## **Charles Mwewa Law Lecture Outlines**

## **ADVOCACY**

Notes	INTRODUCTION
	What is Advocacy?
	<ul> <li>The process of presenting a case or a defence at a trial or hearing before a civil court, a criminal court, or an administrative tribunal</li> <li>Advocates are lawyers or agents who plead the cause of others at the court or tribunal</li> <li>Assisting, defending, pleading for another; providing legal advice and aid and pleads the cause of another before a court.</li> </ul>
	Client Interview: Overview  Did the interview have stages?  What was the atmosphere of the interview?  What information was gathered?  What issues were identified?  Was there any information that was not gathered?  What issues were not discussed?
	Client Interview: Objectives of an Interview:
	Introductions (set the stage)  Establish realistic expectations upfront  Set the ground rules  Obtain information: relevant facts v. client's story  Identify issues: Legal v. non-legal  Propose a strategy for each issue identified  Next Steps: time frames; costs; disclosure; referrals, etc.
	Preparing for Initial Interview: Useful Tools
	<ul> <li>Client Questionnaires: Very useful</li> <li>Tailor the questionnaire on the specific area/s of law</li> <li>Gives background information; serves time</li> </ul>
	Preparing for Initial Interview: Useful Resources
	<ul> <li>Interview checklist – create one for yourself</li> <li>Outline key points you want to discuss in initial interview</li> <li>Disclosure and documents</li> <li>Manage expectation: Fees, Timeframes, Strategies, and etc.</li> </ul>

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Disc	closure
	<ul> <li>All relevant information must be disclosed</li> <li>Failure to disclose impedes the defence/defendant</li> <li>Crown discretion to deny irrelevant information</li> <li>Crown may delay disclosure if protecting witnesses</li> <li>Crown's obligation to produce disclosure is continuous one</li> </ul>
Iden	ntifying Potential Witnesses
	<ul> <li>Have enough time to select and prepare witnesses</li> <li>Before you interview, know the theory of case</li> <li>If more than one, interview them separately</li> <li>Schedule interview with witnesses early in the case</li> <li>Screen witnesses: Not all witnesses will help your case</li> <li>Screen evidence: Evidence may help, hurt or do nothing to your case</li> </ul>
Idea	ii witnesses
- - - - - - - -	<ul> <li>Must be respectful, polite, sincere, honest</li> <li>Must provide sufficient details</li> <li>Admit limits</li> <li>Feels comfortable testifying</li> <li>Believes in evidence</li> <li>Inability to volunteer information not being asked</li> <li>Listen carefully to questions; ask for clarification if not clear</li> <li>Eye contact is important</li> </ul>
Ke	y Behaviors Witnesses Must Avoid
	<ul> <li>Laughing</li> <li>Inappropriate facial expressions</li> <li>Speaking out</li> <li>Dressing inappropriately</li> <li>Looking at counsel after being asked a question</li> </ul>
Hov	v to Avoid this Behavior
	<ul> <li>Talking to witnesses about what is expected from them</li> <li>Preparing them thoroughly - there should hopefully be no surprises</li> <li>Explain the consequences of misbehaving – they need to understand what is at stake</li> </ul>
— Wit	eness Statements
	<ul> <li>Make sure the witness reviews and signs statement</li> <li>Make a memo to file regarding how the witness statement was obtained (when, where, date, time, people present, conditions of interview)</li> <li>Should statements be video-taped?</li> <li>Should statements be sworn (affidavits)?</li> <li>Witness statements may be used to refresh a witness' memory</li> <li>Prior witness statements: Credibility; confront or sympathize</li> <li>Witness preparation: Review evidence, cross-examine</li> </ul>