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**Volunteer Lawyers Project  
Nebraska State Bar Association**

# Legal Fees

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Many people who need legal help are afraid to see a lawyer because they have heard legal services are expensive. Actually, legal fees are reasonable when comparing the benefits gained to the losses avoided.

### **When should fees be discussed?**

Most people want to know how much a service will cost. When you visit a lawyer for the first time, ask the fee. Your lawyer will want you to be satisfied with the fee. Don't be afraid to discuss the fee or your ability to pay. Your lawyer will welcome an honest discussion on the subject.

In many cases, it is impossible to state the exact fee. But your lawyer should explain how the fee will be determined and estimate the time and cost.

### **Should I expect to pay an initial consultation fee?**

Some lawyers do not charge for an initial consultation, while others have a set fee for every client's first visit. You are entitled to know what is expected, so ask about initial consultation fees when making your first appointment.

During your first visit, you should give basic information about your legal needs and discuss fees. If, after this visit, you do not wish to proceed, you are not required to do so. If you hire the lawyer, the initial fee is often, but not always, part of the total charge.

### **What about written agreements?**

A written agreement with your lawyer regarding the fee for your case is recommended. Read the agreement before you sign it. If you do not understand anything, ask your lawyer to explain it, and do not sign it until you are sure you understand. You should receive a signed copy.

### **How are legal fees determined?**

Since every legal situation is unique, fees vary. Factors that determine fees include:

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 do not know that the four-page document drafted for them, or the brief advice, are the result of hours of research, consultation and preparation.

In addition, while most lawyers work at least eight to ten hours per day, only 70 percent of that time is billed to clients. The remaining time is devoted to studying new and changing laws, attending continuing legal education, taking part 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 with a reputation as an "expert" or who applies most of his or her time to a specific field of law may charge more than someone less experienced or less-known. This does not mean a lawyer less experienced in a certain area of law is not competent to handle a case. However, a difficult case may require a more experienced practitioner. Of course, you should expect to pay a higher hourly rate for a lawyer whose expertise is much in demand. On the other hand, expertise may allow the lawyer to do the work in less time resulting in a lower fee.

3. Overhead and business expense. When you hire a lawyer, you are in effect hiring a law office staff to work for you. The staff may include a receptionist, legal secretaries, paralegals and other office staff who all work to give you the result you seek in a timely manner.

4. The results achieved. In some cases, the result decides the fee. An example is the contingent fee arrangement, often used in personal injury cases. In a contingent fee arrangement, the lawyer receives no fee unless money is recovered for the client. If money is recovered, the lawyer gets an agreed-upon percentage of the recovery, which in Nebraska will usually be from 25 to 50 percent depending on the agreement. Contingent fee arrangements should be in writing at the start of the case. The Code of Professional Responsibility, which regulates the behavior of attorneys, prohibits contingent fee arrangements in criminal cases and states contingent fees are rarely appropriate in domestic relations cases due to human relationships involved and the unique character of the proceedings.

In a contingent fee arrangement, the client must still pay court costs like filing fees and subpoena fees and must pay the attorney's out-of-pocket expenses like long distance calls, medical reports and depositions. These costs are charged to the client, even if nothing is recovered.

When no contingent fee arrangement has been made, the lawyer will expect to be paid whether you win or lose your case. Keep in mind no lawyer can guarantee favorable results.

5. Other factors. The relationship between the lawyer and the client must also be considered. With an ongoing relationship involving the payment of a continuing retainer, the charge for a specific matter may be less than that of a single service. As a client, you should also realize that by taking your case, the lawyer and all of his or her partners and associates are prohibited from accepting cases that conflict with your interests.

Another factor in setting fees is the client's ability to pay. Many Nebraska communities are serviced by Legal Aid offices which offer free legal services for persons who meet income guidelines. Legal

Aid handles civil matters. If you are involved in a criminal matter and cannot afford an attorney, you may have the court appoint an attorney to represent you. Do not hesitate to ask to have someone appointed. In some criminal matters, the court must appoint an attorney for a client who cannot afford legal counsel; in other matters, it is at the court's discretion.

### **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 when the attorney knows from experience roughly how much time and expense is involved in performing a service. For example, fixed fees may be charged for drafting certain wills, handling certain divorce matters or defending a client in traffic court. If an attorney quotes a fixed fee, it is with the understanding that the client will not make excessive demands on the attorney's time — in other words, a fixed fee does not mean unlimited legal services.

Under Nebraska law, 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. Talk to your attorney about whether this option might apply in your case.

### **When is the fee payable?**

It depends on the type of legal service and your fee arrangement with your lawyer. In many cases, a lawyer may require payment before agreeing to work. Depending on the circumstances, this payment may be a "retainer", an "advance", or a "Client deposit." If your lawyer asks for such a payment, ask what portion, if any, is given back if you decide not to proceed.

In other cases, you may be billed at the end of the matter, or from time to time (usually monthly) while your attorney works on your case. Any statement you get for legal services should be itemized so you understand the charges. If you have questions about the statement, ask your lawyer to explain it. Most lawyers record in detail the time spent working for each client.

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

Lawyers and clients should both try 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, contact your lawyer and discuss it. More work may have been involved than you were aware of, and your attorney should discuss this with you.

The Code of Professional Responsibility states a lawyer should not charge an "unreasonable fee or unreasonable expense." In setting the fee, lawyers consider time and labor required, novelty and difficulty of the questions, skill required, customary fee in the area, results obtained, time limits set 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 a voluntary legal fee arbitration program. It provides a way for clients and attorneys to resolve many fee disputes. Either party may start the process. Both parties must agree to arbitrate. To inquire about fee arbitration and obtain the petition form, visit: [www.nebar.com/FeeArbitration](http://www.nebar.com/FeeArbitration)

If you have questions after reviewing the Fee Arbitration Rules and Petition, please contact:

Chris Aupperle, 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 to represent your best interests. 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 may save you much more than you pay. The peace of mind you gain by knowing you will have a will to ensure your wishes are carried out ... 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 sold to obtain a divorce, make a will, declare bankruptcy, form a corporation or write a contract. It is legal to use these for your own legal affairs; however, be prepared to accept the consequences if difficulties arise. A minor detail in your case (a detail a lawyer is trained to notice) could result in a loss greater than what you save by being your own lawyer.

### **In summary**

Your lawyer wants you to be happy with the legal services you receive and the fee you are charged. While he or she may not always be able to tell you the exact fee, your lawyer can explain how the fee will be determined. Discuss fees in advance. Ask questions about anything you don't fully understand prior to signing a fee agreement. Your lawyer will welcome an honest discussion, and you can decide whether you want to proceed.

The information in this brochure is for educational purposes only. It is not legal advice or a substitute for legal advice by a lawyer. If you want legal advice, you should contact a lawyer licensed to practice law in Nebraska.

#### **Nebraska Find-A-Lawyer**

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Visit [www.NE.freelegalanswers.org](http://www.NE.freelegalanswers.org) to learn how to ask a lawyer licensed to practice law in Nebraska a civil (non-criminal) legal question online. Qualifying users may receive free basic legal information and advice from an approved volunteer lawyer.

Nebraska State Bar Association  
635 South 14th Street #200  
Lincoln, Nebraska 68508

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