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HOW TO CHOOSE AND USE A LAWYER

1. HOW TO CHOOSE AND USE A LAWYER

The legal system can be intimidating, but it doesn't have to be. Our system of laws is there to protect every American citizen. It was revolutionary when it began, and now we tend to take it for granted. But it's still about freedom, protecting the individual, turning to a better way of settling disputes. We'd like to help you better use the system.

This pamphlet will tell you:

- When it might be a good idea to talk to a lawyer
- How to choose a lawyer
- Details about paying for a lawyer's services
- Expectations of you and your lawyer
- Alternatives to hiring an attorney and going to court
- How to file a complaint.

2. SHOULD I THINK ABOUT TALKING TO OR HIRING A LAWYER?

If you answer "yes" to any of the following statements, you should consider talking to or hiring a lawyer.

- I tried to resolve this matter by speaking directly with "the other side" and it didn't work.
- I'm being threatened with legal action by a person, or company or I'm involved in a situation where I might get sued.
- I need someone to champion my cause or speak for me.
- I have been served with papers (summons, complaint, warrant, subpoena, etc.).
- The "other side" has a lawyer.
- The outcome is worth the cost of hiring a lawyer.

The information provided in this document is meant for the sole use of Active Duty service members, retirees, their families, and those individuals eligible for legal assistance. The information is general in nature and meant only to provide a brief overview of various legal matters. Rights and responsibility vary widely according to the particular set of circumstances in each case. Laws can vary across states, services, and civilian jurisdictions and laws are changed from time to time. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.

- This is an important matter, such as signing a contract, starting a business, writing a will, buying or selling a home.

3. HOW DO I FIND THE RIGHT LAWYER?

It is important to find the right lawyer and it is in your best interest to shop around.

Here are some ways to find a lawyer:

- Ask friends, relatives, co-workers who have used a lawyer or know a lawyer for their recommendations. If that lawyer can't handle your kind of case, they may be able to provide a recommendation for someone who can.
- Use a Lawyer Referral Service listed in the telephone book or call Metropolitan Lawyer Referral Service at (303) 831- 8000 for Denver and Boulder or (970) 226-2455 for Ft. Collins. For El Paso County, you may contact the El Paso county Bar Association Lawyer Referral Service at (719) 636-1532. They will try to give you a referral to a lawyer in your community who does the kind of work you need. Please be aware that a referral fee may apply.
- Search the Colorado Bar Association website www.cobar.org. Select "find a lawyer," then select "practice areas and cities," and the directory will provide names and phone numbers of lawyers who practice in the city you live in and handle cases like yours.
- Consult the Yellow Pages or go to the local library and consult a legal directory.
- If you might qualify for legal assistance based on your income, call the Colorado Legal Services Office nearest you (listed in the phone book). If you can't find the number, call the Colorado Bar Association at (303) 860-1115 or (800) 332-6736.

Factors to consider when first contacting an attorney:

- Experience
- Does he or she normally handle cases like yours?
- Does the lawyer seem familiar with the area of law involved in your case?
- How many cases like this has the lawyer handled and how successful has he or she been (if you can find out)?
- How long has the lawyer been in practice?
- Has the lawyer had complaints about past performance?
- Is the lawyer involved in the community?

4. FEES – WHAT AND HOW YOU PAY THE LAWYER HOW DO LAWYERS CHARGE FOR THEIR WORK?

Legal fees depend on several factors that may include the amount of time spent on your problem; the lawyer's ability, experience and reputation; novelty and difficulty of the case; the results obtained; and costs involved.

Other factors involved in legal fees include what the lawyer pays in rent, utilities, for secretarial and paralegal help, office equipment, computers, etc.

The primary types of fee arrangements are:

- Hourly Rates: The fee is based on the amount of time the lawyer spends.
- Fixed Fee: This is a flat fee charged for a routine service such as an uncontested divorce, a simple bankruptcy or a will.
- Contingent Fee: The lawyer receives a percentage of any amount recovered on behalf of the client, plus expenses.

