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A PUBLICATION OF THE TEXAS STATE BAR ASSOCIATION  
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TO KNOW MORE ABOUT FINDING, HIRING, AND WORKING WITH ATTORNEYS  
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## **Finding an Attorney**

There are many ways to get the names of some lawyers:

- Ask a friend, especially one who has had problems like yours, for the name of his or her lawyer;
- Ask a professional person, such as a doctor, minister, social worker, banker, or business person whom you know and trust;
- Call your local bar association lawyer referral service; and
- Use the internet to search for lawyers and read about them and their law practices.

## **When an Attorney is a Good Idea**

The important thing to understand is that a lawyer should be consulted when knowledge of the law can be of help in advising someone of his or her rights.

Most lawyers have a fee for a first office visit that is within the financial means of most people. This visit does not obligate someone to hire the lawyer. Many lawyers will provide a free 15-minute telephone consultation to determine if there is a matter that can be helped by an attorney.

The most commonly recommended instances to consult a lawyer are:

- Real estate transactions, such as buying or selling a house;
- Large financial transactions, such as when a Letter of Credit is required;
- Making a will or planning an estate;
- Family matters, such as divorce, adoption, and elder care;
- Starting, buying, or selling a business.

When problems arise, a lawyer should be consulted, for example, when:

- Someone is arrested or accused of a crime;
- A lawsuit is brought against someone;
- Someone is unable to resolve issues with a government agency, such as tax, immigration, social security, workers compensation, veterans benefits or pension reimbursements;
- Someone does not satisfactorily perform work or serves or fails to honor guarantees or warranties; these service providers could include professionals such as lawyers, accountants and doctors, as well as others; and
- Someone refuses to pay funds to which another believes s/he is entitled, or tries to collect funds someone believes s/he does not owe.

### **Selecting an Attorney**

Before making an appointment to visit a lawyer, call the offices of the lawyers on the list to hear how the caller is treated from the start. If it doesn't feel right, don't make an appointment. It is okay to visit several attorneys to see which one feels like a good fit. Find out and write down the name of the person spoken with and briefly explain the legal problem. Make notes during the conversation. Here are some questions to ask:

- Find out if the lawyer has experience with this kind of problem;
- Find out if the lawyer charges for an initial interview, and if so, find out what is the charge and what should be expected from that meeting;
- If it is learned that the problem is routine, ask if the lawyer has a standard fee for this kind of case and what the fee covers.
- If the problem is more complicated or the lawyer does not have a standard fee, ask about the lawyer's hourly fee. Ask if there are any other fee arrangements. Ask about the billing and payment policy.

Keep a list of the information and think about the answers received. Then call back to make an appointment with the lawyer whose answers satisfied the most. It is okay to visit several attorneys to see which one feels like a good fit.

### **Making the Decision to Hire an Attorney**

Based on the first interview, consider the following factors before agreeing to hire a lawyer:

- Was communication back and forth with the lawyer effective or awkward?
- Was the lawyer clear and easy to understand?
- Are fees reasonable in comparison with fee charged by other lawyers?
- Did the lawyer give clear explanations of how s/he will advise progress in the case?
- If not satisfied with this lawyer, do not hire him or her. Look elsewhere for legal help.

Before signing a contract with a lawyer, read the contract. Make certain it is understood. Carefully find the points in writing that were discussed orally in the meeting. Ask questions. Seek clarifications. Attorneys and their staffs are there to answer and explain the fine print.

### **Preparing for the First Meeting with an Attorney**

Go with an open mind. Be prepared to examine the problem for all sides. It is not necessary to decide hire that lawyer at the first meeting. Often, it is good to wait and let a decision evolve as thinking progresses. For that initial meeting, it is important to bring the following:

- A written summary or detailed notes outlining the problem,
- Names, addresses and phone numbers of all persons or companies involved;
- As many documents as can be gathered about the case, including papers from other lawyers involved, court, receipts, contracts, medical bills, repair estimates, checks, etc. Do not give the only copies to the lawyer; keep the originals of all documents.

Prepare a list of questions for the lawyer, such as:

- Explain your experience in my type of problem.
- Who will be handling my case?
- How often will we be in contact with me about my case's status?
- Will I get my own copies of important documents and will there be a charge for them?
- How will the final decision about my case be made?
- What is your estimate of time needed to complete my case?
- How will you bill me for your fees and what is the payment expectation?

