

# Attorney-Client Problem<sup>0</sup>

For Educational Purposes

## Consent Form

I, the undersigned, understand that the basic intent of these tasks is to understand reasoning and how it develops. This is entirely voluntary and I may stop at any time. I understand that the information I have given regarding my personal history, as well as the responses I give to the tasks, will be kept strictly confidential. I understand that my identity and personal history will not be divulged in any discussion, student report, lecture, address, or publication derived from this project.

\_\_\_\_\_  
Signature                           |      |       
Month      Day      Year

## Instructions

Please answer all parts of this questionnaire. Read each section and answer the questions in the order given. Do not go to the following section before you have finished the previous section. Remember this is not a test of your ability as an individual. Rather, we wish to know how adults, in general, reason about the issues presented here. The order of answering is essential to this study about adult reasoning.

What is most important is not only *what* you consider to be good, but the *reasons* for your choices. Therefore, it is essential that you state *your reasons why* you make the choices that you make.

45:30:14;26-01-03-20 (Sunday, January 26, 2003; 2:30:45 pm)  
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Attorney-Client Problem

<b>Date of Birth:</b>		Month	Day	Year	Subject Number
<b>Place of Birth:</b>			<b>Place of Residence:</b>		
_____ City _____ Country		_____ City		Country or State	
or State					
Sex: M	F	Zip code:	Age:		Religion:
<b>If married:</b>		1st 2nd 3rd 4th marriage			
<b>If not married:</b>		Single Divorced Spouse deceased			Domestic partner
Child in family:	1st 2nd	3rd 4th	Other		
# Sisters	Father's occupation:	Mother's occupation:	Spouse's occupation:	Your occupation:	
# Brothers					
	Father's education:	Mother's education:	Spouse's education:	Your previous occupation:	

<b>Please indicate your</b>	Years in school	Major/Minor	Year graduated	Degree earned
Grade school				
High School				
College				
Grad School				

\_\_\_\_\_  
 Month/Day/Year    \_\_\_\_\_  
 Experimenter Email address    \_\_\_\_\_  
 Experimenter Name    \_\_\_\_\_  
 \_\_\_\_\_  
 Experimenter Telephone

**Methods of administration:**

- Mailed to subject who wrote answers
- Subject wrote answers while experimenter probed
- Handed out to subject who wrote answers
- Experimenter wrote answers
- Subject wrote answers while experimenter was present
- Experimenter wrote answers and probed
- Subject wrote answers and response to experimenter probes
- Experimenter taped and probed for answers

Answer all questions as fully as you can. Please elaborate in your explanation so that we may understand exactly what you mean to say. If writing space is not enough use back of paper or additional paper.

1. What is your idea of an ideal Attorney-Client informed-consent process?

2. Give the best reasons why that is an ideal informed-consent process.

3. What is your idea of a poor Attorney-Client informed-consent process?

4. Give the best reasons why that is poor informed-consent process?

5. Why does the Attorney-Client informed-consent process matter to you?

6. Why are those things important to you and why do you care?

## The Attorney-Client Interaction

The following 10 stories are set in another country. In each story, a Attorney tries to help a competent Client to solve a given set of problems. The problems are serious. It is now time choose a course of action to improve the situation. All the Attorneys *care* for their Clients *equally*. All the Attorneys highly recommend and provide the same basic course of actions. But, the Attorneys arrive at their choice of how to help in different ways. In every case, the problems worsen and those who are affected suffer. During a general review of these bad results, each Attorney's *method* of choosing a course of action was looked at. Below, the Attorneys give accurate accounts of their usual talk with their Clients. Read all five accounts carefully and then answer the questions that follow.

### *The Attorneys' Methods*

**Attorney Bowers** offers a course of action that has been studied and is shown to work well. Bowers shares the fact that not everyone has had a positive outcome from the course of action. Bowers then reads a description of the course of action and its risks from a colleague's book. Bowers points out that any course of action will have risks. Bowers asks if the client if they understand the course of action and its outcome possibilities. After thinking carefully, Bowers client feels comfortable that Bowers is a capable attorney. Feeling that Bowers knows best, the client prepares to follow the course of action.

**Attorney Brown** offers the Client a course of action preferred by colleagues. Brown says that others who are friends use this course of action. A colleague is called in to tell the Client again about the course of action. With great concern, Brown asks if the Client would like to hear a third person explain the course of action. Brown's Client is told that these people explain the course of action. Brown's Client is told that these people had good results with that course of action. Brown instructs the Client to support the course of action. Brown's Client thinks seriously about what Brown has said. Feeling that Brown knows best, Brown's Client prepares to follow the course of action.