*Note: A fee agreement may combine any of the above fee arrangements.

Here are questions you might ask the attorney regarding fees:

- Is there a charge for the initial consultation?
- How do you charge for a case like mine? (See above for examples of how lawyers charge)
- If it is a fixed fee case, what is the fixed fee?
- If it is an hourly fee, how much is the hourly rate?
- If it is a contingency fee case how will that work and what will the percentages be?
- What charges are included in the lawyer's fee?
- What charges are not included in the lawyer's fee?
- What is this likely to cost me?
- Is there a retainer? If so how much? A retainer involves the client making a "down payment" and future costs are deducted from that amount.

Costs in addition to the lawyer's time may include:

- Filing Fees
- Photocopying
- Deposition Transcription Fees
- Phone Calls
- Messengers
- Serving Papers
- Witness Fees
- Computer-Related Costs
- Travel Expenses

Client's Rights: Communication and Other Issues

- Your lawyer should respond to you promptly and clearly.
- Your lawyer should keep you informed about progress.
- Your lawyer should discuss your expectations for the case.
- Your lawyer should return your calls in a reasonable amount of time.
- Your lawyer should discuss with you how long he/she expects the case to last.
- Your lawyer should discuss alternatives with you.
- Your lawyer should discuss possible outcomes of the case.

5. WHAT SHOULD I EXPECT WHEN I HIRE A LAWYER?

- Enthusiastic and competent representation of your case.
- Copies of all important documents.
- A written fee agreement and detailed billing statements.

- The whole truth, even if it hurts.
- To be kept fully informed.
- To be treated with respect.
- A negotiated settlement if both sides reach a fair agreement.
- Agreement with your goals and an understanding of your objective.
- No conflict of interest with the opposing side.
- Timely return of phone calls.

6. YOUR RESPONSIBILITIES AS A CLIENT:

- Provide the lawyer with any information you have about the case and be completely honest about all facts in your case, whether the information is favorable to you or not.
- Follow agreed-upon advice.
- Ask questions when you don't understand; speak up when you disagree.
- Be on time for appointments or notify your lawyer if you need to cancel or reschedule an appointment.
- Notify your attorney about changes in your case; take responsibility for keeping your attorney informed.
- Pay your attorney a reasonable fee promptly for the work performed.

TIP: You can save time and attorney fees by providing your lawyer with as much information as possible. Organize all documents that are related to your case, write things down that might be important to your case and bring them with you when you meet with your attorney.

7. CAN I CHANGE ATTORNEYS?

Yes, you can do this simply by telling the attorney of your wishes. Giving notice is a matter of courtesy and may be necessary so that if a lawsuit has been filed, the attorney may ask the court for permission to withdraw. You will normally be obligated to pay for any services that have been already performed on your behalf, and costs that have been incurred. You are entitled to the return of your files, provided your attorney does not have a valid attorney's lien.

8. WHAT IF I HAVE PROBLEMS WITH MY ATTORNEY?

Are there problems with your case that your attorney isn't addressing? Sometimes a disagreement stems from a simple misunderstanding. The best way to handle this is to talk directly with your attorney.

If this approach fails, and you believe your attorney has acted improperly or unethically, you do have options. In Colorado, the Supreme Court Office of Attorney Regulation handles lawyer discipline. You can call them at (303) 866-6400 or write them at 1560 Broadway, Suite 1800, Denver, CO 80202 and complete a form that they will send you, asking that your complaint be investigated. This can lead to an admonishment, private or public censure, suspension, or even disbarment from the practice of law. If you file a request for investigation, this would put you in an adversary position with your attorney and that attorney would not be able to represent you further.

If you disagree with your attorney about fees, you can write or call the Colorado Bar Association and ask for help from the Legal Fee Arbitration Committee. If you and your attorney both agree to

do this, you can go before a committee who will hear your case and make a binding judgment. The committee is composed of lawyers and non-lawyers. Call (303) 860-1112, or (800) 332-6736 and ask for Legal Fee Arbitration.

