forgot.

4. Again, most statutes do not require any affirmative actions for your own inspection prior to filling out the disclosure (i.e., no need to climb into the crawl space that has never been a problem for you while living there). A good buyer will hire an inspector, who may provide information the buyer may use for negotiation on the contingencies in the contract.

5. Most importantly, you should consult your own state's residential property disclosure act.

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Forgotten Colleagues

LAWYERS WITH DISABILITIES

By Michael S. Greco

There was a time, not long ago, when outstanding lawyers who happened to be women or of color found doors to employment shut tight. While those doors need further opening, they have opened significantly for members of those groups.

Regrettably, that is not true for outstanding lawyers who happen to have a disability. Overlooked as a minority group, these forgotten colleagues are struggling to find or retain positions in law offices and corporate legal departments across America. Their struggle has nothing to do with qualifications.

Instead, it stems from the reality that legal employers are not yet doing enough to recruit and retain lawyers with disabilities. This not only deprives lawyers of opportunity, it also deprives law offices, clients, the profession, and society of these lawyers' skills.

The first-ever ABA National Conference on the Employment of Lawyers with Disabilities in Washington, D.C., in May 2006 challenged legal employers to hire and retain lawyers with disabilities. The historic conference was sponsored by the ABA Commission on Mental and Physical Disability Law, the ABA Office of the President, and the Equal Employment Opportunity

Commission and was attended by several hundred lawyers with disabilities, law firm managing partners, corporate counsel, and others.

Below are some suggestions from the conference on how law firms can help improve disability diversity: (1) appoint a diversity representative experienced in disability issues to the firm's management committee; (2) understand the requirements of the ADA and state disability discrimination laws; (3) include reference to persons with disabilities in the equal opportunity language in job announcements; (4) write job descriptions that specify tasks essential to the position to be filled, and evaluate candidates based on their ability to perform them; and (5) ask interview questions that highlight a candidate's strengths rather than inquiring about any limitations.

Once a lawyer with a disability is hired, the individual and the entire office will benefit by making the workplace "disability friendly." For example, (1) establish flexible work arrangements for all employees; (2) prorate billable hours, or bill hours directly to the firm; (3) appoint a committee chaired by a well-respected senior partner with representatives from all employment levels to address diversity issues, including disability; (4) specify in firm documents that diversity, including how it relates to disabilities, is an important value, and track diversity progress; (5) create an active mentor program individualized to meet different needs, including those of lawyers with disabilities; and (6) create a centralized fund to provide reasonable accommodations.

Other suggestions and perspectives worthy of consideration are contained in the Conference Report available at www.abanet.org/disability.

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in

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member of any profession—should be denied opportunity to work solely because of a disability. "Equal opportunity for all" is a cherished principle in America, but effort is needed to make that eloquent promise a reality.

If the legal profession is to reflect the true diversity of our nation—and benefit from the

entire pool of available talent—you, I, and our hiring colleagues must make a commitment to hire and retain not only women and persons of color but also lawyers with disabilities. It is past time for us to make that commitment.

Michael S. Greco, a partner with Kirkpatrick & Lockhart Preston Gates Ellis,

LLP (K&L Gates), in its Boston office, is Immediate Past President of the American Bar Association.

READY RESOURCES

■ *Understanding the Americans with Disabilities Act*, Second Ed. 2006. PC # 5150304. General Practice, Solo and Small Firm Division. To order online, visit www.ababooks.org.

SAVE THE DATE

The ABA Commission on Women in the Profession and Young Lawyers Division will hold the Women in Law Leadership (WILL) Academy in Chicago on November 8–9, 2007. The WILL Academy will empower early- to mid-career women lawyers by enhancing their leadership skills, motivating them to stay in the profession, and instilling in them the capacity to direct their own careers more effectively through mentors and networking.

Take charge of your leadership potential. Self-assess. Build your own personal leadership plan. Hear from those who have led the way before you, and take away practical, concrete advice and guidance. Visit the WILL Academy home page at www.abanet.org/women/will.html or call (312) 988-5715 for more details.

The registration deadline is October 15.



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Healthcare Law for the General Practice Attorney

By Brenda Eady Stafford

The healthcare system is one of the largest industries in the United States, with healthcare expenditures making up 16 percent of the gross domestic product (GDP) in 2006. It is a diverse industry comprising consumers, hospitals, physicians, pharmaceutical companies, and more.

Therefore, it should come as no surprise that sooner or later, as a general practice attorney, your next client, transaction, or dispute may involve a healthcare-law issue. Take the time to familiarize yourself with major healthcare laws and concepts, including the following:

Corporate practice of medicine doctrine. When representing a client who is interested in acquiring a healthcare business, you should know that some jurisdictions limit the services

certain corporate entities can provide. While in most jurisdictions a not-for-profit corporation can employ physicians to provide medical care, in other jurisdictions, a business corporation is prohibited from doing so unless it is appropriately licensed by a state agency. The limitation is known as the prohibition on the “corporate practice of medicine,” and it exists, according to New Jersey’s highest court, “from a perceived need to protect the public from the commercial exploitation of the practice of medicine.” You may have to identify a permissible corporate form to enable your client to operate his or her new business.

Fraud and abuse. If you represent a vendor that sells goods or services to a healthcare provider, you should know about

the collection of laws, safe harbors, and exceptions that govern how healthcare providers can conduct business with each other and third-party vendors. These laws are commonly referred to as the “fraud and abuse laws,” and encompass the federal antikickback statute and the federal Stark Law, which bans physicians from making self-referrals unless an exception applies. One function of the fraud and abuse laws is to prohibit payments intended to induce a provider to overutilize services that are reimbursed by Medicare or Medicaid. Unless an antikickback safe harbor applies, your client, as the vendor, risks criminal prosecution for offering anything of value in order to get a provider to purchase products that will be reimbursed by Medicare or Medicaid.

Health Insurance Portability and Accountability Act (“HIPAA”). This federal law governs the privacy and security of protected health information (“PHI”) and applies to “covered entities,” defined as healthcare

providers, health plans, and certain specialized companies that deal with PHI. Your client may not be a covered entity and enter into a contract to perform certain services for or on behalf of a covered entity. HIPPA requires your client to take many of the same steps as the covered entity to safeguard the privacy of PHI, including training staff, accounting for disclosures of PHI, and implementing security measures.

Financing agreements.

Lenders usually require collateral to secure a borrower’s obligation to repay a loan. In the event of default, the lender’s ability to enforce its security interest against the commercial borrower’s assets would be straightforward, absent fraud. When the borrower is a healthcare provider, the collateral typically includes Medicare receivables. Enforcement of a lender’s security interest in Medicare receivables, however, is subject to the anti-assignment statute, which prohibits payment of Medicare funds to anyone other than the provider unless

the assignment is made “pursuant to the order of a court of competent jurisdiction.” 42 U.S.C.A. 1395g(c)(1). In counseling the lender, you should know that courts have enforced the lender’s “right” to payment from Medicare receivables but have rejected requests for a lender to file claims for payment directly against Medicare.

Given the breadth and diversity of the healthcare industry, healthcare legal issues can arise in unexpected ways. Knowing laws and concepts like those above will give you a head start in your next healthcare-related case.

Brenda Eady Stafford is counsel with the firm Drinker Biddle & Reath LLP, in Florham Park, New Jersey. She may be contacted at Brenda.Stafford@dbr.com.

READY RESOURCES

■ **HIPPA Fundamentals** (Audio CD Package). 2006. PC # CET06HPFC. Center for CLE, Health Law Section, Young Lawyers Division.

To order online, visit www.ababooks.org.