

Damages and Contingency Fees:

Hiring a Lawyer in Personal Injury and Workplace Discrimination Cases



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If you have been injured by someone or discriminated against in the workplace, you may want the person or employer at fault to pay for the costs associated with the incident, such as medical bills or lost wages. If so, consider hiring a lawyer and paying them with “contingency fees.”

Many lawyers are paid by the hour (see *Working With a Lawyer*, listed in Resources at the end of this publication). However, it is common for lawyers who take personal injury or employment discrimination cases to work for “contingency fees,” which means the lawyer will be paid by taking a percentage of the money awarded by the court if you win your case.

Do I Have a Case?

This depends on a number of factors. The court’s goal when considering personal injury and employment discrimination cases is to, as much as possible, get you to the same physical and/or financial place you would have been had the incident not occurred. To be awarded money in a lawsuit, negative effects usually must be noticeable soon after the incident, otherwise it might not be clear what caused them. Usually, an emotional or psychological injury must substantially interfere with your life (more than a few days or weeks) for the court to be likely to award you money. For example:

- If you lost the use of your hand in an accident, you could be awarded money (called “damages”) to pay for the medical bills and lost wages. But if you were in an accident and suffered only minor injuries, it is unlikely that the court will award you money.
- If you experienced employment discrimination and suffered negative consequences because of it (see *Employment Discrimination*, listed in Resources at the end of this publication), the court may award you money. But if your boss quickly fixed the problem so there were no serious effects on you, it is unlikely that the court will award you money.

However, sometimes negative effects are not obvious at the time of an incident. For example, pain or injury may not show until later; maybe you didn’t know right away about the discrimination affecting you at work; or maybe you are hiding or minimize the effects of your experience. It is best to talk to an experienced lawyer to determine whether or not you have a strong case.

What Should I Do If I Have Been Injured or Suffered Workplace Discrimination?

1. Take steps to help yourself: In both personal injury and employment discrimination cases, if you do not take actions to help yourself the court may conclude that you have made your situation worse. The court may reduce the amount of money awarded to you if you have not tried to help yourself.

- If you have a **physical injury**, the court may want to see that you sought treatment from a doctor and followed the doctor's advice.
- If you have a **serious emotional injury**, the court may want to see that you sought counseling or advice from a therapist.
- If you lost a job because of **employment discrimination**, the court may want to see that you are trying to get another job.

2. Document your experience: In personal injury cases, documents like police reports, insurance forms, and medical records are important because they provide proof and documentation of your injury, your medical care, and your progress toward healing.

In workplace discrimination cases, it is a good idea to keep copies of any written performance evaluations and all other documents and communications related to your job. If you were fired, it is a good idea to keep all documents related to your firing and get a copy of your personnel file as soon as possible. Keep records of jobs you have applied for since you were fired and any rejections or acceptances you have received.

When Should I Hire a Lawyer?

Talk to a lawyer as soon as possible. In most cases, state and federal laws set time limits to bring a personal injury or employment discrimination lawsuit, usually two or three years.

Important: If you wait until the time limit for your lawsuit ends, it will be difficult to find a lawyer to file a lawsuit. Evidence, like documents and witnesses, can disappear shortly after the accident. Lawyers' ethics rules require that they do an adequate investigation before they file a lawsuit, and investigation takes time. The sooner you talk to a lawyer about your case, the easier it will be to find a lawyer willing to do the investigation to determine if you have a good case.

Will a Lawyer Take My Case?

This depends on the details of your case and the lawyer's own requirements. All lawyers will consider whether or not they are likely to make money from your case.

Some lawyers will only take cases where the incident and effects can be proven with employer or medical records, or that required help from a doctor or therapist.

Some lawyers will not take cases where the victim experienced only minor effects, such as a minor injury or minimal wage loss. However, if many people were affected by the incident, in either major or minor ways, a lawyer may take the case on behalf of the group. This is called a “class action” lawsuit.

Typically, a lawyer will meet with you for what is called an “initial consultation”; a chance for you both to ask questions and decide whether or not you want to work with each other. For more information about initial consultations, see the Legal Voice publication *Working With a Lawyer*, listed in Resources at the end of this publication.

How Do I Get a Lawyer?

There are various resources that can help you connect with a lawyer. See the Legal Voice publication *How to Find a Lawyer and Other Legal Resources in Washington State*, listed in Resources at the end of this publication.

What Is a Fee Agreement?

If you hire a lawyer, you will need to read and sign a “fee agreement” (sometimes called a retainer agreement or representation agreement). The fee agreement may be a simple letter or a detailed formal contract. It should clearly explain how the lawyer will be paid, who will work on the case, what exactly the lawyer will do for you, and who will pay for the costs (like filing fees and copying costs). Fee agreements can include other details, like how and when the lawyer can quit.

Important: Read your fee agreement carefully and understand it before you sign.

What If I Win and the Other Side Cannot Pay?

If the other side is ordered to pay you but they have no cash, income, or insurance, you may not be able to collect the money owed.

A lawyer will likely think about this when considering whether or not to take your case. If it is unlikely you will ever receive the money owed, a lawyer is probably not going to take your case because the lawyer will likely never get paid.

What Can I Do If a Lawyer Will Not Take My Case?

If you believe you have been a victim of workplace discrimination contact the Washington State Human Rights Commission for more information and to file a complaint. Also see the Legal Voice publication *Employment Discrimination*.

Small Claims Court accepts cases with money damages up to \$10,000. No lawyers are allowed for either side. You will represent yourself and the other side will represent himself or herself. If you are in King County, see the resources listed at the end of this publication. If you are in another county, see your county court's website or contact the court to ask for information about your local Small Claims Court.

There are also free or low-cost dispute resolution services in many counties, including the Dispute Resolution Center of King County.

See Resources at the end of this publication for contact information and links.

Resources

King County Resources

- Dispute Resolution Center of King County:
Online: www.kcdrc.org
- King County Small Claims Court: Information on how to prepare, file and serve a claim, as well as what happens at trial and after trial.
Online: www.kingcounty.gov/courts/district-court/small-claims/how-to.aspx
- The King County Bar Association has a booklet on using the Small Claims Court.
Online: www.kcba.org/publications/smallclaims/smallclaims.aspx

Statewide Resources

- Legal Voice publications:
Online: www.legalvoice.org/tools
 - *Employment Discrimination*
 - *How to Find a Lawyer and Other Legal Resources in Washington State*
 - *Sexual Harassment at Work*
 - *Working with a Lawyer*
- Washington State Human Rights Commission
Online: www.hum.wa.gov/employment

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of October 2021.

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