

My Laws, My Courts, My Maryland:
HIRING AND WORKING WITH YOUR LAWYER

Most people only deal with a lawyer a few times in their lives, and often when something goes wrong. Today, we'll discuss how to hire and work with a lawyer. We'll talk first about how to choose and then hire a lawyer. And then, I'll give you some tips for working with your lawyer.

First, you'll need to find a lawyer to hire. To find information about how to do so, view the *My Laws, My Courts, My Maryland* video, *Finding Legal Help*.

Remember, you are hiring a person to complete a job for you, and it doesn't have to be the first person you meet. You decide whether or not to hire the lawyer, even if they are providing the service for free or at a low cost.

If a lawyer contacts you by phone or in person about representing you, and you've never met the lawyer, don't hire that lawyer. Lawyers may not contact potential clients directly under the Maryland Rules of Professional Conduct, which governs lawyers in Maryland. There are exceptions for lawyers with whom you already have a relationship.

Interview different lawyers and bring a list of any questions you may have. You should feel good about whom you hire, and how the lawyer will pursue your legal goals. Here are some questions you might ask the lawyer.

- What types of cases does the lawyer normally handle?

- How does the lawyer predict that things will go in your case? What legal options do you have?
- Has the lawyer handled a case like yours recently? How often?
- How have cases like yours turned out?
- If interviewing a lawyer with a firm: Will the lawyer with whom you're meeting work on your case or will someone else do a lot of the work, such as an associate or law clerk?
- Can you meet this other person? What is their experience?
- What hourly rate will you pay? If someone else works on your case, such as an associate or law clerk, what rate will you pay? How often will you be billed?
- How often does the lawyer update clients on their cases? How will you receive updates, for example, by phone, email, or in person meetings?

If you still aren't sure, you can ask for references from the lawyer's current or past clients. The Maryland Client Protection Fund keeps a list of all Maryland attorneys considered active and in good standing. You can check the name of an attorney you're considering hiring by visiting www.mdcourts.gov/cpf/attylist.html.

Finally, the Maryland Attorney Grievance Commission keeps records of attorneys who have violated the Maryland Rules of Professional Conduct. You can view their records from the last three years by visiting www.mdcourts.gov/attygrievance/sanctions.html.

So now that you've chosen the lawyer you'd like to work with, you should discuss payment with the lawyer. There are three types of fee arrangements: hourly, contingency, and flat rate. Most

lawyers bill by the hour, especially for more complicated matters. The attorney will probably estimate the total cost, but your total cost may differ from the estimate if unexpected hurdles come up. Either way, if you have a “maximum” amount you are willing to spend, clearly tell your lawyer. You can even ask that the agreement state that maximum in writing. For example, your agreement could state that, past a certain amount, the attorney must receive further permission from you before doing more work.

With a contingency fee, the plaintiff’s lawyer (the party suing) will receive a portion of the amount the plaintiff wins at trial as payment. If the parties settle instead of going to trial, the lawyer will receive part of the settlement. The lawyer is only paid if the plaintiff (the party suing) wins. Contingency fees are often used in personal injury cases. For ethical reasons, contingency fees are not normally permitted in family law cases.

When signing a fee agreement for a contingency fee case, think about how much the lawyer takes. Also, consider how the lawyer includes costs in the final amount the lawyer receives. Many lawyers working on a contingency basis will take one-third of the amount you get, and this amount is considered normal. Attorneys may not collect on contingency any more than 50% of what the plaintiff receives. In cases paid by contingency fee, the fee agreement must be in writing. The agreement must detail how you will pay the costs, which may include filing fees, postage, and copying fees. Some lawyers roll the costs into the portion they take, while others charge it to the client separately, meaning that the lawyer would receive the contingency fee plus costs. Also, in most contingency fee agreements, you may be required to pay some costs even if

you lose the case. Make sure that the fee agreement you and the lawyer sign explains all of this clearly.

The last type of fee arrangement your attorney may use is a flat fee. Flat fees are used most often in bankruptcy and less serious criminal cases because these cases are more predictable. The lawyer may ask you to pay the whole fee up front. The lawyer must then put that amount in an escrow account – a separate account to keep it safe. The lawyer will then draw the money out as he or she does work for you. The lawyer must return any money that is not used.