**Attorney Heath** offers a course of action which performs relatively better than others. Heath relates the effects and side-effects of each course of action including taking no action. Then Heath asks the Client questions about the course of actions making sure the Client understood. Heath asks if the Client feels comfortable making a decision with the present information. Since the Client is satisfied, Heath tells the Client to think carefully before choosing a course of action. Heath's Client thinks about what Heath has said. Feeling that Heath knows best, Heath's Client prepares to follow the course of action.

**Attorney Kents** recently completed training on a course of action that was designed for the client's problem. Kents says that the best attorneys recommend this course of action. Kents explains the method and tells the client that it will probably work for the client. Kents also tells the client about other methods that may work. The client is asked if they have any questions. The client does not have questions, and Kents ask them if they want to accept the recommended course of action. Feeling that Kents knows best, the client prepares to follow the course of action.

**Attorney Young** offers a course of action that best suits the needs of the client. Young explains all aspects of the course of action and describes at length the pros and cons of alternatives, including doing nothing. Young seeks to understand the clients needs and concerns, and asks many questions in order to gain the client's perspective and understanding. Young does not push the client to accept any course of action but rather encourages the client to make a choice that makes them feel comfortable. The client considers this. Feeling that Young knows best, the client decides to follow the course of action.

A. Rate (circle) the Attorneys' methods. A rating of 1 means you think that Attorney has the worst method. A rating of 6 means you think that Attorney has the best method. Not all the ratings need to be used and a particular rate may be given to more than one Attorney.

		RATINGS					
		Worst			Best		
		Method			Method		
1.	Attorney Bowers	1	2	3	4	5	6
2.	Attorney Brown	1	2	3	4	5	6
3.	Attorney Heath	1	2	3	4	5	6
4.	Attorney Kents	1	2	3	4	5	6
5.	Attorney Young	1	2	3	4	5	6

Why did you rate the Attorneys' methods the way you did? Explain as fully as you can. Use back of paper or scratch paper if you need more writing space to answer. Please *print* as clearly as possible.

B. Rate (circle) the Attorneys according to how well they consider the Client's viewpoint. A rating of 1 means that the Attorney was extremely poor at considering the Client's viewpoint. A rating of 6 means the Attorney considered the Client's viewpoint extremely well. You may use the same rating for more than one Attorney.

		RATINGS					
		Extremely			Extremely		
		Poor			Well		
6.	Attorney Bowers	1	2	3	4	5	6
7.	Attorney Brown	1	2	3	4	5	6
8.	Attorney Heath	1	2	3	4	5	6
9.	Attorney Kents	1	2	3	4	5	6
10.	Attorney Young	1	2	3	4	5	6

Why did you rate the Attorneys' methods the way you did? Explain as fully as you can. Use back of paper or scratch paper if you need more writing space to answer. Please *print* as clearly as possible.

C. Rate the degree to which the Attorneys attained informed-consent from their Clients.

		RATINGS					
		Extremely			Extremely		
		Poor			Well		
11.	Attorney Bowers	1	2	3	4	5	6
12.	Attorney Brown	1	2	3	4	5	6
13.	Attorney Heath	1	2	3	4	5	6
14.	Attorney Kents	1	2	3	4	5	6
15.	Attorney Young	1	2	3	4	5	6

Why did you rate the Attorneys this way? Explain as fully as you can. Use back of paper or scratch paper if you need more writing space to answer. Please *print* as clearly as possible.

D. Rate how well the Attorneys informed their Clients.

		RATINGS					
		Extremely			Extremely		
		Poor			Well		
16.	Attorney Bowers	1	2	3	4	5	6
17.	Attorney Brown	1	2	3	4	5	6
18.	Attorney Heath	1	2	3	4	5	6
19.	Attorney Kents	1	2	3	4	5	6
20.	Attorney Young	1	2	3	4	5	6

Why did you rate the Attorneys this way? Explain as fully as you can. Use back of paper or scratch paper if you need more writing space to answer. Please *print* as clearly as possible.

E. Rate how well the Attorneys attained consent from the Client.

	RATINGS					
	Extremely Poor			Extremely Well		
	1	2	3	4	5	6
21. Attorney Bowers	1	2	3	4	5	6
22. Attorney Brown	1	2	3	4	5	6
23. Attorney Heath	1	2	3	4	5	6
24. Attorney Kents	1	2	3	4	5	6
25. Attorney Young	1	2	3	4	5	6

Why did you rate the Attorneys this way? Explain as fully as you can. Use back of paper or scratch paper if you need more writing space to answer. Please *print* as clearly as possible.

