

**Interview Schedule for Divorce Lawyers**  
*Divorce Lawyers at Work: Varieties of Professionalism in Practice*

**I. I would like to start by asking you a few general questions about your training and experience as a lawyer.**

1. Where did you go to law school and when did you graduate?
2. Did you go directly to law school after college?
3. In what year did you begin practicing law in Maine/New Hampshire?
4. Have you practiced law in another location than your current practice? If yes, where else have you had a law practice?
5. How many lawyers work within your firm?
6. What is the structure of your firm?
7. [If more than one lawyer] What kinds of cases does your firm generally handle?
8. What kinds of cases do you generally handle? (Interviewer list types—e.g. criminal, business, real estate, probate, ... and then ask: What kind makes up the greatest percentage of your practice? What percentage? The second most?)
9. What aspect of your work as a lawyer do you enjoy the most? Why?
10. What aspect of your work as a lawyer do you enjoy the least? Why?
11. What are the criteria by which you would measure your own success as a lawyer?

**II. Now I would like to focus more closely on your divorce practice.**

12. What percentage of your clients over the past year would you say have been divorce or post-divorce clients?
13. Roughly, how many active divorce or post-divorce cases are you currently handling?
14. How would you describe the social class backgrounds of your divorce clientele? Upper middle class, middle class, working class (rough percentage of each)?
15. Do you have a standard retainer for a divorce case? If yes, what is it?
16. How do you generally determine your total fees in a divorce case? How much do you charge per hour?
17. Please reflect on your divorce caseload and give me your best rough estimate of the percentage of cases that: require less than 10 billable hours; require more than 20 billable hours?
18. Do you ever determine your fees in divorce cases based on the client's ability to pay? How and how often do you make that determination?
19. Do you handle any divorce cases on a pro bono basis? If yes, roughly how many would you say in the last year? How many of these are referrals from the bar association/state?

19a. How frequently would you say that collecting fees poses problems in domestic cases: almost always, frequently, about half the time, occasionally, or almost never? Tell me about the kinds of problems that arise and how you deal with them.

20. If you had the choice would you like to increase, decrease, or keep the same, the proportion of your practice devoted to divorce? Why?

21. Do you represent more husbands than wives, more wives than husbands, or about equal? Why would you say that is?

22. Do you have any preference for husbands or wives as clients? (Do they pose different problems for you? Do they respond differently to the difficulties of a divorce situation?)

23. From your experience would you say that marital clients are generally similar to or different from other types of clients? If different, how?

24. Would you say that your divorce clients usually understand or misunderstand the nature of the legal process when they first come to you? (If misunderstand: What kinds of misconceptions about lawyers or the legal process do they have?)

25. What would you say that your marital clients generally expect of you as their lawyer in a divorce case?

26. What do you see as your primary responsibility in representing a client in a divorce case?

26a. How often do you find yourself parting ways with a client either at your request or theirs? Please describe the circumstances of such cases. (Probe: How do you screen cases initially? Are there kinds of cases or clients that you will not take? What are they? Do you offer an initial consultation without fee?)

26b. In representing clients, how often would you say that you find yourself in a position of encouraging the client to take a stronger stand on issues? How often by comparison to you have to encourage the client to soften his or her stand on issues and accept a compromise? Which happens most frequently?

27. Which of the following skills do you see as most important and useful in the day-to-day practice of divorce law? For each one please tell me if it is essential, very important, somewhat important, or not too important: Being expert in the law of divorce; being a skillful negotiator; being a skillful litigator; being a sensitive listener to the client; knowing the other lawyers; understanding the judges' idiosyncrasies.

Did I omit any important qualities?

**III. Now I would like to talk with you about some of the sorts of things that happen in a divorce case to get your reactions to them. In each instance, I am interested in what you typically do and how frequently the problem arises in your divorce work.**

28. Your client wants to talk about his or her personal problems and needs or wants emotional counseling as much as legal advice.

29. Your client and the other party reach a tentative agreement that you believe sells your client short.

30. Your client seems more interested in trying to get back at the other party so that he or she makes unreasonable demands.

