

Negotiation Preparation Worksheet

Who is client? What is their biography?

What is client's prior record?

What is client charged with? Are the charges overblown?

What is client's explanation of charges?

What investigation has been done to verify client's position on charges?

What are client's objectives?

Why? What does the client really care about or what issues occur with regard to various potential negotiated settlements?

What do we want the prosecutor to know about the client?

Who is the victim?

What is the victim's explanation?

What is the victim's objective?

Why?

What are the issues of fact?

What are the issues of law?

Who is the prosecutor?

How has this prosecutor handled other similar cases?

How have other prosecutors handled similar cases?

Are there office policy issues that will affect this negotiation?

Is there a supervising prosecutor who must be, or should be involved in this negotiation?

What does the prosecutor probably want to see happen in this particular case?

Why?

Where is there common ground between client and victim?

Where is there common ground between client and prosecutor?

What do we have to offer the prosecutor or the victim? Are there restorative justice options?

How is this case distinguished from the typical case of this nature?

What are the interests of the presiding judge? How does that affect a negotiated settlement?

What is best case scenario at trial?

What is worst case scenario at trial?

What leverage do we have in addition to going to trial? Motions, etc?

What are possible creative dispositions?

What is the best negotiation timeline for this prosecutor on this case?

Who should make the first move?

What will be my first move? Should the initial approach be in person, telephone call, email, letter, text message?

What will be my response to an unsatisfactory offer from the prosecutor?

Negotiation Debriefing

What was the agreement?

Is the agreement reduced to writing?

Did the agreement meet the client's expectations?

Did it meet pre-negotiation goal setting?

Were pre-negotiation goals set high enough?

What was successful about this negotiation?

What did this prosecutor do that was successful?

Information obtained about this prosecutor during this negotiation?

What effect will this negotiation have on relationship with client?

What is the long term effect of this negotiation on relationship with this prosecutor?

What one thing should be done differently next time?