The Attorney-Client Opinion Poll

Use back of paper or scratch paper if you need more writing space for each answer. Please *print* as clearly as possible.

F. Suppose you were listening to these Attorneys give their account of the course of action methods in a hearing. Rate the degree to which you believe the Attorneys to be telling the truth. How believable do you find their accounts?

	No Chance of being true				Certainty of being true			
	1	7	23	50	77	93	99	
26. Attorney Bowers	1	7	23	50	77	93	99	
27. Attorney Brown	1	7	23	50	77	93	99	
28. Attorney Heath	1	7	23	50	77	93	99	
29. Attorney Kents	1	7	23	50	77	93	99	
30. Attorney Young	1	7	23	50	77	93	99	

Why these estimates?



G. Given that each Attorney's course of action failed, how likely is it that each Attorney's method would make him or her personally liable for damages or malpractice?

	No Chance of being Liable				Certainty of being Liable			
31. Attorney Bowers	1	7	23	50	77	93	99	
32. Attorney Brown	1	7	23	50	77	93	99	
33. Attorney Heath	1	7	23	50	77	93	99	
34. Attorney Kents	1	7	23	50	77	93	99	
35. Attorney Young	1	7	23	50	77	93	99	

Why these estimates?

H. Given the degree to which you believed that the Attorneys were personally negligent, how likely is each of the Attorneys to be sued?

	No Chance				Certainty			
36. Attorney Bowers	1	7	23	50	77	93	99	
37. Attorney Brown	1	7	23	50	77	93	99	
38. Attorney Heath	1	7	23	50	77	93	99	
39. Attorney Kents	1	7	23	50	77	93	99	
40. Attorney Young	1	7	23	50	77	93	99	

Why these estimates?

I. Given the degree to which you believed that the Attorneys were liable, how much money should the Client be awarded in the event of actual legal proceedings? Note that the severity of the bad outcome was the same for all of the Clients.

	No Money						Most Money
41. Attorney Bowers	0	30,000	60,000	100,000	600,000	1,000,000	3,000,000
42. Attorney Brown	0	30,000	60,000	100,000	600,000	1,000,000	3,000,000
43. Attorney Heath	0	30,000	60,000	100,000	600,000	1,000,000	3,000,000
44. Attorney Kents	0	30,000	60,000	100,000	600,000	1,000,000	3,000,000
45. Attorney Young	0	30,000	60,000	100,000	600,000	1,000,000	3,000,000

Explain why you made these awards.

J. Below is a list of Attorneys' *explanations* of their methods. Which explanations match the Attorneys' *methods* (see page 5) for choosing course of action? Write the Attorney's name in the space below each explanation. If you think an explanation represents more than one Attorney, write all the Attorneys' names next to each other in the space provided. If you do *not* think an explanation matches a Attorneys method, write a zero in the blank.

**Attorneys' explanations of their methods for choosing course of action.**

46. I choose a course of action that has been tested and approved by experts in the field. Attorneys must follow strict guidelines. Course of actions are carefully tested and only those that are most helpful are used. A Attorney has the responsibility to follow these guidelines. Sometimes Clients ask questions before agreeing with the best course of action.

47. I choose a course of action that I have seen stops the problems. I have to be very careful or I will get sued. When I see that a course of action works, I make the decision to use it. I am the one who is supposed to know what course of action to use. I have to be in charge or I can't help the Client. That way I avoid problems. The Client has to agree with the course of action so I tell them to do agree.

48. I choose a course of action only after I know how it works. The most important thing is to understand how a course of action works. I take note of what the different course of actions do. Once I know which course of action produces the most helpful outcome, I tell the Client all about it. That way the Client knows what to expect. They always agree with it.

49. I choose a course of action with the Client. I explain the various results of different course of actions and how they work. Then I ask Clients to tell me how they think the suggested course of action works. If the Client does not want a course of action, I suggest another. Which course of action is chosen is up to the Client. When a course of action is viewed as acceptable, it is given to the Client.

50. I choose a course of action that helps Clients. Clients usually do not know what to do about their problems. The Attorney has to tell the Client which course of action to take. That's what the Attorney is there for. The Client does what the Attorneys says and does well. Clients go to Attorneys so the Attorney will make them do well. That is why they agree with the best course of action.

51. I choose a course of action that is commonly used for the specific problems. If I am not sure what course of action to use, I check with another Attorney that I know personally. The Attorneys I know well want to aid their Clients. When the Client sees a lot of Attorneys saying the same thing its easier to accept the course of action. The Client has to be guided.

