

Selecting, Hiring and Working with a Lawyer

When Do I Need a Lawyer?

Legal advice is like medicine—you can take some to cure problems and some to prevent them. This can be stated another way: you should consider hiring a lawyer when you need to resolve a problem, to defend yourself against a problem or to prevent a problem from ever happening.

Lawyers offer specialized knowledge and experience for dealing with many of the important decisions you face in your life. There are many reasons why you might decide to consult an attorney. For example, consulting an attorney is a good idea when:

- buying or selling real estate;
- injured in an accident or at work;
- negotiating a contract;
- being arrested or charged with a crime;
- starting a business;
- becoming involved in a divorce or other family dispute;
- being sued;
- making or changing a will.

How Do I Find a Lawyer?

To begin, you must identify your legal problem and decide on the type of lawyer you need. This will help to narrow the search. Information to help you find the right lawyer can come from many sources:

Lawyer Referral Service - Referrals to lawyers throughout the state are available through the Lawyer Referral Service (LRS) of the New Hampshire Bar Association. LRS is a referral program designed to make legal information and legal services available and easily accessible to everyone. When you call the Lawyer Referral Service, trained staff will help you identify your legal problem and attempt to find a lawyer to suit your needs. LRS staff can also provide information on other agencies and services that may be able to help you. Call (603) 229-0002, or e-mail Lrsreferral@nhbar.org.

Recommendations - You can get recommendations about which lawyer to use in many different ways. For example, you can ask your friends, co-workers and employers if they know any lawyers. Business people or professionals, such as bankers, ministers, doctors, social workers and teachers may also be able to give you a lawyer's name. Most importantly, lawyers you know, even if they do not handle the type of legal problem you have, can recommend someone who has experience with your kind of problem.

Advertisements - Many lawyers list their names, addresses and telephone numbers in the Yellow Pages. In addition, many advertise in the Yellow Pages, newspapers and magazines, and on radio, television or billboards. If you decide to call a lawyer after seeing an advertisement, keep the ad so you will not forget what it says about the lawyer's practice.

Internet - Many lawyers now advertise on the internet and can be found on a multitude of internet directories. Keep in mind that anyone can post information on the internet, accurate or not. Make sure to consider the source of the information. The American Bar Association hosts a lawyer directory at www.abanet.org.

What if I Can't Afford a Lawyer?

Unbundled Legal Services - One way to reduce costs is to consider hiring a lawyer to handle part of a case (known as "unbundling of legal services.") Recently approved court rules permit attorneys to provide limited legal services, if they choose and believe appropriate in your situation. Such services may include drafting a motion, reviewing an agreement or attending one specific hearing, rather than directly handling

your entire matter. It is strongly advisable that you sign a client consent form for the use of unbundled services in litigation.

The following are legal services available to low-income persons:

[New Hampshire Legal Assistance \(NHLA\)](#), a statewide non-profit law firm, provides low-income people with free advice and representation in certain civil legal matters. NHLA helps eligible families and individuals with legal problems involving such fundamental needs as food, shelter, income and medical care. There are NHLA offices located throughout the state. If you need their help, call the office nearest you.

| | | |
|--|--|---|
| Littleton 603-444-8000 800-548-1886 | Claremont 603-542-8795 800-562-3994 | Nashua 603-598-3800 800-517-0577 |
| Manchester 603-668-2900 800-562-3174 | Portsmouth 603-431-7411 800-334-3135 | Berlin Outreach 800-698-8969 603-752-1102 |

Pro Bono Referral Program of the NHBA links low-income people in need of legal representation with volunteer attorneys who provide services at no charge in the areas of family law, bankruptcy, housing and senior citizen issues. To apply for a Pro Bono attorney, call one of the following: For family law or housing issues, call the Legal Advice & Referral Center (LARC) at 1-800-639-5290 or 603-224-3333; for bankruptcy, call Pro Bono at 603-224-5387; for all senior citizen concerns, call the Senior Advice Line at 1-888-353-9944.

[The Legal Advice & Referral Center \(LARC\)](#) operates a telephone service that provides information, legal advice, and referral services to low-income people with legal problems in New Hampshire. LARC's services are provided primarily in the areas of family law, public benefits, and housing. For help from LARC, call (603) 224-3333 or (800) 639-5290.

