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The Art of the Initial Consultation in Immigration Practice

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The Art of the Initial Consultation in Immigration Practice

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I. INTRODUCTION

During the course of an immigration law practice, the scope of representation, the merits of the case, the attorney-client communications, and the success or failure in a case depend highly on what is and is not communicated during the course of the initial consultation. Accordingly, practitioners should be cognizant of this issue and prepare themselves to provide effective, productive, and lucrative initial consultations that will enable them to build a practice that is both ethical and profitable.

Unlike any other legal practice, immigration law is a complex field—complex in its subject-matter, the government agencies involved, and the personal interests of the client. Additionally, the client might not speak English or be unfamiliar with the U.S. legal system. A competent immigration lawyer will help the client prevent and anticipate any issues that may keep the client from obtaining the benefit sought or, leave the client in a much worse situation than prior to the consultation. Consequently, in the initial consultation the attorney must outline the entire case for the client before embarking in any representation.

II. COMPETENCE: BE PREPARED

Immigration practice is very demanding. It is incumbent on the practitioner to be cognizant of changes in law, regulation, policy and practice. Additionally, he or she must familiarize with every agency involved (United States Citizenship and Immigration Services, Customs and Border Protection, Immigration and Customs Enforcement, Department of State, Department of Labor, Executive Office of Immigration Review), as well as keep current with their most recent changes in procedures and policies. Accordingly, a new immigration practitioner must dedicate a great deal of time and effort to get reasonably acquainted with the field by attending as many CLE events as possible, networking with colleagues, volunteering at outreach events, taking on pro-bono cases, and building mentor relationships with established practitioners. This is a good start to building a solid immigration practice.

Due to the nature and strategic analysis required from a competent immigration attorney, practicing in any other field in conjunction with immigration law is not recommended. Specifically, a new practitioner practicing in any other field will likely apply the same mindset and principles from another area of law to immigration cases—potentially causing catastrophe in the personal lives of clients and their families. Accordingly, it is not advisable to “dabble” in immigration law while attending other case types. Many attorneys have been disciplined by the State Bar for doing so. It is preferable for general practitioners to get acquainted with reputable and competent immigration attorneys who can help them solve specific immigration issues and build a strong network. The TDRPC explains at Rule 1.01 n.6:

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