9. WHAT ARE MY ALTERNATIVES TO HIRING AN ATTORNEY AND GOING TO COURT?

Prevention of legal problems is the best alternative and can save you time, money and needless worry—and often, a lawyer can help you with this. If you do have problems that appear to need legal solutions, there are alternatives to hiring an attorney and going to court. Here are some of your options:

Representing yourself and using self-help materials: It's legal for you to represent yourself in court and handle your own legal matters, but judges and court personnel aren't allowed to give you any legal advice. If you represent yourself, you must be aware of all court procedures, filing requirements and deadlines—you will be held to the same standards as an attorney. If you do not follow the rules that apply to your case, the court may not allow you to get what you want, you could be fined, or you could be ordered to pay the costs or attorney fees of the other side.

No court employee is allowed to give you legal advice. You can ask the court clerk about forms, fees and court rules. Libraries have copies of state and local laws, including court procedures. You can buy self-help packets (for instance, on divorce) at many bookstores. Colorado laws and court rules are also posted on the website of the Colorado Office of Legislative Legal Services, http://www.state.co.us/gov-dir/leg-dir/olls/colorado_revised_statutes.htm

You can go to Small Claims Court for a civil matter that's under \$7,500. A small claims action starts with filing of a short statement of the facts and payment of a filing fee and the cost of service on your opponent. Once the action is filed, the clerk will set a date and location for a trial. There is no right to a jury in Small Claims Court, and you will not be able to gather information from the other side prior to a small claims trial. Attorneys are not allowed unless the attorney is a party or is a full-time officer or employee of a company that is a party. You are limited to filing two claims per month and 18 claims per calendar year. Small Claims Court does not hear cases involving libel or slander, eviction, class actions, traffic violations, and certain other types of cases. Visit the Judicial Branch website for additional information.

If you represent yourself in any of the Colorado courts, keep these points in mind:

- All information filed with the court must be complete and legible.
- The court staff cannot fill out forms for you.
- Direct contact with the judge or magistrate is not allowed.
- Your case number must be on anything you file with the court. If you call the clerk to check on the status of your case, you will need to have the case number.
- You must give the other side copies of anything you file with the court and note at the end of anything filed how and when you provided those copies.
- You will need to cooperate with the other side to set hearings, trial dates and other events.
- Be prepared and organized when presenting your case. This will make you much more effective.

- Dress appropriately and be polite in court. Wait until it is your turn to speak, and stand when speaking if you are able to do so. Address the judge as "your honor." Stand when the judge or magistrate comes into or leaves the room.

Before you decide to represent yourself, consider whether you can get your story across to the judge or jury without help. Ask yourself if the cost of hiring a lawyer is worth the added effectiveness the lawyer might bring to arguing your case. Consider the value of your time which might be saved if you hire a lawyer.

Mediation services: Mediation is a process which helps people in conflict work out a mutually acceptable agreement to disputed issues, with the aid of a trained professional mediator. A mediator helps settle cases, and will not enter any order or judgment binding on either side. Find a mediator through the Court Clerk, the phone book Yellow Pages and Blue Pages, or by asking a lawyer for a referral.

Arbitration services: In arbitration the parties agree to let an impartial arbitrator, or panel of arbitrators, hear the evidence and decide the outcome of their dispute. Look in the phone book or ask an attorney for names or arbitrators.

OTHER HELPFUL CONTACT INFORMATION

El Paso County Bar Association's Lawyer Referral Service: (719) 636-1532
Colorado Legal Services: (303) 837-1321
Legal Aid Foundation of Colorado: (303) 863-9544
Metropolitan Lawyer Referral Service: (303) 831-8000
Denver Bar Association: (303) 831-1309

Other Helpful Websites:

<https://aflegalassistance.law.af.mil>

[www.denbar.org/index.cfm/ID/1102/DBA/For the Public](http://www.denbar.org/index.cfm/ID/1102/DBA/For_the_Public)

(scroll down for additional publications, including a small claims court handout)

<http://coloradolegalservices.org/co/homepage.html>

<http://www.legalaidfoundation.org/legal-services/>