

Northwestern University
Department of Sociology
The Changing Dynamics of Employment Discrimination Litigation, 1990-2003

INTERVIEW SCHEDULE

Thank you so much for agreeing to participate in our interview. As you know from the consent form, you may stop the interview at any time or you may skip answering any particular question. As noted in the consent form, we do not expect to talk to you about pending legal matters. We will not ask you to breach attorney-client privilege or any other legal agreements.

I. Last Case Completed or Case from Our Sample

For the following questions we would like you to think about (case name) or, if you prefer, the case you most recently completed. We will use this as a point of reference about your normal practice and ask you to comment on whether it was typical of most of your employment cases or not.

1. How did this case come to you? (If the case was referred, referred by whom?)
2. How did you assess the case and decide how to begin your representation? (What are the first things you want to know? What are the first things you do?)
3. What were the facts of the case? What were your initial reactions to the facts of the case?
4. What were your client's goals at the beginning of the case? How realistic were the goals? If you represented this defendant in other employment cases, was their approach to this case the same as their approach to the others?
5. What were your goals at the beginning of the case? What did you want (concretely?)
6. What had the client already done in this dispute before coming to you?
7. Were you involved prior to the defendant being notified that the Plaintiff had filed a complaint with the EEOC/FEPA? If yes, in what way?
8. Were you involved in the EEOC/FEPA reply process? If so, who did you work with in the defendant's organization? (HR? Inside Counsel? Line Manager?) What was the outcome of the EEOC/FEPA process?
9. What were the Plaintiff's goals in their lawsuit? How sophisticated was the Plaintiff about employment law and how did that affect your approach to the case?
10. Was the Plaintiff represented by a lawyer? What was your impression of the lawyer? Had you faced this lawyer before?

IA. Stages of the Case

Pre-trial Process

11. What did the client think about meeting the initial terms of the demand?
12. Walk us through the major phases of the case. Why was the case in federal court? Was an early settlement discussed? Were there any early motions? How did discovery proceed?
13. Was there a motion for summary judgment?
14. Were you optimistic about prevailing?
15. Did this case go to mediation? If no, was it a consideration? Why or why not?
16. Did this case have a settlement conference before a magistrate? If no, was it a consideration? Why or why not?
17. What was the ultimate outcome of any pre-trial settlement talks? What was offered? What was the response?
18. Has the pre-trial process changed in the past ten years? How?

Trial Process

19. If pre-trial resolution failed, what was the nature of the trial? What was the outcome? Was the decision appealed?

Outcome/Resolution

20. How was the case resolved?
21. Do you believe the Plaintiff's goals changed over the course of the lawsuit? In what way?
22. Do you think your client's goals changed over the course of this lawsuit? Did they get what they wanted? Did you try to influence their goals? If so, how and do you think you were successful?
23. If the case settled, who had the authority to set amounts and make final decisions?
24. What factors do you think played a primary role in determining the outcome of the case?
25. What was (most) unusual about this case?
26. What was typical about this case?

Work conditions questions

27. Were any other lawyers working on the case with you?
28. How many hours do you think you spent on that case/issue?
29. Did you have an hourly fee arrangement? Have you done or are you doing other work for this client? How much? For how long?

30. How much contact did you have with your client and who initiated the contact typically? Who was your contact? House Counsel? HR Representative? Other Mgmt? At what phases of this matter?
31. How would you characterize your interactions with opposing counsel? The plaintiff? Did these interactions or your impressions about the opposition affect how you handled the case?

II. Clients

Now that we know about this case, we'd like to find out generally about your clients and your practice

32. Who makes up your primary client base? (Do you ever work for plaintiffs?)
33. What are your primary practice areas (break down in percent)?
34. What are the firm's primary practice areas (percent)?
35. Is there anything that absolutely rules out a particular person or company as a client? Is there any type of action that you won't handle?
36. Have you ever declined to represent a client in an employment discrimination case?
37. How do you charge clients? Volume discounts? Premiums?
38. What makes a great client? A terrible client?
39. What makes a great case for you? A terrible one?
40. What do you think of binding arbitration clauses? How do they affect your view of a case and how to handle it?
41. How prevalent are mixed motive cases?
42. We have found that about 50% of cases are ending in settlements, however in a majority of that 50%, nothing about the final settlement terms is on the record. What is happening in the employment discrimination settlements you handle?
43. Would you rather defend an employment claim in State or Federal court?
44. When you think about the majority of the cases you handle involving employment discrimination, how many are meritorious? How many are frivolous? How many are serious, but legally flawed?
45. How well do you feel the system (w/ employers; w/ EEOC/FEPA; in court; in mediation/arbitration) handles these types of claims?
46. What legal changes have had the biggest effect on your employment practice?

III. Lawyers and their Practice Contexts

We'd like to find out a little bit about you and the nature of your practice.

47. How often do you appear in court?
48. Appear in an administrative hearing?
49. How many days of a typical week do you have contact with clients?
50. Where do you see yourself in five years?