

Answering your questions about hiring and working with a lawyer

Almost everything we do, such as making a purchase, starting a business, driving a car, getting married, or writing a will, is affected by laws. In our democratic society, the courts are available to everyone. Accessibility to the legal system, however, can raise many questions: When do you need a lawyer? Where should you look to find one?

For many people, the idea of contacting a lawyer may be intimidating – they might not know if they need a lawyer or how to choose one, what they can expect to pay for legal services, or understand the lawyer's role as advocate *and* counselor – so they might avoid contacting a lawyer even when it is in their best interests to do so. The State Bar of Wisconsin Consumer Information and Protection Committee has developed this pamphlet to help consumers of legal services to make informed choices. While it cannot address specific situations, it provides guidelines for choosing and working with a lawyer, and explains what a lawyer can and cannot do for you.

Consulting A Lawyer

When should I consult a lawyer?

When faced with a legal problem, you may wish to consult with a lawyer about your legal rights and responsibilities. Often, early consultation with a lawyer will save you time, trouble, and money in the long run. Here are examples of situations where you may want to consult with a lawyer:

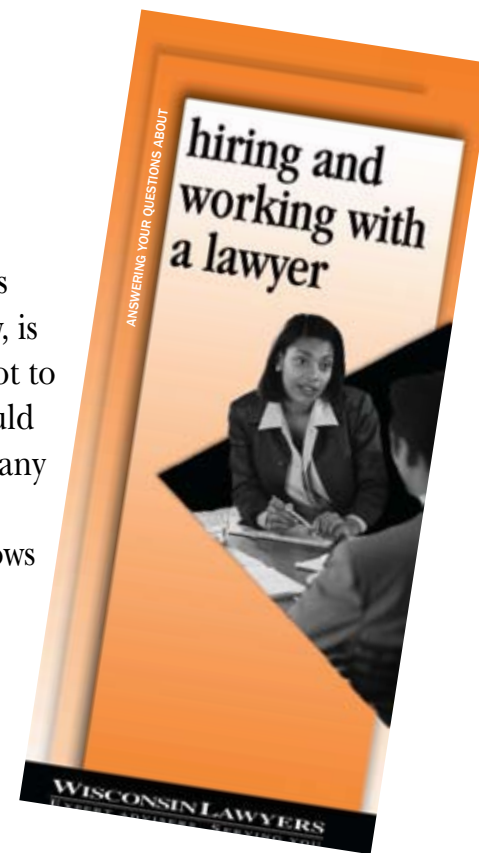
- You are questioned by a law enforcement officer, arrested, or charged with a crime.
- You are being sued or threatened with a lawsuit.
- You are overwhelmed by financial or tax problems.
- You want to sell, purchase, or lease real estate property.
- You are going to form, operate, or dissolve a business or partnership.
- You have concerns involving your family, such as divorce, paternity, child support, custody, or adoption.
- You have been involved in an accident where a person is hurt and/or property is damaged.
- You want to prepare a will and plan for your estate's distribution after you die.
- You are going to sign a contract.
- You are involved in an employment dispute.
- You have been contacted by a debt collector.
- You don't agree with how your insurance claim is being handled.

May I represent myself?

You have the right to represent yourself. However, before deciding to represent yourself, you should weigh the risks and benefits. The law is complex and changes frequently. Those untrained in the law may not recognize a legal problem or know how to solve the problem. While self-help kits and preprinted materials are available for those wishing to represent themselves, these products do not always take into account your individual circumstances, changes in the law, or the law in Wisconsin.

Acting without the advice of a lawyer may sometimes bring unanticipated legal consequences that can be difficult and expensive to

This pamphlet, which is based on Wisconsin law, is issued to inform and not to advise. No person should ever apply or interpret any law without the aid of a trained expert who knows the facts, because the facts may change the application of the law. 9/08



undo. A lawyer is trained to identify whether you have a problem that requires legal action.

If you believe that you have a legal problem, make an appointment with a lawyer immediately. Waiting too long could result in missed deadlines and harm your case. However, the lawyer you seek may not be able to see you on short notice.

Choosing A Lawyer

Who is the "right" lawyer for me?

People often believe that any lawyer can handle any case. This misplaced confidence frequently works to the client's disadvantage. No lawyer is skilled in every area of the law. Some questions you should ask a lawyer are:

- 1) What experience do you have in this area of the law?
- 2) How many cases like mine have you handled?
- 3) If you do not practice in this area of the law, could you recommend a lawyer who does?

