

## Business: Choosing a Professional

### Should I hire an attorney?

It is necessary to hire an attorney for some disputes that require a lot of time. Having an attorney makes you more prepared, but you may also hire one for a significant business transaction. If there is a problem where the court is concerned, it is advisable to hire an attorney. The following should be considered when determining if an attorney is necessary:

- Is this a difficult legal dispute or will I end up in court? What is involved in terms of money, property, or time? Positive answers demonstrate the need for an attorney.
- Does a book exist that will be able to help me, so I don't have to hire an attorney? Some problems can be resolved with little help.
- Have you looked for non-Lawyer legal resources to help?

Certain disputes can be solved without needing an attorney. For example, a living will can be prepared by a non-legal organization such as the American Association of Retired Persons. There are several organizations that can aid in the process of obtaining a living will form from the state along with information for filling it out.

### What process do I follow to handle the dispute by myself?

The use of letters and negotiation solves many disputes without the need of an attorney. Arbitration or mediation may also be used. There are legal self-help manuals and conferences that can aid in resolving disputes.

- Instead of hiring an attorney to fully represent you, only use them for paper review or advice.
- Negotiation without a lawyer can resolve many small disputes. Several books cover the process of negotiation.
- Make sure to learn about the legal issues that could be brought up before the negotiation by speaking with a legal hot line or consulting resource.
- Mediation or arbitration: You can find dispute resolution centers in almost every state. The areas that they commonly focus on are complaints from consumers, rental property disputes, and arguments between neighbors or members of a family. Mediation consists of a third party who helps the two parties talk about the problems and hopefully reach an agreement. Arbitration is a more formal process where a third party reaches a conclusion after hearing both sides.

These are the low-cost options in comparison to going to court or hiring a lawyer for representation.

Small claims court: Each state defines the limits for the amount of damages, which can be filed in small claims court. These are less formal and require less paperwork than normal courts. You must be prepared to function as your own lawyer in small claims court, which involves compiling evidence, investigating the law and making your story known in court.

### What method should I use to find a good attorney?

Speak with friends, relatives, clergymen, social workers or your doctor for their opinions. You can also use the referral lists that are compiled by the Bar Association. Pay close attention to the specialty area in the Bar Association lists, as many attorneys work in different areas. A lawyer that is a part of one of the organizations may have just what you are looking for. More sources are the Who's Who in America Law and the Martindale Hubbell Law Directory. Make use of referral services for particular groups (for example, people with disabilities, elders or victims of domestic violence). If using the referral service, ask for details on how the lawyers were selected. Many referral services use lawyers who are members of a certain organization. The court and your bank can be great referral sources as well as the yellow pages. After the list is compiled, spend time with each of them and slowly eliminate attorneys.

**What should I ask my possible lawyers?** Before beginning a consultation, the following questions should be asked:

- ✓ Is the first consultation free?
- ✓ How long have you been an attorney?
- ✓ Do you have a lot of cases that are like mine? (Try to find an attorney that has experience in your problem area.)
- ✓ Are there references, such as trust officers in banks or other attorneys that I can contact?
- ✓ Are there any clients or special-interest groups that you work for that may cause a conflict of interest?
- ✓ Can we make a fee agreement? May we discuss the fees?
- ✓ Is there anything in particular that I should bring to the first consultation?

Make sure to consult with at least two of the attorneys from your list. There is no need to be embarrassed about choosing the best attorney or changing appointments with an attorney after all investigation is complete. It is now time to interview the possible attorneys. Make sure to have a brief summary of the case at hand as well as general questions to ask the attorney. There are two objectives for meeting with the attorney: 1.) to see if the attorney has the talent needed to represent you, and 2.) to see if you are comfortable with attorney and the fee agreement.

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## Business: Choosing a Professional (cont.)

**Is a certain fee agreement better for me?** The basic rate for legal services depends on location. Based on your knowledge of the fees, a "fair" fee should be selected. Here are a few factors that play a role in the decision:

- What can you afford, and what is the going rate for the attorneys in my area?
- Is this a routine case, or do I need someone with special experience?
- What can I take care of without the attorney?

The following are basic fee agreements in use by attorneys:

**Flat fee:** There is a specific total that will be charged for work on your case. Make sure to ask if copies, transcribing and other expenses are included in this rate. This is normally offered only if the case is simple or routine. Litigation is not usually a flat fee, but an attorney can give you a fair estimate beforehand.

**Hourly rate:** A rate will be charged for each hour or part of the hour that the attorney works on your case. For example, if the attorney's fee is \$50 per hour and puts in five hours of work, then the cost will be \$250. Some rates may vary depending on whether they are hours spent in court or doing investigation and preparation. If you decide on an hourly rate, find out how much expertise the attorney has in your particular problem area. Someone who is less experienced will need more hours to complete the work, even though the hourly rate is lower. The size of the firm also affects the price. Smaller firms and urban lawyers usually charge a higher hourly rate than lawyers in rural areas, and large law firms charge the most. Find out what is included in the hourly rate; will you be charged for other staff member's time put into the case and if so, how? Are there any other expenses that I will be billed for besides the hourly rate?

**Contingency fee:** The final amount owed is based on the amount awarded in the case; if you lose the case, the lawyer does not receive anything besides expenses. This is normally one-third of the total. Find out if the fee will be calculated before or after expenses are taken into account as this can make a significant difference in the amount of the fee.

**What can I do to save money on legal fees?** Bear in mind that attorney fees are usually negotiable even though you will not be asked to bargain over the fees. The following are a few tips to make sure you save the most money possible:

- Shop around for flat fees on routine cases and select an attorney that specializes in your particular case..
- Discuss the method of billing for hourly rates. To avoid problems, have a written agreement stating the fee agreement as well as what is involved.
- Find an attorney with the qualifications necessary for your case. The majority of legal work is fairly routine. Knowing what form needs to be completed and then who to file that with plays a large role.
- Propose to help with the workload.
- Use the lawyer as the middleman. If you only need a letter written to the opposing party, some attorneys will negotiate a lower fee.
- Work the lawyer as your coach. Hire a lawyer to guide you and review documents and letters that you prepared and signed if you would like to represent yourself in court (pro se).
- Always arrive prepared to lawyer meetings. The more information you have at hand means that less time that the lawyer needs to spend looking for that information.
- Be forthcoming with your attorney. To save time and money, make sure the attorney knows all the pertinent facts as soon as possible to reduce the need for more investigation.
- If factors change, inform your lawyer immediately. This can possibly save the lawyer's time or keep the lawyer from working on the case in the wrong direction.
- Be prepared when having contact with your lawyer. Ask all questions in one call. When you receive a letter or information in writing, pass it on to other staff members instead of contacting the attorney, unless you have a specific need.
- Pay close attention to invoices. Ask that you receive an invoice regularly. This applies to all types of fee agreements including a contingency fee. If you have a question regarding any of the items, you should immediately speak with your attorney.

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