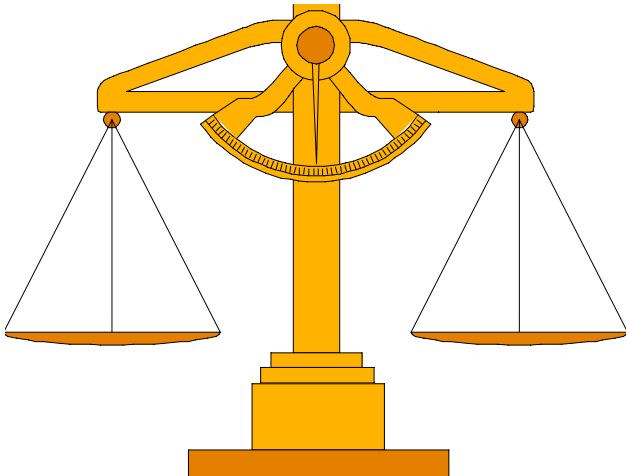


Legal Fees



Legal Fees

Many people who need legal help are reluctant to see a lawyer because they have heard legal services are expensive. Actually, legal fees are reasonable in comparison to the benefits gained or losses avoided.

When should fees be discussed?

Almost everyone prefers to know in advance how much a service will cost, and persons visiting a lawyer are no exception. So when you visit a lawyer for the first time, ask the fee. Your lawyer will want you to be satisfied both with the fee you are charged. Never be reluctant to discuss the fee or your ability to pay it. This is perfectly proper and your lawyer will welcome a frank discussion on the subject.

In many cases it is impossible to state exactly how much the fee will be. But your lawyer should explain how the fee will be determined, and provide you with a reasonable estimate of the time and cost involved.

Should I expect to pay an initial consultation fee?

Some lawyers have a policy of not charging for the initial consultation. Some charge nothing only if it turns out you have no legal problem, while others have a set charge for every client's first visit to the office. You are entitled to know what is expected of you, so don't hesitate to ask about initial consultation fees when you call for your first appointment with an attorney.

During your first visit, you should provide basic information about your legal needs and discuss fees with your lawyer. If after this visit you do not wish to take any further action, you are under no obligation to proceed. If you do employ the lawyer on your behalf, the initial fee is often, but not always, included as part of the total charge for the service rendered.

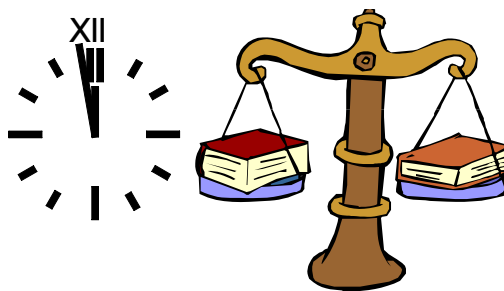
What about written agreements?

It is sometimes necessary to have a written agreement with your lawyer regarding the fee for your case. Read this agreement as carefully as you'd read any contract — *before* you sign it. If there is anything you do not understand, ask your lawyer to explain it, and do not sign it until you are sure you do understand. You should receive a copy of the agreement.

How are legal fees determined?

Because no two legal situations are exactly alike, fees will vary. Factors used to determine fees include the following:

1. The time spent on the matter. Time is the basic element in determining a fee. A lawyer's services differ from those of other professionals like doctors or dentists in one important way. Much of the work is done when the client is not present.



Therefore, many clients are unaware that the four-page document drawn for them, or the advice given in a few minutes, are actually the products of hours of research, consultation and preparation.

In addition, while most lawyers work at least eight to ten hours per day, only 65 percent of that time is billed to clients. The remaining time is devoted to studying new and changing laws, attending continuing legal education seminars, participating in Bar association activities, providing volunteer legal services or participating in community services.

2. Ability, experience and reputation. Different lawyers value their time at different rates, depending on their experience, knowledge and skill. A lawyer who has built a reputation as an "expert" or who devotes most of his or her time to a particular field of law may charge more than someone less experienced or less-known. This is not to say a lawyer less experienced in a certain area of law is not competent to handle more legal problems. However, circumstances sometimes dictate a more experienced practitioner be employed for a difficult case. Of course, you should expect to pay a higher hourly rate for a lawyer whose expertise in a specific area of the law is much in demand. On the other hand, this same expertise may enable the lawyer to perform the work in substantially less time resulting in a lower total fee.
3. Overhead and business expense. When you hire a lawyer, you are in effect hiring a law office staff to work on your behalf. This staff may include a receptionist, legal secretaries, paralegal and other office personnel who work together to provide you with the result you seek in a timely manner.
4. The results achieved. In some cases, the result itself may decide the fee. An example of this is the *contingent fee arrangement*, often used in personal injury cases. In a contingent fee arrangement, the lawyer receives no fee if less money is recovered for the client. If money is recovered, the lawyer receives an agreed-upon percentage of the recovery, which in Nebraska will usually range from 25 to 50 percent depending on the agreement of the parties. Contingent fee arrangements should be in writing at the beginning of the case. The Code of Professional Responsibility, which governs the behavior of attorneys, prohibits contingent fee arrangements in criminal cases and states contingent fees are rarely justified in domestic

relations cases because of the human relationships involved and the unique character of the proceedings.

In a contingent fee arrangement, the client is still responsible for paying court costs like filing fees and subpoena fees, and for reimbursing the attorney's out-of-expenses like long distance calls, medical reports and depositions. These costs are assessed to the client even if no recovery is made.