Remember that the lawyer works for the client. S/he should be genuinely interested in the client's problem and its solution. The lawyer may not be able to accomplish everything wished for because of the facts or the laws. Many times the best advice a lawyer can give will be to avoid court action. He or she may suggest other methods to resolve your matter, such as mediation. The lawyer will expect a client to be prompt for court dates and appointments.

### **Problems with an Attorney**

If a problem arises with a lawyer, the client should first discuss it with him or her. Try to work out any problems. If the problems cannot be worked out, it is a client's right to fire the lawyer and to hire someone else. If the situation occurs before the legal problem is settled, the client should expect to pay a portion of the fee to the lawyer for time already spent. The lawyer has an obligation to return all pertinent documents to the client.

If a client believes a lawyer has not acted in the client's best interests and has thereby done something illegal or unethical, a client may wish to file a grievance against the lawyer. In such circumstances, contact the local bar association or the State Bar of Texas.

### **Competence of the Attorney**

A client is entitled to competent representation by the attorney. Competency requires both intelligence and experience. There are ethical rules that prohibit an attorney from taking a case that is frivolous (lacks merit) or is intended to harass another person. The client must understand that a lawyer is under no obligation to accept a client if the lawyer determines that the cause of the client is without merit, a conflict of interest would exist, or that a suitable working relationship with the client is not likely.

### **Attorney-Client Confidentiality**

A client is entitled to absolute confidentiality of any discussion with an attorney. The attorney-client privilege means that generally the attorney, and all personnel in the attorney's office, cannot reveal confidential information the client conveys to the attorney in the course of representation or when seeking representation. There are rare instances when this confidentiality can be broken.

### **An Attorney Free from Conflicts of Interest**

A client is entitled to his or her attorney's loyalty. The attorney may not represent a client if that representation conflicts with the attorney's representation of other clients. The Lawyer's Code of Professional Responsibility prohibits simultaneous representation of clients with directly conflicting interests. In such cases, the attorney should undertake representation only if both parties given informed written consent to the representation.

### **Holding and Accounting of Client Funds by an Attorney**

A client is entitled to an accounting of all funds held by the attorney. The attorney must keep client money and escrow funds in a separate attorney trust account and may not use the funds without the client's knowledge. The attorney is obligated to promptly return any money or property to the client if the attorney is dismissed from the case or if the case ends.

### **Affording the Attorney**

One does not know whether or not s/he can afford a lawyer until one has spoken with a lawyer. If one has a modest or low income, there is likely a legal aid or legal services office nearby that can help. These offices provide attorneys at low or no fee to eligible persons. If someone is accused of a crime and cannot afford an attorney, s/he may ask a judge to appoint a lawyer to represent him or her. Some attorneys will take cases on a contingency basis, that is, they get paid when the client is awarded money for damages. It is important to have that first conversation with a lawyer to get a basic understanding of the options and financial impacts.

### **Attorney's Fees**

A client is entitled to know all details of the attorney's fees. Many attorneys do not charge for an initial consultation. There are various fee arrangements if the attorney agrees to take a

case. Typically, there's a contractual relationship between the attorney and client. The attorney should provide an estimate of legal fees (how much the matter will cost) before the work begins. Below are some standard fee arrangements that might be suggested.

1. **Flat Fixed Fee:** The lawyer may quote a set amount or standard fee for some types of legal problems. In addition, lawyers expect clients to pay court costs and reimburse them for out-of-pocket expenses, such as travel or photocopying. It is important to find out what a fixed fee covers and what is considered extra.
2. **Hourly Fee:** A lawyer may prefer to bill by the hour. Such fees vary widely depending upon the complexity of the legal work, the skill of the lawyer, and whether there are time deadlines. A client may wish to try to negotiate hourly rates quoted. If a client agrees to an hourly fee arrangement, a provision could be included to require the lawyer not to exceed a specified amount of time or money without first obtaining a client's permission. From the start, a client should insist that s/he be kept advised every month of the number of hours that the lawyer spent (hours incurred) on the matter. A client also has the right to ask for a written explanation of what the lawyer did during the hours s/he she worked on the client's case.
3. **Retainer:** Some lawyers also require an advance fee called a retainer. If this is suggested, ask what it covers and what it does not cover. Occasionally, the retainer is a flat fee that will cover the lawyer's services regardless of the amount of time the lawyer spends working for a client. It is important to ask whether there will be a refund if the attorney does not spend as much time on the matter as provided for by the retainer.
4. **Contingent Fees:** This is when the attorney gets a percentage of any recovery the client receives. Typically, there are no upfront costs to the client during the performance of the work. Contingent fee agreements must be in writing.

