

Retainer Fee: A fee paid to the lawyer to be available to handle a client's legal problems during a period of time. Business clients often use this arrangement to assure that the lawyer is "always on call" to handle legal matters. It can be combined with an hourly fee.

What about discussing the fee?

You should discuss the cost of legal services at your first interview with a lawyer. Although only contingency fee agreements must be in writing, it is recommended that you request that a written fee agreement be used whenever you hire a lawyer. Effective communication between you and your lawyer is essential to a good lawyer-client relationship. This is a two way process and requires the lawyer and client to keep each other informed throughout the representation. You should NEVER hesitate to discuss fees at any time during the handling of your legal matter. If you receive a statement and believe that the fee is not proper, discuss it with your lawyer immediately.

When do you have to pay?

The time for payment of legal fees depends on the type of legal service you need. In some cases, your lawyer may require a payment before agreeing to start the work. Such payment may be only to assure his or her availability, or it may be for credit against services to be performed or applied to expenses which may be incurred. This is frequently referred to as a retainer. Sometimes, a retainer may not be required, but the lawyer will expect payment in full as soon as the legal services are complete. Sometimes you will be billed on a monthly basis or the fee may be taken out of any money the lawyer collects for you. You should always feel free to talk to your lawyer about the best way to handle the payment of expenses and fees.

What are the standards of conduct for a lawyer?

Lawyers are subject to the highest degree of ethical conduct under Alabama's *Rules of Professional Conduct*. The Alabama State Bar was the first state bar association to ever adopt a code of legal ethics and the original *Canons of Professional Ethics* adopted by the American Bar Association were based on that code. *The Alabama Rules of Professional Conduct* are the most recent version of those rules.

What about lawyer referral services?

As a public service, the Alabama State Bar and many local bar associations maintain lists of their members who are willing to consult and advise clients. This is known as a "lawyer referral service." Anyone who inquires will be told the amount of the

initial consultation fee and will be given the name and phone number of a lawyer for an appointment. If additional legal services are needed, the fee is subject to agreement between the lawyer and client. The toll-free Alabama State Bar Lawyer Referral Service number is (800) 392-5660. You may also go to www.alabar.org and click on the Public icon and then on the Lawyer Referral Service link. Local bar associations can also help you find a lawyer.

How can you hold down your legal fees?

- Write down and give your lawyer the names, addresses and telephone numbers of all persons involved as well as all the facts pertaining to your case.
- Take all papers you have relating to your case to the first interview.
- Be as brief as possible in interviews with your lawyer; let your lawyer guide you to the information that is most important.
- Do not allow emotion to color the facts given. Be as accurate as you can.
- Be honest with your lawyer about all the facts, good or bad. Do not be embarrassed. Your lawyer will keep this information in strictest confidence, but it is essential to tell the whole truth.
- Avoid unnecessary telephone calls to your lawyer.
- Get legal advice before signing documents or taking legal action. Then follow that advice.
- Discuss the financial advantages or disadvantages of a proposed legal action. For example, would the court costs and legal fees be more than the amount of the bad debt you would like to recover?

In conclusion: Litigation should be the last resort. Competent legal advice will help you consider other ways to solve your legal problem. Preventing legal problems before they arise not only will save you money, but will also save our judicial process valuable time. Remember, your lawyer is there to help you!

Alabama State Bar
415 Dexter Avenue
Montgomery, Alabama 36104
Phone: (334) 269-1515
Fax: (334) 261-6310
November 2011

Lawyers & Legal Fees



Published by


ALABAMA
STATE BAR

What is a lawyer?

A lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice. He or she is authorized by the court system to explain and interpret the law for a client, to handle legal matters and to appear in court. In addition to other tasks, a lawyer's work involves counseling and advising clients and preparing documents. But a lawyer's most important job is to act as a representative or an advocate on behalf of a client.

How does someone become a lawyer?

To be admitted to practice law in Alabama, one must have a college undergraduate and a law school degree. In addition, an applicant's character and moral fitness to practice law must be approved after a thorough investigation. Then, he or she must pass a written test given by the state Board of Bar Examiners and approved by the Alabama Supreme Court.

Can non-lawyers practice law?

