

Your Employee Assistance Program is a support service that can help you take the first step toward change.

Hiring a Lawyer

The right of a lawyer to practice law is governed in every jurisdiction by statute, court rules, or both. To practice law, applicants must meet specific standards or requirements set out by the law society of the province where the lawyer lives before he or she is allowed to practice law. A lawyer's right to practice law can be taken away by the law society if the lawyer's conduct makes him/her unfit to hold a license or exercise the duties and responsibilities of a lawyer.

Hiring a Lawyer

Agreements with lawyers fall under two general categories:

1. **Contingent fee agreements.** The fee paid to the lawyer depends on the amount recovered, either by settlement or judgment.
2. **Fixed agreements.** The lawyer's fee is payable whether or not the client receives a settlement. This category includes retaining fee contracts and contracts for a fixed fee.

An agreement to hire a lawyer is similar to a contract with any agent that provides services in any capacity or business. Certain terms are essential in these agreements. There should be, for example, a mutual employment agreement, a clear outline of duties that will be performed, a set period of employment, and a statement of compensation to be paid.

An employment agreement between a lawyer and client generally doesn't need to be in writing. But because of the complexity of services that will be performed, the difficulty of evaluating the performance, and the desire to avoid client-lawyer disputes over services, making the contract as detailed as possible and putting it in writing is always a good idea.

Lawyer's Liens

Lawyers are entitled to a lien over a client's file to secure payment of legal fees and disbursements. Liens are divided into two classes: general, possessory or retaining liens; and charging or special liens.

1. A **general** lien attaches to all documents, securities or moneys and other of the client's property that comes into the hands of the lawyer in the course of professional employment. Generally, the lawyer doesn't have to give any notice to make a possessory lien operative.
2. A **special** or **charging lien** is one given to a lawyer for services rendered in prosecuting a cause or in procuring a judgment, decree or award for the client. This lien can be enforced by appropriate legal proceedings.

Terminating a Lawyer's Services

Whether the client has a good reason or not, he/she has the right to end the relationship with the lawyer, except where the agency of the lawyer is coupled with an interest in the client's cause of action. A lawyer is entitled to notice of the termination. Although the notice doesn't need to be formal—it can be any act that shows the intention to sever the relationship—notice in writing (and signed by the client) is preferable. On the other hand, a lawyer can't end the relationship or abandon a case without reasonable cause. If no cause exists, the lawyer can only terminate the relationship after giving reasonable notice to the client.

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The Drafted Agreement to Hire a Lawyer

Questions that should be answered and standard statements:

- **Date.** When does the agreement become effective?
- **Purpose.** Why is the lawyer is being hired?
- **Statement.** The lawyer-client relationship is created for purposes stated in agreement.
- **Duration.** How long will the lawyer be hired for (specified by period of time or extent of services provided)?
- **Payment**
    - How much will the lawyer get paid?
    - What will the methods and schedules of payment be?
    - Is a retainer required? If so how much and how is it going to be paid?
    - Is there a contingency fee arrangement? Does the lawyer have the right to retain fees from the proceeds of a settlement or judgement?
    - Are there any fixed fees? If so, what are they?
    - Will the lawyer get any compensation if I decide to discontinue services?
    - **Liens.** Are there any provisions for lien in favor of the lawyer on any recovery made or for a possessory lien on documents to secure payment for general legal work?
    - **Costs and expenses for the client.** Will the client have to provide any advanced payments to the lawyer?
    - **Additional workers.** Will the client allow the lawyer to hire a third party—associate or assistant counsel, investigators and/or experts—to help in the case? Who is responsible for these extra costs?
    - **Statement.** A favorable outcome is not warranted by lawyer.
    - **Terminating the contract.** What are the rights and obligations of the client if he or she decides to discharge or substitute the lawyer? What are the rights and obligations of the lawyer if he or she decides to withdraw from the case?
    - **Statement.** The client grants the lawyer the power to execute necessary documents.
    - **Additional documents.** Do other documents need to be incorporated or referred to in the agreement?
    - **Notice.** What are the guidelines of giving notice?
    - **Jurisdiction.** Under which legal jurisdiction is does this agreement fall?
    - **Disagreements.** How will disputes be addressed?
    - **Arbitration.** Are there any guidelines for arbitration if there is a dispute?
    - **Date of Agreement**
    - **Signatures**

Going to a Lawyer[1]

When you first meet with a lawyer, find out whether they can deal with your matter and if you and the lawyer will be comfortable working together. If you decide to hire a lawyer, you will be contracting with the lawyer for legal services. The lawyer does your legal work for you and you pay the lawyer for the work.

First meeting. During your first meeting, you should discuss your case and your legal needs with the lawyer. The lawyer will look at several options for the legal work and may want to get back to you in the near future. At this time, you should also discuss fee arrangements. Some lawyers do not charge for the first meeting or offer a reduced rate. Ask about this when making your first appointment.

