

Working with a Lawyer

This memo will help you learn how to work with a lawyer who is in private practice. For information about finding a lawyer, see the Legal Voice publication *How to Find a Lawyer and Other Legal Resources in Washington State*.



www.legalvoice.org

Fees

What Is a Retainer Fee?

The most common type of “retainer” fee is actually an advance fee deposit, usually between \$500 and \$5,000. These advance fee deposits are paid up front, like a down payment, and then the lawyer subtracts her hourly fees and costs. Most lawyers require advance fee deposits for most kinds of cases. It is important to know that the advance fee deposit *may not cover the entire cost of the case*.

If you are asked to pay an advanced fee deposit, ask your lawyer what that money will pay for and what will happen once that money is used up. Also ask if any leftover money will be refunded.

If your case goes to trial, your lawyer may ask a for a second advance fee deposit to cover the legal fees for the trial. That second fee will be due before trial and may be at least \$5,000.

What Are “Fees” and “Costs”?

Legal fees are for your lawyer’s advice and services. Costs are other expenses, like filing fees from the court, copying costs, or expert witness fees. Usually you must pay all costs when they happen. They can also be added to your regular bill, if that is the payment arrangement you have with your lawyer. But if your case has been accepted on a “contingency basis”, your lawyer may let you reimburse costs out of any settlement or judgment you get if you win the case. See the “Contingent Fee” description, on page 2.

What Is an Initial Consultation Fee?

An initial consultation fee is the fee the lawyer charges for your first meeting. Usually, by the end of the meeting you will decide if you want to hire (sometimes called “retain”) the lawyer, and the lawyer will decide if she wants to take your case. Do not expect to get legal advice during this first meeting. Some lawyers charge their usual hourly rate for an

initial consultation; some charge a reduced rate; and others offer free initial consultations. Be sure to ask about the initial consultation fee when you make an appointment.

What Are the Different Kinds of Fee Arrangements?

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

Hourly Fee

Hourly rates depend on the city or town, the type of cases they work on, and the amount of experience the lawyer has. For example, a common hourly rate for a lawyer practicing family law is \$250 per hour in the Seattle/King County area.

People often underestimate what their case will cost. If the lawyer charges an hourly fee, the lawyer will bill you for small tasks like writing emails to you and answering your telephone calls. Some lawyers charge for their time in six-minute increments, and will round up. For example, if your lawyer charges \$250 per hour, a ten minute phone call may cost you \$50.

The lawyer may be able to estimate at the first meeting the number of hours it will take to finish the case. But often unexpected things happen and the lawyer will spend more time on your case than she estimated. So you should regularly ask about the legal costs. You can also ask for an itemized bill every month. This will help you understand what you owe. Ask the lawyer whether itemized billing would increase her charges.

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

Flat Fee (Set Fee)

Some lawyers charge a “flat fee” for certain cases. With this type of fee, the cost of the lawyer’s services does not change no matter how much time the lawyer spends on your case. This kind of fee is often used for cases that are not complicated, like reviewing real estate sales documents, drafting a will, drawing up a contract, or handling a divorce that is uncontested. You and your lawyer should agree on the flat fee in advance. Be sure to ask if the flat fee could change if your case becomes more difficult than expected.

Contingent Fee

In some types of cases, like personal injury cases, the lawyer will not charge you unless you are “awarded” money through a settlement or at trial. In these “contingency” cases, you and your lawyer must sign a written agreement at the very beginning of the case stating how much money (called “recovery”) will go to the lawyer, and how that amount will be calculated. The lawyer may ask for thirty percent of the amount you are awarded, calculated after the lawyer deducts costs. Usually, you will have to pay the costs as they come up. But your lawyer may agree to pay

the costs herself and deduct that amount from the money you are awarded. You may still have to pay costs even if you lose your case.

A lawyer cannot represent you in a criminal case on a contingency fee.

Can I Pay for a Divorce with a Contingent Fee?

No. The rules that all lawyers must follow do not let them charge a contingent fee for a divorce case. But after a divorce has been granted, a lawyer is allowed to help you collect overdue child support or maintenance (alimony) on a contingent fee basis.

How Do I Know What My Money Pays For?

You should ask your lawyer for a written fee agreement. Make sure you understand the agreement before you sign it. The agreement should be clear about what the lawyer will do for you and how and when you will pay her. The lawyer should give you with an itemized bill regularly. Usually, lawyers send bills monthly. But bills can be sent on any schedule that you and the lawyer agree to. An itemized bill will give you a better understanding of the work the lawyer is doing and how much that work costs.