- 4) Could you provide me with references?

A lawyer-client relationship should be based on trust and open and honest communication. It requires a mutual commitment from the client and the lawyer. Before you hire a lawyer, you must be comfortable with that lawyer's style. Consider these factors before you hire a lawyer.

Where do I find a lawyer?

The State Bar of Wisconsin has a referral service based on the type of law a lawyer practices and where the lawyer is located. The Lawyer Referral & Information Service can be reached toll-free at (800) 362-9082 or (608) 257-4666, or online at www.legalexplorer.com/lawyer/lawyer.asp. Also, look to friends and relatives who have used and were satisfied with the services of a particular lawyer. Word of mouth from a satisfied customer generally is reliable. Look in the phone book; most lawyers' ads will tell you the kind of law they practice.

Remember, just because lawyers advertise in the phone book or newspaper or are listed as a referral source by the State Bar does not guarantee their expertise. You need to meet with lawyers personally and make your own decision.

Should I expect to pay for my first meeting with the lawyer?

Always ask whether there is a fee for the first meeting when you call for an appointment. Some lawyers do not charge for the first meeting, while others charge for all or part of the client's first visit.

If you decide not to take further action after the first visit, you are under no obligation to hire the lawyer. You will be expected to pay for the first visit unless you are told otherwise.

What will happen during my first visit with my lawyer?

First, explain to the lawyer why you are there. After discussing the facts of your case, the lawyer will point out any laws or legal procedures that will be involved in handling your case. You should ask about possible problems and estimated costs. The lawyer should then discuss the fee arrangement, which should be included in a written retainer agreement.

What is a retainer agreement?

A retainer agreement (sometimes called an engagement letter) is a contract between you and your lawyer. It usually will say:

- how much the lawyer is going to charge;
- whether it is an hourly rate, a contingency fee, a flat fee, or a statutory fee;
- who will pay for costs such as court filing fees, sheriff's service fees, deposition fees, long distance calls, and photocopy expenses;
- what is expected of you; and
- what you can expect from the lawyer.

A retainer agreement or engagement letter covers all these things and more. A written agreement benefits you and your lawyer because it preserves the details that people may forget over time.

Will I have to pay money up front?

Usually a lawyer will require a deposit up front before he or she takes your case. The deposit is sometimes put into the lawyer's trust account. Any fees earned and costs will be deducted from the deposit. When the money has been spent, the lawyer may require you to deposit additional money to cover anticipated fees and costs. Even in contingency fee cases, some lawyers require a deposit to cover expected costs of the lawsuit. A "contingency" fee is a fee the lawyer is paid only if successful.

Can I do anything to reduce legal expenses?

By following a few suggestions, you can help reduce your legal costs:

- Gather necessary information before meeting with your lawyer. Write down the names, addresses, and telephone numbers of all the persons involved in the matter.
 - Be organized. Bring letters, documents, and other important papers to the first meeting with your lawyer. Write down questions that you want your lawyer to answer.
 - Keep your lawyer informed.
 - Ask how you can help reduce costs by obtaining documents, contacting witnesses, or providing other assistance.
 - Consider the financial aspects of your case and discuss them with

your lawyer. Be sure you understand the advantages and disadvantages of a proposed action. For example, will pursuing the matter cost more than you hope to recover?

What should I expect when I hire a lawyer?

You are hiring a lawyer to work for you as your advocate and counselor. You should expect your lawyer to:

- keep information confidential;
- listen to your problem;
- represent your interests – in and out of court;
- advise you of your rights and responsibilities;
- research and analyze all available facts and information relating to your problem;
 - be candid with you about your problems, your prospects for success, and the advisability of accepting and making settlement offers;
 - act with diligence and promptness;
 - prepare legal documents;
 - keep you informed about the status of your case; and
 - check for conflicts of interest.

What will my lawyer expect from me?

Your lawyer will expect you to:

- be on time for appointments;
- be open and honest about the facts of your case;
- respond promptly to requests for information;
- notify the lawyer of any change in your case, and any change of address or telephone number;
- ask questions;
- follow your lawyer's advice;
- be patient and understand that legal problems require time and research; and
- pay agreed upon lawyer fees for the work performed.

Can I change lawyers in the middle of a case if I'm dissatisfied with a lawyer's representation?