Fees. There are no set fees for legal services. The fees you pay will depend on a number of factors including the experience and skill of the lawyer, the time and effort it takes to complete the work, the difficulty of your case, and what other lawyers are charging for similar work. Other things may also be considered, such as:

- The amount of money or property involved;
- The seriousness of criminal charges;
- Whether or not the matter goes to court, and sometimes,
- The outcome of the case

There are various types of fee arrangements depending on the work. Lawyers sometimes charge a fixed fee for a specific transaction, or can charge an hourly rate. At other times, fees are based on a percentage of the value of the property or estate involved. A lawyer may also agree to a contingency fee, which depends on the outcome of the case and is a percentage of the value of the award.

Frequently Asked Questions

Why do lawyers cost so much? You pay lawyers for a professional service that includes their expertise, support services, protection of professional standards, and professional liability insurance, which lawyers must have to practice.

My bill is higher than I expected. What can I do? The first thing you should do is discuss it with your lawyer. You may find your case was much more time-consuming than was originally estimated. This happens in some cases because not all the material needed was available from the beginning of the case. Also, opposing sides may not have come to an agreement easily. Your legal needs or instructions to your lawyer may have changed from your first meeting with your lawyer.

What can I do if I'm not satisfied with the fees? By law, lawyers' fees must be fair and reasonable. If you are not satisfied after discussion with your lawyer, talk to the Registrar at the Superior Court closest to your lawyer, and the Registrar will review your account. The review is called taxation and must be brought to the Registrar within 30 days of receiving your lawyer's bill. Contact the law society in the province where the lawyer lives for a general information package on taxation.

What can I do to keep my costs down? Be organized whenever you contact your lawyer, both in person and on the phone. Be sure that you have provided your lawyer with all the information needed from you. Give clear, concise instructions and limit your discussions to the legal aspects of your case. Remember that you are paying for your lawyer's time. Be clear from the start about how you'd like to be notified about the progress of your file. Get assurance from your lawyer that he or she will contact you if needed and contact your lawyer only when necessary. Ask your lawyer if there is anything else you can do to keep the costs down.

I don't understand what my lawyer is saying! It is very important for you and your lawyer to understand each other. Ask your lawyer to drop the legal jargon and speak plain English. Tell you lawyer if you don't understand and don't be afraid to ask questions. Be sure you understand what is going on and that you are clear with your lawyer about what you want to see happen. Remember, your lawyer is working for you: you always have the right to try a different lawyer.

My lawyer never returns my calls! The professional standards of the law society require lawyers to communicate with their clients. If you are concerned about the conduct of your lawyer, contact the law society. Remember your phone calls to your lawyer may cost you money. Your lawyer may be waiting for something to happen before they call you.

Why does it take so long for my lawyer to do anything? Every case is different. When other people are involved, your lawyer doesn't have as much control over delays. Sometimes a delay may be to your benefit. If the delay is excessive, discuss your concerns with the lawyer and if you are still dissatisfied, contact the law society.

My lawyer didn't do what I wanted.

Discuss your concerns with your lawyer. You have the right to question your lawyer's actions so that you understand what's going on. Your lawyer is supposed to act on your instructions and in your best interests. He or she must also follow the ethical standards required by the legal profession. Lawyers are considered officers of the court. This means they are obligated to act certain ways in court. If you have concerns about your lawyer's conduct or professional ethics, contact the law society. Sometimes your lawyer has done everything possible for you, however, the actions of the opposing party or a decision of the court did not allow you to get what you wanted. See another lawyer if you are concerned that your legal problem may have been mishandled; you have the right to sue a lawyer for incompetence or negligence.

My case went to court, but I don't think I had a fair judge! Ask your lawyer to explain what took place. Judges are bound by the limitations of the law and the legal system. Judges, like lawyers, are also bound by the rules of conduct of their profession and are governed by their judicial councils. For more information, contact the law society.

I don't have money for a lawyer! There are some options if you can't afford a lawyer. Discuss alternative fee arrangements with lawyers. Look into the small claims court option. You may be able to find general legal information at public libraries, stationery stores and other public services. If you are a senior, contact the law society about their seniors' legal assistance service. You may be eligible for legal aid—you can get further information from the Legal Aid Commission of the province in which you reside.

Why bother complaining about my lawyer to the Law Society if lawyers run it? True, the law society is directed by lawyers and non-lawyers. But they are bound by law to make sure that lawyers meet professional standards. The law society was created to protect the public interest so it is in everyone's best interest to make sure that lawyers act ethically and competently. The law society monitors the ethical and professional behavior of lawyers in each province and disciplines lawyers who do not act within the standards of professional conduct set out by the society. This may include a reprimand, a fine or penalty, suspension, or disbarment, meaning a lawyer can no longer practice. A complaint to the law society about your lawyer's conduct will be investigated and may result in the disciplining of your lawyer.

[1] *Adapted from a fact sheet published by the Public Legal Education Association of Saskatchewan ("PLEA") and is reproduced here with PLEA's permission..*