

Independent Legal Advice Checklist Generic



Record the following information:

- Date, start time and finish time:
 - Client's name:
 - Client's address:
 - Telephone:
 - Client ID checked:
 - Referred by:
 - Other parties to the agreement, transaction or course of action:
 - Background facts and circumstances and why independent legal advice is necessary:
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- List the documents reviewed:
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- List everyone present at the meeting:

If language or understanding the client is an issue:

- Client's spoken languages:
- Written languages:
- The client has limited facility with English, so I obtained an interpreter whose name was:

Part A - The Client

- I reviewed the current state of the client's relevant personal/health/family/business circumstances.
- I reviewed the background facts and circumstances for the subject agreement, transaction or course of action.
- The client said that the reason for his or her consent to this agreement, transaction or course of action was [•].
- I satisfied myself that the client was not subject to duress or undue influence and that the client was signing relevant documents or proceeding with the planned course of action freely and voluntarily.
- I accepted payment from the client only, and not from anyone adverse in interest to the client.

Part B - If the independent legal advice relates to a contract or agreement

- I obtained relevant disclosure (personal, financial, other) from both my client and the other side. o I determined that documents were sufficiently well-drafted to accomplish my client's objectives. o I ensured that the terms of the agreement were both certain and enforceable.
- I explained the final nature of the agreement.
- I reviewed the risks and consequences of the agreement.
- I carefully explained all the clauses of the agreement and the client indicated that he or she understood same.

Part C - When client signs or proceeds contrary to advice

- I advised the client against signing the documents or pursuing the intended course of action, but the client wished to proceed contrary to my advice, so I explained my advice in the presence of a witness, whose name was [•].
- The client signed an acknowledgement, in the presence of this witness, that he or she was signing the documents or proceeding against my advice.

Part D - File management

- I opened a file.
- I placed this form, a copy of the document and my notes in the general independent legal advice file.
- I took notes of my meeting(s) with the client and retained these.
- I docketed the time spent advising the client.
- I sent a reporting letter outlining the terms of the agreement or obligation assumed, together with my account.
- My advice was verbal only and I sent no reporting letter.

Source of document: Adapted from an ILA Checklist prepared by Philip Epstein, a specialist in family law practicing in Ontario, for the Lawyers' Professional Indemnity Company

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