52. I choose a course of action along with the Client. I discuss the good and bad results of different course of actions and why they happen. Then I ask Clients to tell me how they think the course of actions work. When the Client knows what the choices mean, I offer the Client the choice. When a Client views a course of action as acceptable, it is given to the Client.

53. I choose a course of action that I know helps Clients. Attorneys use their personal experience. Clients usually do not know what to do about their problems. The Attorney has to tell the Client which course of action to take. That's what the Attorney is there for. Clients choose the course of action the Attorney says is best because they know the Attorney is right.

The following 10 stories are set in another country. In each story, a Attorney tries to help a competent Client to solve a given set of problems. The problems are serious. It is now time choose a course of action to improve the situation. All the Attorneys *care* for their Clients *equally*. All the Attorneys highly recommend and provide the same basic course of actions. But, the Attorneys arrive at their choice of how to help in different ways. In every case, the problems worsen and those who are affected suffer. During a general review of these bad results, each Attorney's *method* of choosing a course of action was looked at. Below, the Attorneys give accurate accounts of their usual talk with their Clients. Read all five accounts carefully and then answer the questions that follow.

### *The Attorneys' Methods*

**Attorney Corey** offers a course of action which is highly regarded by many colleagues and accepted by the community at large. Corey fully explains the course of action to the client by describing the benefits and potential risks involved. Corey adds that the proposed course of action is liked by many clients in this situation and that they have been happy. Corey asks what the client is feeling about the course of action. Corey encourages the client to think about what they have heard but to pursue this course of action. The client thinks about the situation. Feeling that Corey knows best, the client decides to follow the course of action.

**Attorney Flynn** offers an effective course of action that compares well to other course of actions for this problem. Flynn explains the helping effects of every course of action. Flynn describes all the risks of these course of actions. Flynn asks the Client to relate back that explanation. Flynn says it is up to the Client to support a course of action. Flynn asks if the Client supports the suggested course of action. Flynn's Client thinks about what Flynn has said. Feeling that Flynn knows best, Flynn's Client prepares to follow the course of action.

**Attorney Jones** offers a carefully thought out course of action based on personal experience. The Client is told that the course of action has worked before with other Clients, especially the last ten. Then, Jones says that experts whom Jones knows well choose this course of action. To make sure the Client understands, Jones gives the Client an easy multiple choice test. After the Client passes the test, Jones urges the Client to agree to the course of action. Jones' Client thinks carefully about what Jones has said. Feeling that Jones knows best, Jones' Client prepares to follow the course of action.

**Attorney Smith** meets with the client to discuss course of action. Smith and the client cover benefits and risks of Smith's preferred therapy. They discuss other forms of course of action related to the client's situation, including doing nothing, and the benefits and risks of each. Smith feels the client competently understands the discussion based on the client's questions and body language. Smith asks the client whether they now feel ready to make a decision or they need more time to consider the information and options. Feeling Smith knows best, the client decides to follow the course of action.

**Attorney Spire** offers a new effective course of action that has been researched with excellent results and published in different professional journals. Spire explains the details of the course of action to the client along with it benefits and side effects. Spire then states that there are other options that could be looked at, including the possibility of doing nothing. Spire reviewed the other course of actions with the client, but felt they would not be as effective as the newer course of action. Spires asks the client if they feel secure with this course of action. Feeling Spire knows best, the client prepares to follow the course of action.

K. Rate (circle) the Attorneys' methods. A rating of 1 means you think that Attorney has the worst method. A rating of 6 means you think that Attorney has the best method. Not all the ratings need to be used and a particular rate may be given to more than one Attorney.

	RATINGS					
	Worst					Best
	Method	1	2	3	4	5
54. Attorney Corey	1	2	3	4	5	6
55. Attorney Flynn	1	2	3	4	5	6
56. Attorney Jones	1	2	3	4	5	6
57. Attorney Smith	1	2	3	4	5	6
58. Attorney Spire	1	2	3	4	5	6

Why did you rate the Attorneys' methods the way you did? Explain as fully as you can. Use back of paper or scratch paper if you need more writing space to answer. Please *print* as clearly as possible.

L. Rate (circle) the Attorneys according to how well they consider the Client's viewpoint. A rating of 1 means that the Attorney was extremely poor at considering the Client's viewpoint. A rating of 6 means the Attorney considered the Client's viewpoint extremely well. You may use the same rating for more than one Attorney.