Yes. You are responsible for the consequences of your case, not the lawyer, so it is important that you have faith and confidence in your lawyer. If you are not happy with your lawyer's work, tell the lawyer exactly what is bothering you and give the lawyer a chance to fix the problem; or, you may fire your lawyer. However, discharging a lawyer and hiring a new one does have certain consequences.

First, the lawyer that you fired usually is entitled to be paid for work already done. If you have been paying your lawyer all along, and you are current, this may not be a problem. However, if your lawyer had been working on a contingency fee basis, you may be required to pay the lawyer's hourly rate for time spent on your case, plus any costs and expenses.

Second, there are extra costs associated with hiring a new lawyer. If you hire a new lawyer in the middle of a case, that lawyer will spend time becoming familiar with it. Some of the work you already paid for may have to be done again at additional cost to you.

In some instances, it may not be possible to switch lawyers because the case has advanced too far in the court system. The judge handling the case may not permit your lawyer to withdraw from your case because of previously scheduled court dates. Therefore, if you want to change lawyers, do it as quickly as possible. Firing your lawyer may not be easy and it may be expensive, but it may be the right thing for you.

Lawyer Fees

How does a lawyer set fees?

Lawyers generally use one of four forms of fee arrangements:

1) **Hourly fee:** calculated by multiplying the amount of time spent on a matter by an hourly rate. Example:

$$\begin{array}{r r r r r} \text{hourly rate} & & \text{time spent} & & \text{fee} \\ \$125 & \times & 2.0 \text{ hours} & = & \$250 \end{array}$$

2) **Contingency fee:** agreed upon percentage of the total amount recovered by trial or settlement. There is no lawyer fee if you lose; but, you still may have to pay some costs (for example, filing fees and medical records). Example:

$$\begin{array}{r r r r r} \text{Total amount} & & \text{agreed upon} & & \\ \text{of recovery} & & \text{percentage} & & \text{fee} \\ \$10,000 & \times & 33.3 \% & = & \$3,330 \end{array}$$

3) **Flat fee:** a set fee for a specific legal service, such as drafting a will.

4) **Statutory fee:** a fee set by law, for example, attorney fees in worker's compensation cases.

What happens if you disagree with your lawyer's bill?

One of the benefits of a written retainer agreement or engagement letter is that you can see on the lawyer's bill what you were charged for and if you were charged according to the terms of the agreement.

If you have a question about your bill, talk to your lawyer. Many times, errors and misunderstandings can be easily corrected. Even if a genuine dispute remains, some lawyers may be willing to make an adjustment agreeable to both parties. The worst thing you can do is ignore the bill, because then your bill could end up in collection, costing you time and money.

Many agreements require that fee disputes be resolved through arbitration. Arbitration is less formal and less expensive than filing a lawsuit. For example, the State Bar of Wisconsin's fee arbitration program can help settle disputes between lawyers and clients. For more information on the fee arbitration program and a free brochure, call the State Bar of Wisconsin at (800) 728-7788 or access the State Bar's consumer Web site, LegalExplorer, at www.legalexplorer.com.

What if I have questions about my lawyer's ethical conduct?

If you are uncertain about your lawyer's ethical conduct, you can contact the Wisconsin Supreme Court Office of Lawyer Regulation (OLR). The OLR investigates and takes disciplinary action when warranted on complaints of professional misconduct against lawyers licensed to practice law in Wisconsin. Lawyers are held to high ethical standards. If they fail to meet those standards, you may have reason to file a complaint with the OLR office at 110 E. Main St., Suite 315, Madison, WI 53703-3383; phone (608) 267-7274, (877) 315-6941; fax (608) 267-1959. ◀

Additional Consumer Resources

Other consumer law publications from the State Bar of Wisconsin include:

- A Handbook for Personal Representatives
- On Being Eighteen: Your Legal Rights and Responsibilities
- The Bill of Rights: An Introduction
- Understanding Guardianships: A Handbook for Guardians

This is one in a series of consumer information pamphlets sponsored by the State Bar of Wisconsin's Communications Committee and produced by the Communications Department. Single copies are available by sending a self-addressed, stamped envelope with your request to: Public Information Pamphlets, State Bar of Wisconsin, P.O. Box 7158, Madison, WI 53707-7158. These titles also are available for viewing on the State Bar's consumer Web site, LegalExplorer, at www.legalexplorer.com.

Bulk copies and display racks also are available, for a charge, by writing to the above address.

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