

HIRING PRIVATE LAWYERS

The United States has more lawyers per person than any other country. So, if you need one - and many of us do at one time or another - you should be able to find one who will provide the best professional counsel at the fairest price.

This fact sheet outlines how to decide if, in fact, you need the services of a lawyer and, if so, how to select one. It also offers some important tips on working with a lawyer to get the most out of every dollar you spend on legal advice.

First, you should understand that as an active duty or retired member of the uniformed services, or as the family member of an active duty or retired member, you have the right to free legal advice and assistance. Each of the uniformed services operates legal assistance programs for their personnel and family members of these personnel.

Many times, the uniformed service legal assistance attorney will be able to resolve your question or problem. If not, the legal assistance attorney will be able to refer you to a bar referral service which can identify a civilian attorney who can handle your case.

WHEN TO LOOK FOR LEGAL ADVICE

Many problems can be resolved without involving a lawyer. The questions and answers similar to those listed below can help you decide whether you need legal help.

Can I handle this problem myself?

Some matters not involving substantial amounts of money or property may be handled without the aid of a lawyer. In deciding whether to use a lawyer, you will need to make a judgment, based on your own experiences and those of knowledgeable friends or relatives. For example, you should consider:

Is the matter a complex legal issue or one that is likely to be taken to court?

Is a large amount of money, property, or time involved?

Does the matter require the filing of complex legal papers?

You may benefit from professional legal help when dealing in areas such as accidents that involve personal injury or property damage; establishing a new business; going through bankruptcy; preparing a will; signing contracts for substantial amounts of money; settling a contested divorce; or resolving estate or tax problems involving significant amounts of money or property. Of course, there may be other circumstances when you need legal assistance.

Where, besides a lawyer, can I go for help?

Depending upon the situation, you could consider the following alternatives to hiring a lawyer for a specific matter:

a. Consult services which may be available on the installation. For example, Red Cross, Family Support Center, or community services agencies on installations can provide help on consumer problems and other matters and the installation Housing Referral Office sometimes assists in landlord/tenant matters.

b. Discuss the problem with the people involved and try to work out an acceptable compromise.

c. Seek the advice of someone who could help mediate the dispute on an informal basis, such as a religious advisor or family counselor.

d. Contact your local or state consumer protection agency.

e. Consider taking the problem to an impartial third-party organization that will listen to both sides of the dispute and help you reach a resolution. You can find these arbitration or mediation services at places such as your Better Business Bureau. In San Antonio, the Bexar County Dispute Resolution Center offers mediation services for some disputes in which a lawsuit has not yet been filed. Their number is 335-2128.

f. Take the matter to Small Claims Court, where, depending upon the state, claims for money only in the amount of \$5000 or less may be considered. Check with your local municipal court for the rules that apply in your area, or ask for our handout "How to Sue in Small Claims Court."

g. Hire a general practitioner attorney for one hour and let him or her advise you about alternatives.

Where can I go if I cannot afford legal fees, but need a lawyer's help?

a. If you cannot afford to hire a lawyer at the full fee, there are several legal assistance options. You may want to check your local phone directory to find out which services are available in your community.

b. The federal government's Legal Services Corporation funds offices across the nation to serve low-income clients. Legal Aid Societies and other public legal assistance programs in your county or city also may be able to help.

c. In addition, your local area agency on aging may be able to assist you or refer you to an appropriate organization. You also may want to contact the local bar association's referral service, the municipal courthouse, or the District Attorney's office for information. If you live near a law school, find out if it has a legal clinic serving the community.

Some San Antonio legal assistance agencies are the Texas Rio Grande Legal Aid at (210) 212-3700 and the Bexar Area Agency on Aging at (210) 362-5254. Others, such as the Texas Attorney General's Office can be found in the blue pages of the phone book or by asking for referrals from other agencies. Legal assistance for specialized problems such as domestic violence is often available, but sometimes hard to locate (often due to the vagaries of funding).

HOW TO SELECT A LAWYER

Once you decide you need a lawyer, how can you go about finding one who is suited to your needs? Here are some suggestions:

- a. Begin by asking friends, neighbors, or co-workers about lawyers they have used. Pay special attention to what you hear from people who have had problems like yours that were resolved in a satisfactory way.
- b. Contact your state, city, or county bar association and ask for the names and phone numbers of lawyers who handle cases within your area of concern. Most bar associations have a Lawyer Referral and Information Service to provide this kind of information. In San Antonio, that number is 227-1853. The Texas State Lawyer Referral service is 800-252-9690 or 1-877-9TEXBAR; and can help locate an attorney in other parts of Texas.
- c. Check the Yellow Pages for areas of specialty, hours, and locations. You also may obtain information by looking for lawyer advertisements in newspapers and on the radio and television.
- d. If you live or work near a law school, contact the dean's office, describe your problem, and ask if the school or individual faculty members are able to recommend someone to take your case.

QUESTIONS TO ASK THE ATTORNEY BEFORE HIRING HIM OR HER

Will you meet with me to get acquainted before I hire you?

Many lawyers will meet with you once without charge, as long as you make it perfectly clear that you do not expect free advice about the details of your case during this get-acquainted session. Before going to such a meeting, write down the questions you want to ask. Bring along any relevant documents, so that you can leave copies (not the originals) if you decide to hire the lawyer. You may want to choose a lawyer who talks with you in language you can understand - not "legalese." Here are some questions to ask the lawyer at the first meeting:

What percentage of your practice is devoted to cases like mine?