When no contingent fee arrangement has been made, the lawyer will expect to be paid whether your case wins or loses. Bear in mind no lawyer can guarantee favorable results in a court proceeding.

5. Other factors. The *relationship* between the lawyer and the client must also be considered. With continuing relationship involving the payment of a continuing retainer, the charge for a particular matter may be less than of the employment is on a one-time basis. As a client, you should also realize by accepting your case, the lawyer and all of his or her partners and associates are precluded from accepting other employment that would conflict with your interests.

Another factor in determining fees is the client's *ability to pay*. Many Nebraska communities are serviced by Legal Aid or Legal Services offices which provide free legal services for individuals who meet income guidelines. Legal Aid handles only civil matters. If you are involved in a criminal matter and cannot afford an attorney, you may be entitled to have the court appoint someone to represent you. Do not hesitate to ask to have someone appointed. In some criminal matters, it is required the court appoint an attorney for a client who cannot afford legal counsel; in other matters, appointment is at the court's discretion.

In communities not served by a Legal Aid office, you may wish to contact the local bar association or a local attorney and explain your situation. Or, you may contact the Nebraska State Bar Association's Volunteer Lawyers Project which matches eligible clients with lawyers who have volunteered to accept cases on a no-fee or reduced-fees basis. The office is open 9:00 a.m. - p.m., Monday-Friday. In Nebraska call toll-free 800-742-3005; in Lincoln, call 475-07091.

Are there other types of fee arrangements?

In addition to *hourly rates* and *contingent fees*, attorneys may also charge *fixed fees*. A fixed fee might be charged for frequently performed services because the attorney knows from experience approximately how much time and expense is involved in performing this service. For example, fixed fees may be charged for drafting certain wills, handling certain divorce matters or defending a client in traffic court. If your attorney quotes a fixed fee for a particular service, it is usually with the understanding the client will not make unreasonable demands on the attorney's time — in other words, a fixed fee does not entitle you to unlimited legal services.

Under Nebraska law, there are some situations in which the court may order one party to pay some or all of the attorney's fees of the other party, depending on the nature and outcome of the case. It is necessary to talk to your attorney about whether this option might apply in your situation.

When is the fee payable?

This depends on the type of legal service and the fee arrangement you make with your lawyer. In many cases, a lawyer may require a payment before agreeing to undertake the work. Depending in the circumstances, this payment may be considered a "retainer" an "advance" or a "Client deposit." If your lawyer requests such a payment, ask what portion, if any, would be refunded should you decide not to proceed.

In other cases, you may be billed at the completion of the matter, or periodically (usually monthly) while your attorney works on your case. Any statement you receive for legal services should be itemized so you understand fully what the charges entail. If you have questions about the statement, do not hesitate to call your lawyer and ask for a more complete explanation. Most lawyers maintain detailed records of the time they spend working for each client.

What do you do if you think the fee is too high?

Lawyers and clients should both endeavor to prevent this from happening by discussing fees in advance and throughout the representation. But if you receive a bill you feel is too high for the services performed, contact your lawyer and discuss it. There may have been more work involved than you were aware of, and your attorney should be willing to discuss this situation with you.

The Code of Professional Responsibility states a lawyer should not charge a fee that is "clearly excessive." In determining the fee to be charged, lawyers may take into consideration time and labor required, novelty and difficulty of the questions, skill required, customary fee in the locality, results obtained, time limitations imposed by the client, nature and length of the professional relationship with the client, experience and reputation of the lawyer, and the type of fee.

Fee Arbitration

The NSBA has implemented a voluntary legal fee arbitration program as of January 1, 2001. This process provides a way for clients and attorneys to resolve many fee disputes. The process may be started by either party. Both parties must agree to arbitrate.

To inquire about fee arbitration and to obtain the petition form, contact:

Rick Allan
Fee Dispute Coordinator
(402) 475-7091 ext. 46

A filing fee of \$10 is required for processing.

What do you get for your money?

Your lawyer is your advocate, hired by you to represent your best interest. He or she is a professional, trained to deal with people, to be objective in reviewing your situation and to negotiate on your behalf. The advice and counsel you receive may save you far more than what you pay in legal fees. The peace of mind you gain by knowing you will have a will to ensure your wishes are carried out after your death...by knowing you have a marketable title to your home... by knowing you have obtained a reasonable settlement in your divorce... are worth the relatively low price you pay for legal advice.

Occasionally do-it-yourself "kits" are offered for sale to obtain a divorce, make a will, declare bankruptcy, form a corporation or write a contract. It is not illegal to use these for your own legal affairs, however, be prepared to accept the consequences or such action should difficulties arise. It is illegal for any person who is not a member of the Nebraska State Bar Association to give you legal advice or to act on your behalf in a legal matter in Nebraska.

On the surface, do-it-yourself law kits may appear to save you money. But even a minor detail in your case (a detail your lawyer is trained to notice) could result in a loss greater than what you save trying to be your own lawyer.

In summary

Your lawyer wants you to be satisfied with the legal services you receive and with the fee you are charged. While he or she may not always be able to tell you exactly what the fee will be, your lawyer can explain to you the basis on which the fee will be determined.

Discuss fees in advance. Your lawyer will welcome a frank discussion of the matter, and you can then decide for yourself whether you want to proceed.

This pamphlet, which is issued to inform, not to advise, has been prepared and published by the Nebraska State Bar Association. It is distributed by those who want to help you obtain your rights under the law.



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