

# WORKING WITH A LAWYER

This memo will help you learn how to choose and how to work effectively with a lawyer in private practice. For information about finding a lawyer, see the Legal Voice publication *How to Find a Lawyer*.



## FEEES

### Legal Information &

**Referral:** 206-621-7691

**Toll-Free:** 1-866-259-7720

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**Web:** [www.legalvoice.org](http://www.legalvoice.org)

### What is a retainer fee?

There are two types of fees often called "retainer fees". The true *retainer* is a fee paid to the lawyer, often monthly or annually, to retain or keep the lawyer available to the client. This type of fee is often paid by large corporations to make sure they have access to their lawyers whenever they need advice or representation. A true retainer is usually non-refundable.

The more common type of so-called "retainer" fee is actually an advance fee deposit or down payment, usually between \$500 and \$5000. Retainers are upfront payments, from which the lawyer subtracts her hourly fees and costs. Most lawyers require retainers for most kinds of cases. It is important to note that the retainer may not cover the entire cost of the case. If your case goes to trial, rather than settling or being resolved in another manner, your attorney may ask a for a second retainer fee to cover the legal fees for that trial. The fee will be due before trial, and averages at least \$5,000. Ask the lawyer what services would be performed for the amount of the retainer and how you will be charged once the retainer fee is used up. Also ask whether any retainer fee that is not used would be refunded.

### What are "fees" and "costs"?

Legal *fees* are paid to a lawyer for her advice and services or advice and services provided by her firm. *Costs* are other expenses, such as filing fees, copying costs, or expert witness fees that the lawyer is paying to others on your behalf. Usually you are required to pay all costs as they are incurred or as part of a regular billing. If your case has been accepted on a contingency basis, however, your lawyer may advance the amounts of any court-related costs (like filing fees) as they are incurred, and accept repayment of those costs from the amount of any settlement or judgment. See the "Contingent Fees" section, below.

### **What is an initial consultation fee?**

An initial consultation fee is the fee the lawyer charges for the first visit. Usually, by the end of this consultation, you will decide if you want to retain this lawyer, and the lawyer will decide if she wants to take your case. You should not expect to get much legal advice, if any, during this visit. Some lawyers charge their usual hourly rate for this visit; some charge a reduced rate; others offer free initial consultations. Be sure to ask what the fee will be when you make an appointment.

### **What kinds of fee arrangements are available?**

Fees for private lawyers vary, and are negotiable. Three types of fee arrangements are common:

#### **Hourly Fee**

Hourly rates vary depending on the city, the type of problem, and the amount of experience the lawyer has. For example, the hourly rate for a lawyer practicing family law averages \$250 per hour in the Seattle/King County area. The lawyer may be able to estimate at the first interview the number of hours needed to resolve the legal problem. Often, however, additional issues come up that complicate the case, so you should ask for periodic reviews of the legal costs. You may ask for an itemized bill every month. This will help you understand what costs are being incurred. Ask the lawyer whether such billing and itemization will increase her charges.

Some lawyers will consider reduced rates for low-income people. They may decide to lower their fees based on your financial situation and their current caseload. A reduced rate does not usually fall below \$90 an hour.

#### **Set Fee (Flat Fee)**

A set fee, regardless of how much time the lawyer spends, is often used when the lawyer is performing a specific service with a predictable time commitment, like reviewing real estate sales documents, drawing up a contract, or handling a divorce-that is uncontested. You and your lawyer should agree on the fee in advance. Be sure to find out whether the fee could change if your case becomes unexpectedly complex.

#### **Contingent Fee**

In some legal actions, often personal injury cases, the lawyer will take the case without charging for legal services unless the client is awarded money through a settlement or a trial verdict. The client and lawyer should sign a written agreement at the very beginning stating the percentage of the "recovery" (the money awarded) that will go to the lawyer and the method used to calculate it. For example, the percentage may be one-third of the recovered amount calculated after *costs* have been deducted (see page 1). Often, a client will need to pay the *costs* of the case as they come up.

### **Why can't I get a divorce on a contingency basis?**

It is a violation of the lawyers' code of ethics for a lawyer to accept a dissolution (divorce) case on a contingency basis. However, after a divorce has been granted, a lawyer may agree to collect overdue child support or maintenance (spousal support) on a contingency basis.

### **How do I know what my money pays for?**

You should request a written fee agreement with your lawyer. Make sure you understand the agreement before you sign it. The agreement should be clear about what matters the lawyer will handle for you and how and when you will pay her. The lawyer should provide you with an itemized accounting on a regular basis. This is usually monthly, but can be on any periodic schedule agreed on by the lawyer and you. An itemized accounting will give you a better understanding of the services being performed and how much they cost.

### **What is a fee payment schedule?**

A fee payment schedule is a monthly payment plan, which allows you to pay a predictable sum every month on the balance of your bill. Normally the lawyer will also charge interest on the remaining balance. If you have not arranged a payment plan, you will probably be expected to pay your balance in full every month. Many lawyers will arrange a fee payment schedule after they have received retainers from their clients.