What Is a Fee Payment Schedule?

A fee payment schedule is a monthly payment plan that lets you pay a certain amount every month. Many lawyers will agree to a fee payment schedule after they have been paid the advance fee deposit. Usually, interest will be charged on the amount owed. If you have not arranged a payment plan, you may have to pay the full amount you owe each month.

What If I Can't Afford to Pay the Lawyer?

Consider taking out a loan, borrowing from friends or family, or using a credit card. Or consider hiring a lawyer just for “limited legal services,” discussed in the next section.

If you do not pay your lawyer’s bill, your lawyer can send you to collections or put a lien on your property.

If you are low-income and have a certain type of case, you may be eligible for free legal help. See Resources at the end of this memo for more information.

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. Generally, a lawyer should give you a written agreement describing exactly what the lawyer will do for you. Most lawyers will ask you to pay for this limited service up front. When you call for

an appointment, tell the lawyer that you are calling for limited services, so that the lawyer gives you the right information about her fees. Ask if your first meeting will just be an initial consultation or if she can do the limited service right then.

Initial Consultation

Your first meeting with a lawyer is called an “initial consultation.” During this meeting, the lawyer will decide whether she wants to take your case, and you will decide whether you want to hire this lawyer.

How Should I Prepare for the Initial Consultation?

It is helpful to have a list of questions written out and space to write notes. This will help you remember the lawyer’s answers and your thoughts. Your notes will be helpful if you are comparing lawyers.

Bring documents related to your case.

What Should I Talk About During the Initial Consultation?

Explain your legal problem – share all the facts, both good and bad, about your situation. Tell the lawyer what you want to happen with your case. This information is important for the lawyer to know. Note: Initial consultations are confidential. Meaning everything said and written between you and the lawyer at this meeting cannot be shared without your permission.

What Questions Should I Ask the Lawyer?

- How long will it take to complete the case?
- How will the lawyer’s fees be calculated?
- What role do I have as a client in making decisions about the case?
- How will you tell me about plans and problems as the case goes along?
- Will you answer all of my questions even when they seem unimportant or difficult?
- What is your experience with cases like this?
- Do you have the time to work on my case?
- How long have you practiced law?

Should I Ask About Fees?

Yes. The lawyer may not tell you about fees if you don’t ask. Ask about costs and the amount of time the lawyer thinks your case will take. It is better to know what to expect in the beginning than to have a disagreement later.

Be open to talking about your ability to pay. Ask the lawyer if she can send you an itemized bill every month so that you can keep track of the amount you owe. Ask for this monthly itemized

bill even if you have agreed to pay the lawyer some other way. Ask whether itemized billing would increase the charges.

Should I Get a Written Fee Agreement?

Yes. Lawyers must give a written fee agreement when charging a contingent fee or a flat fee. They also must give you a written fee agreement if you ask for one, no matter what type of fee.

What If I Don't Understand Something?

If you don't understand what the lawyer is saying, ask for an explanation. If the lawyer cannot explain things clearly or tells you not to worry about legal details, think carefully about whether this lawyer is the right match for you. It might be helpful to write down your thoughts and feelings about the lawyer after the initial consultation. It is important that you feel comfortable with and trust the lawyer you decide to hire.

How to Work with a Lawyer

What Can I Expect from My Lawyer?

Once you have hired a lawyer, you can expect her to represent you competently, which means that the lawyer has the necessary ability, knowledge, or skill to do the work you have hired her to do. The lawyer must also keep you informed about what is happening in your case.

She should give legal advice and explain the consequences of any legal actions you choose to take.

You can ask her to send you copies of all relevant letters 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"?

The rules all lawyers must follow say that a lawyer *cannot* share with anyone else information you have given about your case, unless you agree in advance. This is "attorney-client privilege."

There are some exceptions to this rule. Your lawyer *must* share information if the information could prevent reasonably certain death or substantial bodily harm. This could include serious domestic violence or child abuse.

Also, your lawyer *may* share information to:

1. Prevent you from committing a crime, or
2. 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 in committing that crime or fraud.

Also, if your lawyer tells you something and you tell someone else, that information *may* not be protected anymore. You should talk to your lawyer about ways you can prevent "waiving" your attorney-client privilege.

What Can My Lawyer Expect from Me?

- Your lawyer will expect you to understand that you are not her only client.
- Keep all appointments made with your lawyer.
- Communicate by returning telephone calls or emails from the lawyer.
- Come prepared with information, documents and questions.
- Listen carefully when the lawyer explains how the law affects you.
- Tell your lawyer when you do not understand something.