### **Rights of Clients**

(As adopted by the Administrative Board of the Courts)

1. Clients are entitled to always be treated with courtesy and consideration by everyone in their lawyer's office.
2. Clients are entitled to an attorney capable of handling that particular legal matter competently and diligently, in accordance with the highest standards of the profession. If a client is not satisfied with how his/her matter is being handled, the client has the right to withdraw from the attorney-client relationship at any time. Court approval may be required and the attorney may have a claim against the client for the payment of fees rendered up to the point of discharge.
3. Clients are entitled to their lawyer's independent professional judgment and undivided loyalty with no conflicts of interest.

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4. Clients are entitled to be charged a reasonable fee and to have their lawyers explain at the start how the fee will be computed and the billing system. A client may refuse to enter into any fee arrangement that is found unacceptable. In the event of a fee dispute, a client has the right to seek arbitration and his/her attorney will provide the necessary information regarding arbitration. The client is entitled to written itemized bills from the attorney.
5. Clients are entitled to have their questions and concerns addressed in a prompt manner and to get their telephone calls returned promptly.
6. Clients are entitled to be kept informed of the status of their matters and to request and receive copies of relevant documents and papers. Clients are entitled to sufficient information to allow them to participate meaningfully in the development of their cases.
7. Clients are entitled to have their legitimate objectives respected, including whether or not to settle a matter. Court approval of a settlement is required in some matters.
8. Clients have the right to privacy in their dealings with their lawyers and to have their secrets and confidences preserved to the extent permitted by law.
9. A client is entitled to have his or her attorney conduct himself or herself ethically in accordance with the Code of Professional Responsibility.
10. No client may be refused representation on the basis of race, creed, color, age, religion, sex, sexual orientation, national origin, or disability.
11. A client has the right to file a complaint with the State Bar of Texas for alleged attorney misconduct. Said complaint will be addressed by the state bar in a timely, serious, and confidential manner.
12. If the fee arrangement is by the hour, a client has the right and should insist that s/he be kept advised every month of the number of hours that the lawyer spent (hours incurred) on the matter. A client also has the right to ask for a written explanation of what the lawyer did during the hours s/he she worked on the client's case. This is not the case for other fee arrangements, such as a flat fixed fee or a contingency fee.

### **Responsibilities of Clients**

(As adopted by the Administrative Board of the Courts)

Reciprocal trust, courtesy, and respect are the hallmarks of the attorney-client relationship. Within that relationship, the client looks to the attorney for expertise, education, sound judgment, protection, advocacy, and representation. These expectations can be achieved only if the client fulfills the following responsibilities:

1. The client is expected to treat the lawyer and the lawyer's staff with courtesy and consideration.
2. The client's relationship with the lawyer must be one of complete candor and the lawyer must be apprised of all facts or circumstances of the matter being handled by the lawyer even if the client believes that those facts may be detrimental to the client's cause or unflattering to the client.
3. The client must honor the fee arrangement as agreed to with the lawyer, in accordance with law.
4. All bills for services rendered that are tendered to the client pursuant to the agreed upon fee arrangement should be paid promptly.
5. The client may withdraw from the attorney-client relationship, subject to financial commitments under the agreed to fee arrangement and, in certain circumstances, subject to court approval.
6. Although the client should expect that his or her correspondence, telephone calls, and other communications will be answered within a reasonable time frame, the client should recognize that the lawyer has other clients equally demanding of the lawyer's time and attention.
7. The client should maintain contact with the lawyer, promptly notify the lawyer of any change in telephone number, physical and email address, and respond promptly to requests by the lawyer.
8. The client must realize that the lawyer need respect only legitimate objectives of the client and that the lawyer will not advocate or propose positions that are unprofessional, and/or contrary to law or the Lawyer's Code of Professional Responsibility.
9. The client should understand that a lawyer may be unable to accept a case if the lawyer has previous professional commitments that leave inadequate time for the proper representation of the new client.
10. The client should realize that attorneys are licensed professionals whose conduct is governed by the Lawyer's Code of Professional Responsibility. Lawyers are required to maintain high professional standards.

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