### **What if I can't afford to pay the lawyer?**

You may need to be creative about getting the funds necessary to pay the lawyer. You may want to take out a loan, borrow from friends or family, or use your credit card.

For more information, see the Legal Voice publication "How Can I Find a Lawyer?"

### **What are "limited legal services?"**

Some lawyers offer "limited legal services" to people who are representing themselves. This service is also called "unbundled legal services" or "pro se assistance". It means that the lawyer will give you legal advice and/or review or prepare documents, but will not be representing you. Most lawyers will ask you to pay the fee for this limited service up front. When you call for an appointment, you should make clear to the lawyer that you are calling for this service, so that the lawyer does not give you the wrong information about her fees. Ask the lawyer whether your first visit will be an initial consultation or if she will be prepared to give you the limited service you requested when you come in.

## **INITIAL CONSULTATION**

The first interview is called an "initial consultation." During this visit, the attorney will decide whether she wants to take your case, and you will decide whether you want to hire this attorney.

### **How should I prepare for the initial consultation?**

Have a list of questions already written out and space to record comments. This will help you remember your concerns and will help you decide on whom to hire if you are comparing lawyers. Bring documents related to your case.

### **What should I talk about during the first interview?**

Explain your legal problem - reveal all facts, both favorable and unfavorable, about your situation. Tell the lawyer what result you are seeking. This information is important in determining whether she will take your case. NOTE: verbal and written communications between you and your lawyer are confidential.

### **What questions should I ask?**

How long will it take to complete the case?

What role will you have in making decisions about the case?

Will the lawyer inform you of plans and problems as the case goes along?

Will the lawyer answer questions even when they seem unimportant or difficult?

What is the lawyer's experience with cases like this?

Does the lawyer have time, considering her case load, to work on your case?

How long has the lawyer practiced law?

### **Should I ask about fees?**

You should raise the subject of fees if the lawyer doesn't. Be open in discussing your ability to pay. Be sure to ask about costs and about the time the lawyer estimates the task will take. Clients often underestimate charges because they don't think about telephone calls and the amount of hours a case may take.

Ask your lawyer to bill you monthly so that you are aware of the amount of your legal fees and costs, even if you agree to pay on other than a monthly basis. It is wiser to agree on fees in the beginning than to have a dispute arise afterwards.

### **Should I get a written fee agreement?**

If you decide to hire an attorney, you should request a written fee agreement. Lawyers must provide a written fee agreement in a contingency fee case, in a flat fee arrangement, or if the client asks for one.

### **What if I don't understand something during the initial consultation?**

Feel free to refer to your list of questions and take notes. If you don't understand what the lawyer is saying, ask for an explanation. If the lawyer will not give you clear explanations or tells you not to worry about legal details, you may want to think carefully about whether this lawyer is the correct match for you.

You may also want to write down your impressions and feelings after the interview. Your instincts will be important in the final selection.

## **HOW TO WORK WITH A LAWYER**

### **What can I expect from my attorney?**

Once you have hired your attorney, you can expect her to represent you competently and keep you informed regarding the progress of your case. She should provide legal advice and explain the consequences of legal actions taken. You can ask her to send you copies of all relevant correspondence and court documents. She should explain the confidential nature of your relationship. She should follow whatever basic decisions you make in your case. She must forward any settlement offers to you.

### **What is attorney/client privilege?**

Under the Rules of Professional Conduct, which apply to all attorneys practicing in Washington, your lawyer **cannot** reveal to anyone else almost any information you disclose dealing with your case, unless you consent to the disclosure. But there are several exceptions to this rule. Your lawyer **must** reveal information if disclosing the information could prevent reasonably certain death or substantial bodily harm. This could include serious domestic violence or child abuse. Also, your lawyer **may** reveal information 1) to prevent you from committing a crime, or 2) to prevent, limit or correct serious injury to someone else's financial interests or property if the injury could be caused by your crime or fraud, and if you have involved the lawyer's services to commit that crime or fraud.

### **What can my attorney expect from me?**

Your lawyer will expect you to understand that you are not her only client. Keep all appointments made with your lawyer. Come prepared with information /documents. Make a list of questions so that you can make efficient use of the time. Listen carefully when the lawyer explains how the law affects you.

Remember, each contact you have, including telephone calls, letters and e-mails, will usually cost you money--You can help reduce your legal expenses ~~costs~~ by avoiding unnecessary contacts with your lawyer. Providing all relevant information in an organized way can save your lawyer much time, and therefore reduce your fees, too. Think about whether the lawyer needs to know something immediately or if it can wait until the next scheduled meeting.

Your lawyer is not your counselor or therapist. Many legal matters involve stressful situations, and being involved in a legal action can be stressful in itself. Your lawyer may be able to refer you to appropriate counseling or support services, such as domestic violence advocates, therapists, or sexual harassment support groups. These people will be more effective (and may well be less expensive) than your attorney at providing this type of service.