31a. Someone comes to you and asks you to review a draft divorce agreement reached without advice of counsel but not to represent them in court?

31b. How about cases where the other party is pro se? Does that pose any special problems for you?

**IV. Now I'd like to ask you your views of divorce lawyers generally.**

32. From your experience, would you say that there are distinct types of divorce lawyers or that all divorce lawyers are pretty much alike? If different types, how generally would you characterize the different types of divorce lawyers?

33. Now given this characterization, I'd like you to think of lawyers who are especially active in this area. What proportion of them fall into the different types that you have identified?

**V. For the following set of questions we would like you to think about the case you most recently completed and refer to it as you answer the following questions. None of the questions will reveal to us identifying information about the client or violate your pledge to hold confidential information about these cases. We are trying to learn about how divorce cases get handled and this will provide a point of reference about normal practice.**

34. Were you representing the plaintiff or defendant?

35. Were you representing the wife or husband?

36. Now I'd like you to walk me through the steps in this case and the part you played and your client played at each stage. I'm interested in what you did and why at each stage leading to the outcome.

37. How long did the case take from the point the client first came to you to the end?

38. How many hours did you put in on this case?

39. How many times were you in contact with your client in person or by phone? Who initiated the calls – you or the client?

40. How did you communicate with the other side in this case? By phone, face to face meetings, letter? How frequently? How do you usually like to communicate with other attorneys?

41. How much was the client billed for the case?

42. Did this billing cover your actual investment of time in the case?

43. How was the case resolved--by contested hearing, settlement in mediation, settlement largely by the parties, settlement largely by the lawyers?

44. What do you think your client's goals were at the start of the case? How realistic were those goals? How do you think they changed? What role did you have in changing them?

45. How did you evaluate the case after investigating it? Did you see any particular problems? Did you think it would be difficult to settle? Why/why not?

46. How would you characterize the approach of the other attorney in the case? Did you anticipate any problems with the other attorney?

47. What factors contributed most to shaping the outcome in this case?

48. In retrospect, what do you think your particular contribution was to the outcome of this case?

49. How satisfied were you with the outcome of the case? Why?

50. How would you characterize this case – was it a pretty typical divorce case or unusual in some way? Please explain.

**VI. Now, I would like to focus on the process of reaching a divorce outcome and talk a little with you about negotiation, mediation and taking cases to court. First, let me ask you about negotiation.**

51. In what percentage of your divorce cases does the client do most of the negotiating?

52. Under what circumstances, if any, do you encourage the client to do most of the negotiating?

53. Under what circumstances do you discourage your client from doing most of the negotiating?

54. What is your role when your client is negotiating the terms of the divorce?

55. In a case where you are doing the negotiating, how do you involve a client in making decisions about acceptable settlements?

56. When you begin negotiating a divorce case, would you say your goal is best described as: reaching a fair settlement for both parties or getting as much as possible for your client?

57. In general, would you say that in a divorce negotiation that you would rather make the first settlement offer, wait for the other party to make the first offer, or that it doesn't really matter? Why?

58. What kinds of criteria do you use to decide the content of your own first offer or whether the other parties' offer is fair or not?

59. In the negotiation process sometimes attorneys start with a somewhat extreme position in the hopes of compromising on a favorable outcome. Sometimes attorneys start with the position they think would make the fairest outcome.

What percentage of the time would you say that you adopt the first tactic in divorce cases?

What percentage of the time would you say that you adopt the second tactic in divorce cases?

60. What percentage of the time would you say that your negotiations with the other attorney in a divorce case are done in person, by phone, by exchange of letters? Is there sort of common expectation of practice?

61. In a negotiation, sometimes the first proposal is generally acceptable; sometimes it takes two or more offers and counteroffers before a settlement is reached. In divorce negotiations that you're involved in, would you say it's frequent, infrequent, almost never that the first proposal is basically accepted?

