

# *legal* links

## **YOU AND YOUR LAWYER**

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Hundreds of Oregon lawyers volunteer their time to programs designed to help both the legal profession and the general public. The Oregon State Bar oversees these programs under the direction of its volunteer Board of Governors. No matter what type of legal assistance you are looking for, Oregon lawyers are here to serve you.

## **What Can a Lawyer Do for You?**

While a lawyer can certainly help you after you get into trouble, the best time to consult a lawyer is before you have a legal problem.

Preventive legal advice can save you time, trouble and money. It can also prevent small problems from becoming large ones. Suppose you are about to sign an agreement to buy a house, car or major appliance. If you are not completely sure what the agreement says you must and must not do, you should find out before you sign. Maybe you are going to start a business with a partner; a lawyer can point out the advantages and disadvantages of various partnership arrangements.

Sometimes, you can add to your problems by failing to call a lawyer right away. For example, you might want to contact a lawyer immediately if you are arrested or involved in an auto accident. In these and other cases, witnesses should be interviewed and evidence gathered as soon as possible.

These are just a few of the many occasions when lawyers can help you understand your rights and solve problems.

## **Looking for a Lawyer**

In selecting a lawyer, you should take the same careful steps that you would when choosing a doctor, dentist or home contractor. One of the best ways to choose a lawyer is based on a referral from a family member or friend. If someone you trust has had a good experience with a lawyer, perhaps you should consider calling that lawyer to see if he or she handles your type of problem.

You might also select a lawyer by scanning the yellow pages. You may decide to call a particular lawyer based on his or her ad. Again, be careful.

A paid advertisement is just that; it's not an official endorsement or guarantee. A recommendation from someone you trust is probably more reliable than any advertisement.

The Oregon State Bar Lawyer Referral Service is available to assist you in choosing a lawyer for your particular problem. The Lawyer Referral Service is sponsored and supervised by the bar to help persons in need of legal advice find the right lawyer quickly. See the Resources section of this pamphlet for more information about this free service.

## **Choosing the Right Lawyer for You**

We all get along with some people better than others, and this applies to lawyers too. Make sure you feel comfortable with the lawyer's attitude, responsiveness, stated abilities and experience.

Once you have selected a lawyer to call, make sure you have a list of questions prepared so that you can systematically evaluate whether to hire that lawyer. Write down everything you learn from each lawyer you talk to. Take some time to think things over, and then make an appointment to talk further with the lawyer who seems best for you. Remember to ask what the cost of the initial appointment will be.

## **Deciding to Hire Your Lawyer**

At the appointment, ask the lawyer your questions, including specific information about what he or she will charge you. Feel free to ask the lawyer for his or her resume or other available information, such as where the lawyer went to law school, how many years of practice the lawyer has had, and how much experience the lawyer has had handling your type of matter.

When you decide to hire the lawyer, make sure that his or her assignment and the fees to complete that work are confirmed for you in writing. Having a written fee agreement will help avoid disagreements about what the lawyer agreed to do for you and what you agreed to pay for that work.

## How Does My Lawyer Set Fees?

You and your lawyer should discuss the cost of legal services at your very first interview. Your lawyer may not be able to forecast the exact amount of time and effort required, but he or she should be able to give you an estimate based upon past experience. The hourly fee can vary depending on the case and the experience and expertise of the lawyer.

Many cases will require a **retainer fee**, or deposit, to apply on expenses or future charges. You should expect to pay this when you ask your lawyer to represent you. A retainer fee can be used to guarantee that the lawyer will be available to take a particular case. This could mean that the lawyer would have to turn down other cases in order to remain available. With this kind of retainer fee agreement, the client would be billed additionally for the legal work that is done. If the fee agreement says that the retainer is not refundable, you may not be able to get your money back – even if the lawyer does not handle your case or complete the work.

You probably will be charged one of the following types of fees:

**Fixed fee:** Sometimes called a standard fee, this way of charging 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.

**Hourly fee:** Most lawyers charge by the hour, and the amount can vary from lawyer to lawyer. To know how much your total bill will be, ask the lawyer to estimate the amount of time your case will take. Remember that circumstances can change, and your case may take longer to handle than the lawyer expected at the beginning.

**Contingency fee:** This kind of charge is often used in accident, personal injury and other cases when you are suing someone for money. It means that you will pay the lawyer a certain percentage of the money you receive if you win the case or if you settle the matter out of court. If you lose, the lawyer does not receive a fee. Either way, though, you will have to pay any court costs and other expenses that are involved. Depending on the circumstances, these charges can be quite high. Be sure to ask your lawyer to estimate the costs. All contingency fee agreements must be in

writing. If you agree to a contingency fee, be sure that the written fee agreement tells what your lawyer's percentage will be and whether that percentage will be figured before or after other costs are deducted.

Often, neither you nor your lawyer can tell at first how much work will be involved or what result will be determined. You should not hesitate to discuss fees at any time during the course of your legal matter or even after you receive your statement.

## **What Other Costs Should I Expect?**

You should expect to pay for the costs of your case in addition to your lawyer's fees – even if your case is not successful.