Remember, each contact you have with your lawyer, including telephone calls, letters and emails, will usually cost you money. You can help cut down your legal expenses by avoiding unnecessary contacts with your lawyer. Giving all relevant information in an organized way can save your lawyer much time and save you money. Think about whether the lawyer needs to know something right away or if it can wait until your next scheduled meeting.

Also, 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 counseling or support services, such as domestic violence advocates, therapists, or sexual harassment support groups. These people may be more effective and less expensive than your lawyer at providing this type of service.

What If I Have Problems with My Lawyer?

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 duties under Washington's ethical rules 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 about fees. However, you may want to put this off until your case is over or you have found 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 lawyer for a mediation, where another person can help resolve the problem. You can find a list of low-cost dispute resolution centers around the state at www.resolutionwa.org.

It is expected 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 remove herself from your case. The lawyer must notify all parties at least 10 days in advance and the client must be notified first.

What If I Would Like to Work with a Different Lawyer?

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 if you ask.

If you fire your lawyer, the lawyer may file a collection action to recover costs and fees that occurred during her representation. However, if your lawyer abandons or neglects your case for no good reason, she may lose the right to be paid, though only the court can make that decision. You will also have to pay your new lawyer an advance fee deposit and pay for her time to review the case and get up to speed. The first lawyer must return papers and property to you, cooperate with the new lawyer, and minimize possible harm to you. Not all papers that a lawyer uses in the case must be returned to you.

Special Considerations for Immigrants

Can a Lawyer Ask About Immigration Status?

A lawyer may only talk about immigration status if it matters to a case. This includes documents filed with a court – a lawyer may not discuss immigration status in writing unless it matters to a case.

A lawyer may not use immigration status to threaten, intimidate or coerce you or anyone else.

Also, a lawyer may not use immigration status to try to keep you or someone else from participating in a case.

Special Considerations for Survivors of Domestic Violence

What Information Will My Lawyer Need?

Tell the lawyer immediately about:

- 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 you
- Any sexual abuse
- Any child abuse

- If Child Protective Services (CPS) is involved with your family
- If there are criminal charges pending or criminal convictions
- If the abuser has access to weapons

Before moving forward with a divorce or separation, collect as much financial information as possible about yourself and your spouse. This information will be used to figure out child support payments and maintenance (alimony), and how to divide property.

Washington State law gives you the right to know your spouse's income. Even so, this may be difficult if you are victim of domestic violence.

Here are examples of financial information to collect and copy for your lawyer:

- Information about financial needs (monthly expenses)
- Information about child care costs
- Information about health care costs
- List of assets (things you own – car, furniture, electronics, land, etc.)
- List of liabilities (things you owe – debts, loans, credit card bills, etc. Include creditor names)
- Union membership, if any
- If your spouse is independently employed (for example, carpenter, plumber, journeyman electrician, mechanic), what trade name does he or she use?
- Proof of spouse's salary (copy of a paycheck, tax return, or financial statement for a bank loan or credit card application)
- Information about your own salary
- Name of bank branches used and all account numbers
- Any information about you and your spouse's retirement accounts (401k account or pensions)
- List of your and your spouse's employment benefits
- If your 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
- Short chronological summary of abuse
- Police reports
- Medical reports
- Protection Order or No Contact 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 about 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. During your initial consultation, be sure to ask your lawyer about her experience in handling cases where domestic violence has occurred. You may want to:

- Think about what kind of person you will feel safe working with: a male or female lawyer; a lawyer who shares your cultural background; etc.
- Ask a domestic violence agency for names of lawyers to contact.
- Ask others 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.

Resources

- Legal Voice: Offers free legal information on a range of topics, including lawyers and the legal system. Legal Voice publications related to this one are listed here.
Online: www.legalvoice.org/resources
 - Under “Lawyers & the Legal System”:
 - *How to Find a Lawyer and Other Legal Resources in Washington*
 - *Damages and Contingency Fees in Personal Injury and Discrimination Cases*
 - *The Right to Aids and Services for Deaf and Hard of Hearing People in Washington's Legal System*
 - Under “Handbook for Washington Seniors”:
 - *Handbook for Washington Seniors: Legal Rights and Resources*: See the Legal Help chapter. The handbook was written for seniors, but the information and most of the resources apply to people of all ages.
- Court forms: If your case involves taking care of children, you can get a blank parenting plan form on the Washington State Court website to help you prepare to meet with a lawyer:
Online: www.courts.wa.gov/forms

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 January 2015.

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