		RATINGS					
		Extremely			Extremely		
		Poor			Well		
59.	Attorney Corey	1	2	3	4	5	6
60.	Attorney Flynn	1	2	3	4	5	6
61.	Attorney Jones	1	2	3	4	5	6
62.	Attorney Smith	1	2	3	4	5	6
63.	Attorney Spire	1	2	3	4	5	6

Why did you rate the Attorneys' methods the way you did? Explain as fully as you can. Use back of paper or scratch paper if you need more writing space to answer. Please *print* as clearly as possible.

M. Rate the degree to which the Attorneys attained informed-consent from their Clients.

		RATINGS					
		Extremely			Extremely		
		Poor			Well		
64.	Attorney Corey	1	2	3	4	5	6
65.	Attorney Flynn	1	2	3	4	5	6
66.	Attorney Jones	1	2	3	4	5	6
67.	Attorney Smith	1	2	3	4	5	6
68.	Attorney Spire	1	2	3	4	5	6

Why did you rate the Attorneys this way? Explain as fully as you can. Use back of paper or scratch paper if you need more writing space to answer. Please *print* as clearly as possible.

N. Rate how well the Attorneys informed their Clients.

	RATINGS					
	Extremely Poor					Extremely Well
69. Attorney Corey	1	2	3	4	5	6
70. Attorney Flynn	1	2	3	4	5	6
71. Attorney Jones	1	2	3	4	5	6
72. Attorney Smith	1	2	3	4	5	6
73. Attorney Spire	1	2	3	4	5	6

Why did you rate the Attorneys this way? Explain as fully as you can. Use back of paper or scratch paper if you need more writing space to answer. Please *print* as clearly as possible.

O. Rate how well the Attorneys attained consent from the Client.

	RATINGS					
	Extremely Poor					Extremely Well
74. Attorney Corey	1	2	3	4	5	6
75. Attorney Flynn	1	2	3	4	5	6
76. Attorney Jones	1	2	3	4	5	6
77. Attorney Smith	1	2	3	4	5	6
78. Attorney Spire	1	2	3	4	5	6

Why did you rate the Attorneys this way? Explain as fully as you can. Use back of paper or scratch paper if you need more writing space to answer. Please *print* as clearly as possible.

### The Attorney-Client Opinion Poll

Use back of paper or scratch paper if you need more writing space for each answer. Please **print** as clearly as possible.

P. Suppose you were listening to these Attorneys give their account of the course of action methods in a hearing. Rate the degree to which you believe the Attorneys to be telling the truth. How believable do you find their accounts?

	No Chance of being true					Certainty of being true		
79. Attorney Corey	1	7	23	50	77	93	99	
80. Attorney Flynn	1	7	23	50	77	93	99	
81. Attorney Jones	1	7	23	50	77	93	99	
82. Attorney Smith	1	7	23	50	77	93	99	
83. Attorney Spire	1	7	23	50	77	93	99	

Why these estimates?

Q. Given that each Attorney's course of action failed, how likely is it that each Attorney's method would make him or her personally liable for damages or malpractice?

	No Chance of being Liable					Certainty of being Liable		
84. Attorney Corey	1	7	23	50	77	93	99	
85. Attorney Flynn	1	7	23	50	77	93	99	
86. Attorney Jones	1	7	23	50	77	93	99	
87. Attorney Smith	1	7	23	50	77	93	99	
88. Attorney Spire	1	7	23	50	77	93	99	

Why these estimates?

R. Given the degree to which you believed that the Attorneys were personally negligent, how likely is each of the Attorneys to be sued?

	No Chance				Certainty			
89. Attorney Corey	1	7	23	50	77	93	99	
90. Attorney Flynn	1	7	23	50	77	93	99	
91. Attorney Jones	1	7	23	50	77	93	99	
92. Attorney Smith	1	7	23	50	77	93	99	
93. Attorney Spire	1	7	23	50	77	93	99	

Why these estimates?

S. Given the degree to which you believed that the Attorneys were liable, how much money should the Client be awarded in the event of actual legal proceedings? Note that the severity of the bad outcome was the same for all of the Clients.

	No Money							Most Money
94. Attorney Corey	0	30,000	60,000	100,000	600,000	1,000,000	3,000,000	
95. Attorney Flynn	0	30,000	60,000	100,000	600,000	1,000,000	3,000,000	
96. Attorney Jones	0	30,000	60,000	100,000	600,000	1,000,000	3,000,000	
97. Attorney Smith	0	30,000	60,000	100,000	600,000	1,000,000	3,000,000	
98. Attorney Spire	0	30,000	60,000	100,000	600,000	1,000,000	3,000,000	

Explain why you made these awards.