

## **LAWYERS AND LEGAL FEES**

### **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 to explain and interpret the law for you, 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, foremost, a lawyer is a representative or an advocate on behalf of a client.

### **HOW DOES ONE BECOME A LAWYER?**

To be admitted to practice law in Alabama today, one must have college undergraduate and law school degrees. In addition, an applicant's character and moral fitness to practice law is subject to approval after a thorough investigation. Then, he or she must successfully pass an exhaustive written examination 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 make a practice of giving legal advice, he or she must meet the high standards laid down by the Supreme Court 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 YOU NEED A LAWYER?**

A lawyer can help you after you get into trouble. However, the best time to consult one is before you have a legal problem. Never think of a lawyer as a "last resort."

Preventive law is the most valuable service a lawyer can perform for you and those dependent upon you. The following are common situations in which you should consult a lawyer before you act:

The purchase, sale or lease of personal or real property including your home;

The death of a family member;

The execution of written contracts;

Tax problems;

**Preparation of a will or trust;**

**The formation of a business association, corporation or partnership;**

**When you have been arrested or charged with a crime;**

**When you have been sued or threatened with suit;**

**Accidents involving damage to persons or property;**

**Domestic matters such as separation, divorce, child support, custody or adoption;**

**Financial matters;**

**Insurance matters;**

**Discrimination claims.**

#### **WHAT IS THE BASIS FOR A LEGAL FEE?**

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."

The lawyer must charge sufficiently to cover the cost of operating his business including rent, equipment, libraries, employee payrolls and benefits, taxes and insurance. The lawyer's charges must also generate the income that will allow him to provide free public or civic service as well as support the lawyer and his or her family.

The most basic ingredients in any fee charged by a lawyer are the amount of time spent on a particular problem and the relative complexity of the matter. Much of the lawyer's work is accomplished when the client is not present. Thus, a lawyer's professional services differ from those of a doctor or dentist.

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

According to the Code of Professional Conduct, the following are factors to be considered in determining a reasonable fee:

**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 involved and the 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;

Whether the fee is fixed or contingent.

#### **HOW IS THE FEE COMPUTED?**

Various 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 "standard" 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, for example, expenses, might be added to the bill.

**Hourly Fee:** Many lawyers charge by the hour. The hourly rate can vary widely. To know approximately how much your total bill will be, ask the lawyer to estimate the amount of time your case will take. But remember that circumstances may change, and your case may take longer to handle than the lawyer expected at the beginning.

**Contingency Fee:** This kind of fee is frequently used in accident, personal injury and other cases where you are seeking money 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. A lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter. Because these expenses can be quite high, especially when you need to have doctors or other experts as witnesses, you should ask your lawyer to estimate the case's expenses and costs.

All contingent fee agreements must be in writing. The agreement must 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 deducted. Some agreements provide for varying percentages depending on whether the case is settled, goes to trial or has to be appealed. If so, those varying percentages must be stated in the agreement as well.

**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.

## **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 a written fee agreement be used whenever you hire a lawyer.**

**Effective communications between you and your lawyer are 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 the fee isn't proper, talk it over with your lawyer.**

## **WHEN DO YOU HAVE TO PAY?**

**The time for payment of legal fees depends on the type of legal service you need. In some instances, your lawyer may require a payment before agreeing to undertake the work. Such payment may be only to assure his availability, or it may be for credit against services to be performed or applied to costs which might 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 once the legal services are complete. Under other circumstances, the client may be billed on a monthly basis or the fee may be taken out of any recovery for the**

**client. You should always feel free to talk to your lawyer about the best way for you and your lawyer to handle the payment of expenses and fees in your case.**

## **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 principally on that code of ethics. The Alabama Rules of Professional Conduct is the modern version.**

## **WHAT ABOUT LAWYER REFERRAL SERVICES?**

**The Alabama State Bar Association and many local bar associations maintain lists of their members who are willing to consult and advise clients as a public service. This is known as a "lawyer referral service." Anyone who inquires will be told the amount of the initial consultation fee established by the association and will be given the name of a lawyer for an appointment. If additional legal service is needed, the fee is subject to agreement between the lawyer and client. The toll free lawyer referral service number for the State Bar of Alabama is 1-800-392-5660. Or, you may contact your local bar association to inquire about lawyer referral services.**

## **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 the matter about which you are being represented.**

**Take to the first interview all papers you have relating to the matter.**

**Be as brief as possible in all interviews with your lawyer.**

**Do not allow emotion to color the facts given - be as accurate as you can.**

**Make full and honest disclosures to your lawyer of all the facts, good or bad. Your lawyer will keep them in strictest confidence. But they are essential to your lawyer properly representing you.**

**Avoid unnecessary telephone calls to your lawyer.**

**Get legal advice before signing documents or taking legal action. Then follow the advice of your lawyer.**

**Discuss with your lawyer 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:**

**Our suggestion that you consult a lawyer is for your benefit, not for the benefit of the lawyer. Litigation should be the last resort. Competent legal advice will help you adequately explore other avenues. Preventing legal problems before they arise will not only save you money, but will also save our judicial process valuable time.**

**Remember, your lawyer is there to help you!**

*NOTE: The Alabama State Bar publishes a series of free brochures on legal topics of interest to the public. For information on the series and/or to receive copies, call 1-800-354-6154, extension 134.*

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