62. How, if at all, does your negotiation style vary with the identity of the attorney on the other side?

63. What do you think are the most important qualities of an effective negotiator?

64. What differences are there, if any, in the way you would proceed with a case in which there are minor children compared to one in which there are no children?

65. What has been the overall impact of introducing child support guidelines? Have the guidelines reduced or increased conflict?

66. How frequently would you say that you challenge the application of those guidelines to clients you are representing? Under what circumstances?

67. How has the use of protective court orders changed over the last few years and what role do they play in divorce?

**VII. Now, let's talk about your views regarding mediation of divorce cases.**

**FOR MAINE LAWYERS ONLY**

68. What percentage of your divorce cases go to mediation?

69. In your experience, at what point in a lawyered divorce does mediation normally occur? Before the lawyers have begun negotiation, early in the process of negotiation, late in the process of negotiation, or after negotiations have been tried and failed?

70. When in the divorce process do you typically request divorce mediation?

71. Do you ever request mediation in a case where there are no children?

72. How frequently, if at all, are you present during mediation sessions involving your clients? Always, usually, half the time, seldom, or never?

73. Under what circumstances, if any, would you let your client proceed on her/his own in mediation?

74. How do you generally prepare a client before entering into mediation?

75. What, if anything, does mediation add to the divorce process that you cannot do yourself as a lawyer?

76. What advantages, if any, does mediation have for your client?

77. What disadvantages, if any, does mediation have for your client?

78. What effect, if any, would you say that mediation has had on the average cost of a divorce?

79. How, if at all, do you think mediation affects the substance and quality of divorce agreements?

80. What do you think of the quality of Maine's divorce mediators?

81. (IF IN PRACTICE BEFORE 1983) Do you feel that mandatory mediation has changed the practice of divorce law in Maine?

82. In your experience, at the time of mediation, how often would you say that lawyers are: well informed about their client and client's case at mediation; somewhat informed about their client and client's case at mediation; uninformed about their client and client's case at mediation?

83. In your experience how often would you say that mediation sessions are arranged and engaged in primarily to have "one's ticket punched"--that is, as a perfunctory step in the process? often, sometimes, rarely or never?

84. In your experience would you say that mediation sessions are - often, sometimes, rarely or never? - used by one or both lawyers primarily to find out about the other side's case?

**(FOR NEW HAMPSHIRE LAWYERS ONLY)**

85. Have you ever represented a client who was or had been involved in divorce mediation? If yes, how many cases (roughly)? What was your role in these cases?

86. Do you know much about the mediation program here? What do you think of the quality of divorce mediators in this area?

87. What, if anything, could mediation add to the divorce process that you cannot do yourself as a lawyer? What circumstances might lead you to recommend mediation to a client?

87a. How would you view the introduction of mandatory mediation in contested cases into the divorce process--similar to Maine's requirement?

**(ALL RESPONDENTS)**

88. In contested custody cases, what role is played by the guardian ad litem in your view?

89. In general, what qualities would you say a good divorce settlement has?

90. In what percentage of the divorce cases you handled in the last year has there been a contested court hearing on some aspect of the case?

91. What percentage of your cases in the last year have gone to a contested hearing on some or all aspects of the final divorce judgment?

92. What makes the cases that don't get settled before a contested hearing different from those that do get settled, in your view?

93. How do you feel about taking a divorce case to a contested hearing?

94. How much do the outcomes in contested divorces differ depending on who the judge (NH : master) is--a great deal, some, or not at all?

95. Does any of your current divorce practice take you into courts other than \_\_\_\_\_ court? (IF YES) Are there any differences between these other courts and \_\_\_\_\_ court in expectations about how you handle divorce cases or what divorce outcomes should be like? Do you feel more or less comfortable in these courts?

96. How do you evaluate your success when handling a divorce case?

96a. What changes have you seen in the practice of divorce over the past decade, particularly in any areas that I have not yet mentioned? Are there issues that I should have covered but did not?

**VIII. In conclusion, I'd like to ask you just a few questions about yourself.**

97. Are you currently married?

98. Do you have any children?

99. Have you yourself been divorced?