### **What if I am having problems with the attorney/client relationship?**

If your case seems to be moving slowly, you can ask the lawyer for an explanation and occasional progress reports. If necessary, you can write to the lawyer and remind her of her ethical duties under state bar ethics and local court rules.

If you are having serious problems with the way the lawyer is handling your case, you can file a complaint with the Washington State Bar Association, unless the problem is fees. However, you may want to put this off until you have completed your case or at least retained another lawyer.

If you feel that a bill is too high, you should ask for an explanation from your lawyer. If you are not satisfied, you may ask the attorney to mediate the issue. You can find a list of low-cost dispute resolution centers around the state here: [www.resolutionwa.org](http://www.resolutionwa.org).

There is an implied promise that a client will pay the fees if the client accepts the services performed by a lawyer. If you are not able to pay your lawyer, the court will usually allow your lawyer to withdraw. The lawyer notify all parties at least 10 days before the effective date of withdrawal and the client must be notified first.

You are free to consult with another lawyer on the same matter for a "second opinion". If you choose to have the second lawyer handle your case, your first lawyer will have to withdraw, which she will do at your request. If a client discharges a lawyer, the lawyer may file a collection action to recover costs and fees rendered for her services. However, if the lawyer abandons or neglects the case for no good reason, the lawyer may lose the right to compensation; what constitutes good cause is a question only the court can answer. You will also have to pay the new lawyer a retainer and pay for her time to review the case and get up to speed. The first lawyer must return papers and properties to you, cooperate with the new lawyer, and minimize possible harm to you. Not all papers that a lawyer uses in the matter must be returned to you.

### **ADDITIONAL CONSIDERATIONS FOR WOMEN IN ABUSIVE RELATIONSHIPS**

#### **What information will my lawyer need?**

Before actually proceeding with a divorce or separation, your lawyer may advise you to have as much financial information as possible about you and your spouse. This is to ensure that the lawyer and judge have enough information to determine reasonable levels of child support payments, maintenance, and property division. Washington is a community property state. Therefore, it is your right to know your spouse's income, but of course this may be difficult if you are in an abusive relationship.

You can begin gathering information even before you have decided to leave your partner. Make copies for your lawyer of as much of this information as possible.

Here are examples of **financial** information to collect and copy:

Information regarding financial needs – monthly expenses  
Information regarding child care costs  
List of assets (things you own – car, furniture, properties)  
List of liabilities (things you owe – debts, loans, credit card bills, creditor names, etc.)  
Union your spouse belongs to, if any  
If your spouse is independently employed (e.g. carpenter, plumber, journeyman electrician, mechanic, etc.), what trade name does he use?  
Proof of spouse's salary (copy of a paycheck, tax return, a financial statement for a bank loan or credit card application)  
Information about your own salary  
Name of bank branches used and all account numbers  
List of both spouse's employment benefits  
If spouse is working under the table, document how much the hourly wage is, how often work is done (hours, days per month) and the name of the person paying for the work

Here are examples of **other kinds of information** to prepare:

Birth date and Social Security Numbers for all family members  
Brief chronological outline of abuse  
Police reports  
Medical reports  
No Contact or Protection Order paperwork  
List of witnesses to any abuse, including names, addresses, and phone numbers  
Copies of anything that has been previously filed, including separation or prenuptial agreements or dissolution or parenting plan documents  
Breakdown of the parenting functions and which parent performs each task  
Information regarding the care of children – your proposed schedule with justification

### **How can I find the right lawyer?**

Not all lawyers are educated about the issues and dynamics of domestic violence.

- Consider if you want a male or female lawyer.
- Ask a domestic violence agency for names of lawyers to contact.
- Ask other women who are in domestic violence situations for names of lawyers they would recommend and reasons for their recommendations.
- Ask trusted friends for names of lawyers they would recommend and reasons for their recommendations.
- If you have had a successful working relationship with a lawyer who works in the area of family law, consider rehiring that lawyer.
- Legal Voice can recommend lawyers on their referral list who have expertise in domestic violence matters and who welcome referrals in this area.

## Interviewing the Lawyer

During the initial consultation, be sure to ask the lawyers about their experience in handling cases where domestic violence has occurred.

Tell the lawyer immediately:

Any history of domestic violence

Your safety concerns and current living situation

Any orders that are in place (Protection Order, No Contact Order, etc.)

Drug/alcohol abuse by your partner and/or yourself

Any incidents of sexual abuse

Any incidents of child abuse

If CPS is involved with your family

If there are criminal charges pending or criminal convictions

If the abuser has access to weapons

## Related Information

Also see the Legal Voice memos

- “Damages and Contingency Fees in Personal Injury and Discrimination Cases”
- “How to Find a Lawyer.”

If your case involves the care of children, you can get a blank parenting plan form to help you prepare for an interview with an attorney on the Washington State Court website:

<http://www.courts.wa.gov/forms/>

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