What if you can't afford to hire a lawyer? You can do four things:

1. Try to find reduced-cost or free legal help.
2. Shop around, and negotiate with a private lawyer.
3. Consider solving your problem outside of court.
4. Consider “limited scope representation” – we’ll discuss what that means.

So, our first tip: look for reduced-cost or free representation through a Maryland legal services provider. Currently under Maryland law, in a civil case, you do not have the right to an attorney if you cannot afford one. However, a number of organizations may be able to provide you with legal help. For more information, view the *My Laws, My Courts, My Maryland* video *Finding Legal Help*.

Now for our second tip: remember, you can always negotiate the fee of the lawyer you'd like to hire. If the lawyer's quoted fee seems high, find out what other lawyers charge on similar

services. Discuss this with the lawyer you want to hire. If you can't find a price that works, ask if the attorney can recommend someone who is more in-line with your financial needs. You can also go back to the lawyer referral service to find someone new.

Third, consider mediation or other dispute resolution services. Not all legal problems need to be resolved in court. A professional mediator can help you and the other party discuss your problem and come to a solution that works for everyone. Mediation is different from going to court because it is voluntary, confidential, and not binding on the parties. In mediation, you and the other party will each have a turn to explain your side of the story while the mediator listens. The mediator acts as a neutral third party who can help you and the other party brainstorm possible solutions. If everyone can agree to a solution, you can choose to put the agreement in writing. This will be a contract between you and the other party, but again you choose whether or not to agree to it. Maryland's Mediation and Conflict Resolution Office (MACRO) has information about court-sponsored and community-based alternative dispute resolution programs, some of which are free or low-cost. Visit www.mdcourts.gov/macro and then click "Finding a Mediator" on the left hand side.

Fourth, in some instances, you may be able to hire a lawyer to perform a portion of the work for you. This form of legal practice is called "limited scope representation." By limiting the scope of their work, lawyers can provide only the services you choose, while you do the rest.

Here are a few examples: Perhaps you feel fine representing yourself in court, but want help preparing your pleadings – the papers you file with the court. A lawyer could just help with the

written part of the work for you. Or, maybe you aren't comfortable speaking in public. Try finding a lawyer who can coach you on how to present evidence and speak to the judge. As a final example, perhaps your case is going to settle, but you want to make sure that the settlement agreement you're signing protects you. You could hire a lawyer just to look over that settlement agreement before you sign it, but negotiate the settlement yourself.

Whatever you do, get the fee agreement in writing. Make sure that both you and the lawyer sign it. Understand what you're paying for and have the lawyer explain it to you, if necessary.

Our last topic today is how to work with your lawyer. You and your lawyer are a team. As the client, you can help with many things. You should gather as much information as you can about your case, and give it to your attorney in an organized way.

If you want to play an active role in your case, explain that to your lawyer. Ask if there are tasks that you can help with, such as gathering documents or other evidence. As your case goes on, ask your lawyer to answer your questions. Lawyers should be able to explain their legal assumptions to you. If necessary, stop the lawyer and ask for a clearer explanation if you're having trouble understanding.

Remember, a private lawyer will bill you for every meeting and phone call, and for the time it takes to read and respond to your emails and letters. Make sure you use your time wisely. Many law offices also bill for non-attorney staff members' time. You are paying a lot of money for the services of your lawyer and your lawyer's staff. They should care about your situation. But it is

not financially smart for you to use your lawyer like your therapist, or to call the lawyer's office regarding every minor change in your case. Find a support system outside of your lawyer to whom you can vent when you are frustrated. Unless something happens that affects your case, save small updates for a scheduled meeting.

You might be nervous about finding and working with a lawyer. However, lawyers are like any other person with whom you do business every day. They want to do a good job in providing their services to you, in helping you address your legal matter, and in answering your questions. They want your experience to be a positive one. They want you to be satisfied and to get the most from your lawyer.

This has been a production of the Maryland Access to Justice Commission. For more information, visit www.mdcourts.gov/mdatjc.