The DOVE Project provides free legal representation for qualifying survivors of domestic violence at final restraining order hearings. For more information, call your local crisis center, or call the 24-hour crisis line toll-free at 1-866-644-3574.

Reduced Fee Referral Program of the NHBA provides referrals statewide to qualified individuals who can afford to pay something for an attorney's services, but who cannot afford an attorney's regular fees. Call (603) 715-3290 to apply, or e-mail: Reducedfee@nhbar.org. You may also apply on-line at www.nhbar.org/lawyer-referral/reducedfee.asp.

How Will I Know Which Lawyer Is Best for My Case?

Before you finally select a lawyer, you may want to do some "comparison shopping." There are many lawyers in the state, all of whom are competing to serve you. Given the importance of the work you are asking the lawyer to perform, you should select a lawyer in whom you have complete confidence.

Certain criteria can help you choose a lawyer. Before meeting with the lawyer, make notes about your problem and gather all the related documents to bring with you. This will allow you to present your legal problem in the clearest and most organized manner possible. It will also allow you to focus on evaluating the lawyer's response to your case and your questions.

You should consider the following:

- asking whether your legal matter is the type that the lawyer is willing to handle;

- asking the lawyer to describe the experience he/she has in the legal field your case involves;
- asking for a preliminary outline of how the lawyer believes the case should be handled and the time frame for its resolution;
- determining how you can or will be expected to participate in the handling of the legal matter;
- getting a clear understanding of what fee agreement is possible, including type of fee, expenses, frequency of billing and payment terms. (A more thorough discussion of fees can be found later in this pamphlet.)

Lawsuits and other court decisions are never “sure things.” You should be cautious of a lawyer who guarantees results or claims never to have lost a case. A lawyer should, however, be able to tell you the strengths and weaknesses of your case. If you do not understand everything the lawyer tells you, ask for an explanation in simpler language.

You can decide to hire the lawyer at your first meeting or you can take time to think things over. In either case, you may want to ask yourself the following questions as you evaluate whether this particular lawyer is the one for you:

- Will you be comfortable working closely with the lawyer?
- Do you believe the lawyer has the experience and skill to handle your case?
- Do you understand the lawyer’s explanation of what your case involves?
- Does the proposed fee agreement seem reasonable?

If your answer to one or more of these questions is “no,” you should probably talk with someone else. If all your answers are “yes,” you may have found the right lawyer for you.

Be aware that there are certain misconceptions regarding lawyers. Qualified lawyers are not determined by age, gender or ethnic background. The size of the law firm and the law school the lawyer attended are commonly relied upon factors that usually have no bearing on whether you will receive quality legal representation.

How Are Legal Fees Determined?

You and your lawyer can negotiate almost any type of fee agreement. There are a few common fee agreements. The “right” fee agreement depends on the nature of the case, its complexity, and your ability to pay. Besides any fee you pay for your first meeting with a lawyer, you may be offered a fixed, hourly, contingency, or statutory fee. You can agree to any one or a combination of these fees.

Fixed Fee - This type of fee, sometimes called a “standard fee, is used most often for routine legal matters. For example, a lawyer may charge all clients the same set amount to draw up a simple will or to handle an uncontested divorce. 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 might be added to the bill.

Hourly Fee - Many lawyers charge by the hour and will track and bill time spent working for you. This includes time spent answering your phone calls, doing research, preparing documents, talking to the other side’s lawyer, going to court and so on. The hourly rate can vary widely from lawyer to lawyer. To know approximately how much your total bill will be, ask the lawyer to estimate the amount of time your case will take. Also, remember that circumstances may change, and your case may take longer to handle than the lawyer expected at the beginning.

In addition, a lawyer may request a retainer fee as a “down payment” on any legal services that you will need. This means that the legal fees will be deducted from the retainer, at the agreed upon hourly rate, until the retainer is used up. Then, the lawyer will either ask you to replace the retainer or bill you for any additional time spent on your case.