Every citizen has the right to represent himself in legal matters. But before one can represent another in court or give legal advice, he or she must meet the high standards established by the Supreme Court of Alabama for admission to the bar. This is for the protection of all who may employ lawyers. The law covers many different fields. Any one set of facts may involve one or more of these fields. Laws and their interpretations are constantly changing, and a non-lawyer cannot know all the possible legal consequences or hazards. This is why a license to practice law is granted exclusively to trained experts. It is a public safeguard established and enforced by the supreme court.

When do I need a lawyer?

A lawyer can help you if you encounter a problem. However, the best time to consult one is before you have a legal problem. Never think of a lawyer as a "last resort." Preventing legal problems is the most valuable service a lawyer can perform for you and those who depend on you. These are common situations in which you should consult a lawyer before you act:

- When you sell or rent personal or real property, including your home;
- When a family member dies;
- When you sign a written contract;
- When you need a will or trust;
- When you start a business;
- When you have been arrested or charged with a crime;
- When you have been sued or threatened with a suit;

- When you are in an accident involving damage to people or property;
- Family matters such as separation, divorce, child support, custody, or adoption;
- For financial and tax matters;
- For insurance matters; and
- For discrimination claims.

How do lawyers set their fees?

Although the practice of law is a profession, clients should remember that the lawyer is also in business. As Abraham Lincoln once said, "A lawyer's advice is his stock in trade." He or she must charge enough to cover the cost of rent, equipment, employees' salaries, taxes and insurance. The lawyer's charges must also provide enough income that he or she can provide some free public or civic service as well as support his or her family. The most basic factors in any legal fee are the amount of time spent on the problem and how complicated the matter is. Much of the lawyer's work is done when the client is not there to watch. Thus, a lawyer's professional services differ from those of a doctor.

Many clients are unaware that the documents explained and the advice given in a few minutes may take many hours of work to prepare. The end result also may have involved time spent by other people in the lawyer's office, for example, an associate lawyer, a legal assistant, or a legal secretary. When you hire an attorney, remember that you are really hiring an entire law office to work for you.

According to the Rules of Professional Conduct, the following factors must be considered in determining whether a lawyer's fee is reasonable:

- The time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly;
- The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- The fee customarily charged in the locality for similar legal services;
- The amount of work involved and results obtained;
- The time limitations imposed by the client or by the circumstances;
- The nature and length of the professional relationship with the client;
- The experience, reputation and ability of the lawyer or

- lawyers performing the services; and
- Whether the fee is fixed or contingent.

How is the fee computed?

Many types of fee arrangements are available. You may agree to any one or a combination of them. They include:

Fixed fee: This type of fee, sometimes called a "flat" fee, is used most often for routine legal matters, for example, simple wills or uncontested divorces. When you agree to a fixed fee, be sure that you know what it does and does not include. You also should find out if any other charges, such as out-of-pocket expenses, will be added to the bill.

Hourly Fee: Many lawyers charge by the hour. The rate can vary widely. Ask the lawyer to estimate the amount of time your case will take. But remember that unexpected things may happen which will make your case take longer to handle than the lawyer initially estimates.

Contingency Fee: Often used in accident, personal injury and other cases where you are seeking monetary damages, a contingent fee agreement means that you will pay your lawyer a certain percentage of the money you recover if you win your case or if you settle out of court. If you lose, the lawyer does not receive a fee. The lawyer may pay from his or her own funds court costs and expenses of litigation in advance, and your obligation to repay these expenses may depend on whether or not you win your case. It is up to you and your lawyer to agree on how these expenses will be handled. Because these expenses can be quite high, especially when you need to have doctors or experts as witnesses, you should ask your lawyer to estimate the case's expenses and costs. All contingent fee agreements must be in writing and state what percentage of the money recovered will be paid to the lawyer and whether this percentage is figured before or after costs and expenses have been subtracted. Some agreements provide for percentages that increase depending on whether the case is settled, goes to trial or has to be appealed after a trial. If so, those varying percentages must be stated in the agreement.

Statutory Fee: The lawyer's fee for some legal work is set by law or agency regulation. For those matters, a court or agency either sets or must approve the fee you will pay. In some cases, such as civil rights and consumer protection matters, you may be awarded the reasonable cost of your lawyer's fees as one of your damages.