Some lawyers specialize in a particular type of law, such as family, tax, or criminal law, and they may charge higher fees than general practitioners. On the other hand, they may be able to get the job done faster for you, and so the overall cost may be the same or even less. Most general practice lawyers also can handle a variety of legal matters. Ask the lawyer you are

interviewing about the results of some recent cases similar to yours, including time spent and fees charged. Finally, ask the lawyer for the names and phone numbers of clients you can call for references.

Will you personally work on my case, or will you delegate it to an associate or paralegal assistant?

Some attorneys turn over much of their work to junior associates or paralegal assistants. This can save the client money - but only if assistant services are billed separately from the lawyer's rate and if their work is well supervised.

Will you keep me notified about the progress of my case?

A lawyer should keep you up-to-date on what is happening with your case, especially if there is a chance the initial estimated fee will increase. You also may want to know whether the lawyer will be easily accessible to you by telephone.

How long should it take you to complete my case and what, roughly, is it going to cost me?

Most state bar associations have arbitration committees which, for a certain charge, will settle disputes that you may have with your lawyer about fees. By agreeing to binding arbitration, both attorney and client agree to present their cases to an outside panel and to abide by its decision in the dispute. Ask whether consumer representatives serve on the arbitration panels and whether the panels will consider disputes other than those over fees. In addition to bar associations, some consumer agencies also offer arbitration services.

NEGOTIATING FEES

Most fees are agreed upon through discussions between clients and lawyers. If you cannot afford what the lawyer asks, say so. Fees are negotiable. Shop around until you find a lawyer who is willing to work within your budget. If necessary, you may want to discuss working out a payment plan if you do not think you can afford a lump fee.

Here are some questions to ask about fees:

What services do you provide for a flat fee?

Often, you will be able to pay a set fee for straightforward tasks such as composing a deed or will or conducting a title search.

What are your hourly rates?

Depending upon the experience and reputation of the lawyer, you could pay a lawyer from \$75 to \$400 per hour. If your case is not a fairly simple one for which you can negotiate a single flat fee, the hourly rate you agree to pay the lawyer should be understood at the outset. It is very common for lawyers to charge by the tenth or quarter-hour. This practice can save the client money particularly if your case involves many phone calls. For example, if your lawyer charges by the quarter-hour and you are on the phone for only five minutes, you still will have to pay for a full quarter-hour of the lawyer's time. Since smaller increments may add up to less total cost, clients working with lawyers who work on hourly rates should ask about tenth and quarter-hour charges. Ask your lawyer to put a top limit on the fee you will be charged.

Do you require a retainer for your services?

A retainer is similar to a down payment for services to be performed. Be certain you know exactly what services are and are not covered by the retainer. Ask that the retainer be applied to the balance owed. And, you may want to ask the lawyer to agree ahead of time to a refund if the retainer seems to have exceeded the cost of time actually spent on the case.

Do you accept contingency fee arrangements?

If you are under financial pressure or cannot raise enough money to hire a lawyer on an hourly basis, you may want to request a contingency fee arrangement. Under this arrangement, the lawyer collects a percentage of any amounts of money you win as a result of the case being decided in your favor. If you do not win the case, the lawyer does not receive a fee. Since you may have to pay court costs, which are different from lawyers' fees, be wary of statements that there will be "no charge" if you do not win.

Ask whether the lawyer computes the contingency fee before or after the expenses for handling the case are disbursed. You may collect more money if expenses, such as court costs or witness fees, are deducted before the contingency fee is computed.

The customary contingency fee is 33 percent of the settlement or award, although fees range from 25 percent to 50 percent. Some lawyers offer a sliding scale in which the percentage changes depending on how long it takes to settle the case and/or the size of the award.

If the sliding scale is based upon how long it takes to settle, for example, the lawyer may collect 25 percent if you settle before trial, 30 percent if there is a trial, and 40 percent if there is an appeal. Or, the sliding fee scale may be based on the size of the award, with the lawyer generally receiving a lower percentage as the amount increases. You should discuss the sliding fee option with your lawyer to negotiate the best price.

GET IT IN WRITING

The best way to protect yourself and avoid misunderstandings is to have the agreement you make with your lawyer put into writing and signed by both parties. A request to put your agreement in writing should be made at the first meeting between you and your lawyer - before your lawyer begins any work on your case. You may want to ask:

Will you put this agreement in writing?

Many lawyers have simple one-page contracts for this purpose, but usually such contracts do not address the client's specific concerns. Ask that all fee arrangements and agreed-upon services be included in your contract. In addition, include in your contract a provision for settling any unforeseen disputes (such as fee disagreements or delays in handling your case) between you and your lawyer. If the lawyer will not put this information in writing, you may want to consider looking for another lawyer.

Will you provide a written estimate of all costs -including expenses - before you begin work on the case?

Among the most important documents required in all dealings is the written estimate. The lawyer should provide one that includes an estimate not only of the fees, but also of filing and court costs, letters, copying, time on the phone, and other expenses that may be connected with your case.

Will you itemize your bills?

Ask that all billings be itemized and sent to you on a regular basis. If you wish, you may include limitations or a ceiling on costs that cannot be exceeded without your written permission.