Contingency Fee - This kind of fee is frequently used in accident, personal injury and other cases where you are seeking money damages. A contingency 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. Win or lose, you will have to pay any court costs and expenses related to your case. 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. Lawyers are allowed to pay these costs and expenses in the first instance as long as they are repaid at the conclusion of your case. Some lawyers will ask you to pay the expenses as they arise, since there is no guarantee you will win your lawsuit, despite the best efforts of your lawyer.

All contingency fee agreements relating to a state court case 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 a varying percentage 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. Contingency fee percentages of 33% are common. Any percentage in excess of 40% may be unethical. Before you enter into a contingency fee agreement, your lawyer must explain that you may retain his or her services under a different type of fee arrangement.

Statutory Fee - The lawyer's fee for some legal work is set by law or agency regulation. For certain matters, the court either sets or must approve the fee you will pay. In other 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. You are, however, always responsible for paying your own lawyer's fees in the first instance.

While only contingency fee agreements must be in writing, it is recommended that you have a written fee agreement for your case. The fee agreement should include the lawyer's hourly rate, if appropriate, an explanation of the general nature of the services that the lawyer will provide and who is responsible for expenses.

It is impossible for a lawyer to know exactly how much time your case will take. You can ask the lawyer to include in a written fee agreement an estimate of the costs and time involved. You should keep in mind that many unexpected factors may affect the lawyer's fee and that the actual cost may be greater than the estimate. You may want to negotiate a limit on your total fees to protect you from these uncertainties.

If you have an hourly fee agreement, you should request frequent bills that break down time spent on each task and describe the work performed. If you are billed monthly or quarterly, every time you get a bill you can ask yourself whether you have received fair value for what you are being asked to pay. If not, talk it over with the lawyer. Since these fees are coming out of your pocket, it is important that you deal with your lawyer in a businesslike fashion until you are satisfied with the services rendered and their costs.

How Can I Establish a Strong Lawyer/Client Relationship?

Effective communication between you and your lawyer is essential to a strong lawyer/client relationship. This is a two-way process and requires the lawyer and client to provide each other with the information necessary to reach a satisfactory resolution of the matter.

Communication from you to your lawyer - You should be aware that failure to volunteer all relevant information, and to provide the lawyer with information when requested, may have an adverse effect on the lawyer's ability to represent you. It may also increase the lawyer's fees. Inquiries from lawyers should be addressed promptly and completely.

Communication from your lawyer to you - You have a right to be kept advised of the status of the case. You and your lawyer should discuss the most effective and efficient way for the lawyer to provide you with information. Discussion of the following topics may be helpful:

- when and how communications will take place;
- what constitutes unnecessary communications between you and the lawyer which may result in increased fees;
- what preparation you should do before meeting with or contacting the lawyer, including gathering any documents necessary and preparing a list of any questions or concerns you wish to discuss with the lawyer.

If you are concerned about how your legal issue is being handled, express these concerns to your lawyer. In many instances, there are simple explanations. Addressing such issues promptly will allow you

to avoid damaging the level of trust that is essential to the relationship. If your concerns are not resolved after discussing them with the lawyer, you are entitled to seek a new attorney. You are still responsible, however, for paying the reasonable value of legal services already provided. Even if you fire your attorney, you are entitled to a copy of your attorney's file.

The Dispute Resolution Committee, of the NH Bar Association attempts to resolve disputes between NH lawyers and their clients that do not rise to the level of an ethical violation. For more information on this process, call (603) 224-6942. If you believe your lawyer intentionally mishandled your case, or has acted improperly or unethically, you can file a complaint with the Attorney Discipline Office at (603) 224-5828.

What Is the Role of the Lawyer?

Many clients do not understand the role of a lawyer in representing a client. In many ways, the lawyer's role is limited, and in other ways it is quite broad. Remember that when a decision must be made about how a matter should be handled or about how a dispute should be resolved, your lawyer should provide you with information, advice, and recommendations about the decision. Ultimately, however, the decision is yours to make.

In any legal matter important rights are at stake - and it is your obligation to remain informed and interested in your lawyer's handling of the matter. While the outcome of contested legal matters can never be guaranteed, your lawyer is always obligated to use his or her best efforts on your behalf.

Revised September 2007