Your case might involve costs for certified shorthand reporters, experts and consultants, investigators, witnesses and jury fees. You might also be billed for staff time, copying and faxes, filing fees, postage, courier and messenger charges, service of process fees (charged by individuals who locate parties and witnesses and deliver legal papers to them), telephone bills and travel expenses.

You can request that any costs over a certain amount have to be approved by you in advance.

## **When is My Lawyer's Bill Due?**

If you agree to an hourly fee arrangement, you should expect to pay a retainer fee when you ask your lawyer to represent you.

Flat fees are usually paid up front. However, many lawyers will agree to payment plans for clients who do not appear to be a risk.

Unless you have a contingency fee agreement, you will likely be billed monthly for the work done by your lawyer. You can ask your lawyer for an itemized account of services performed and expenses paid.

A contingent fee case is billed upon completion of the case, except for expenses that must be paid as they are incurred.

## Your Lawyer's Responsibilities

When you hire or retain a lawyer, a lawyer/client relationship is created. In this relationship, your lawyer's primary task is to make sure that your legal rights are protected fully.

Your lawyer cannot guarantee particular results in your case, but he or she must put forth the best possible efforts on your behalf. He or she must also preserve confidences and secrets that are revealed during the course of your lawyer/client relationship.

You have the right to be kept informed of the status of your case. You are also entitled to copies of all correspondence and legal documents prepared on your behalf, or that your lawyer receives from a court or the opposing party or adversary.

## Your Responsibilities

In order for your lawyer/client relationship to work effectively, you must be truthful in all discussions with your lawyer. You need to give your lawyer all relevant information and documents, and notify him or her of any changes in your situation.

You should know that your lawyer will not expect to make major decisions about your legal matter. As the client, you are responsible for making decisions on objectives to be pursued in your case, including the final decision regarding any settlement of the case.

You are the client and must pay the fees and expenses. In some cases that go to court, a judge may award a partial or full fee to be paid by the other side. This does not release you from the obligation to pay your lawyer. Some fee judgments are not collectable and others cover only a part of the services rendered.

If you dispute any of the charges in a bill, discuss them with your lawyer immediately. If any questions arise during your lawyer/client relationship, you are expected to ask your lawyer for help in resolving them.

## If You Have a Problem with Your Lawyer

If you are not satisfied with your lawyer's performance, the first step is to talk with your lawyer. Ask for an appointment to discuss your concerns. Often that discussion will clear up misunderstandings and alert your lawyer to your concerns. If you remain

dissatisfied with the service you are receiving, you of course have the right to discharge your lawyer and hire a new one. If you still owe unpaid fees to your former lawyer, he or she may assert a lien on your file until the fees are settled. You should discuss this situation, should it arise, with your new lawyer.

If direct communication with your lawyer fails to resolve your concerns, then disputes over fees or complaints about unethical conduct can be presented in writing to the Oregon State Bar. If you believe your attorney may have engaged in malpractice in handling your case, you should consult another lawyer who handles these types of claims to review your concerns.

## Can My Lawyer “Fire” Me as a Client?

Just like you, your lawyer also has the right to terminate the lawyer/client relationship. However, your lawyer has a professional obligation to withdraw without prejudicing your case. In simple terms, your lawyer must give you adequate notice and an opportunity to find a new lawyer before withdrawing from the case. Your lawyer must also promptly return all your papers and property, refund any unearned advance fees and comply with all applicable laws and rules.

A lawyer may try to withdraw from a case if he or she does not get along with the client, the client does not pay fees, or the client wants the lawyer to do something that is unethical or illegal. A lawyer *must* withdraw from a case if he or she knows that the client is harassing or maliciously injuring someone, or if the lawyer’s mental or physical state decreases his or her ability to effectively represent the client.

For more information  
visit our web site at

[www.osbar.org](http://www.osbar.org)



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*This pamphlet, based on Oregon law, is issued to inform, not to advise. It is not intended to apply to any specific situation.*

## Resources

### *Lawyer Referral Service*

Call the referral service from 9:00 a.m. to 5:00 p.m. on weekdays. In the Portland area, the number is 503-684-3763; from any place else in Oregon, the toll-free number is 800-452-7636.

### *Tel-Law*

The Oregon State Bar's Tel-Law Program provides free, general legal information recordings accessible to the public by phone. Some recordings are offered in Spanish, Russian and Vietnamese. For a list of Tel-Law topics, write: Tel-Law, P.O. Box 1689, Lake Oswego, OR 97035-0889.

To access Tel-Law recordings, call 503-620-3000 in Portland or 800-452-4776 within Oregon.

### *Modest Means*

You may be eligible for legal assistance at a reduced rate. Assistance is offered to qualified applicants based on client income and assets, the type of case, and availability of a participating lawyer in the client's county.

You must complete a Modest Means Client Application Form to be considered for this program. For more information, call 503-684-3763 or 800-452-7636.

### *Legal Aid*

Free legal assistance may be provided for low-income clients with non-criminal cases. Legal Aid services depend on location, community legal needs, and availability of Legal Aid lawyers. Your local Legal Aid office phone number is available in the Community Service pages of the local phone book.

### *Legal Information Pamphlets*

Legal information pamphlets, produced and distributed by the Oregon State Bar, cover a variety of general legal topics. To order pamphlets, call the Oregon State Bar at 503-620-0222, ext. 413 or 800-452-8260, ext. 413.