

## **Question: How do I select an attorney?**

Certainly choosing the right attorney is the most important decision.

There are many types of legal troubles and it's critical to find an attorney who has the right expertise for your case. If you make a rushed and uninformed choice, the financial and emotional cost can be high. Here are simple ideas about making an informed choice in these difficult times.

**One, exactly what type of an attorney do you need.** Has your spouse or the social services department made phony accusations against you? You need a team of litigators expert in mental health issues and allegations of sexual abuse. Have you been charged with a crime, you need an attorney who specializes in criminal law and defense? Someone has made a false allegation against you or someone you love, you need an experienced team of litigators experienced in handling criminal cases.

**Two, what is this going to cost.** Abraham Lincoln, who was an attorney once, remarked that time and advice are the lawyer's stock in trade. So remember you get what you pay for. Depending upon the area in which you live and the subject matter of your legal claims the hourly billing rates can range as low as \$175 to as high as \$500 an hour for legal services. There are a number of standard fee arrangements that an attorney may suggest. Retainers, flat rates, hourly rates, and contingency fees. Retainers are usually an advance payment on the hourly rate for a specific case. The retainer is usually placed in a special account, often regulated by the State Bar and the cost of services is deducted from that account as they accrue. During the case the attorney should send you periodical billing statements showing how much has been deducted from the retainer. Most retainers are non-refundable because in order to get up to speed on your case the attorney and much of the attorney's office has to stop doing other work and concentrate on your legal matter. Flat fees may be suggested when your legal matter is easy to calculate the amount of time that it will take. This can be in criminal cases and in other types of cases. The flat fee may only cover the attorney's fees. With other expenses such as filing fees, investigation fees, and other costs being additional. Hourly rates are common arrangements between the attorney and the client. The attorney bills the client at an agreed upon hourly rate for the amount of time the attorney spends in resolving the matter. This billing should include a reduced rate when the attorney's staff like clerks or paralegals or legal assistants work on the case. Their legal expertise is not nearly as high. An attorney's hourly rate is usually an indication of the attorney's experience, operating expenses, competence and the area in which he lives. Cheaper is not better when it comes to your legal rights. An attorney experience with cases like yours will be better able to assess the case and give you an estimate of how long it will likely take to compete.

**Three, how do you start your search for the right attorney.** Well, there's a

new way now, try the internet. Use a search engine and see if there is anything written by attorneys of help in the area that you need. Search for articles by and about attorneys in that area of law. Forget the yellow pages. Why, because the yellow pages are very expensive therefore attorneys need high volume to afford them. Also yellow pages are dominated by local attorneys who may not really be experts in the particular area of law that you need. Try asking family and friends to search with you for an expert. If your family or friends recommend an attorney ask what kind of matters the attorney handled for them and whether they were satisfied and what the representation costs. You should also consider contacting the state lawyers organizations. However, sometimes those organizations make referral based upon whose next on the list rather than the quality of representation, so be careful. Those organizations are usually referred to as the State Bar and they may have a referral service. You've got some information, now what.

Now that you've got a list of some of the possible attorneys, e-mail them or call them. It would be helpful if you'd write yourself a short script with a brief explanation of your case and a list of questions to ask each office on your first call depending upon the nature of your case. Ask your list of questions and evaluate how the attorney's office or the attorney's staff respond to you. If it sounds reasonable, set up an appointment either in person or over the telephone.

**Number five, the first meeting.** Remember the attorney works for you. If it is your first experience with the legal profession you may be nervous or anxious about dealing with an attorney. Don't be, remember the attorney works for you. Take your list of issues that you think are important, take your list of questions to ask and use them. Don't worry about repeating yourself, many of the questions may be repetitious of the questions you asked before you made the appointment, it doesn't hurt to ask again. The lawyer's willingness to answer your questions and his ability to make it clear to you what the answers are may be an important indicator of the lawyer's personality. If anyone has served you with legal papers take them with you and ask the lawyer to look at them. During this telephone or face to face meeting you should be asking yourself, is this person listening to me, does this person know about this area of law, is this person giving me an honest evaluation of my legal situation. You don't want somebody blowing hot air. Can I believe this person, can I trust this person, will this person fight for me and for my family.

**Number six, talk about money.** Remember Abraham Lincoln once remarked that time and advice are the lawyer's stock in trade. So ask about the money, first ask about a fee agreement. If the lawyer is unwilling to put a fee agreement in writing, cross that attorney off your list. Ask if it is possible to have the fee agreement include a provision that requires periodic itemized billings so that you are aware of where you stand at all times. An itemized billing will list in detail every charge so that you can review it and compare it to your fee agreement.

Pick an attorney and then work on keeping up your end of the relationship. The lawyer you pick should agree to work with you as part of a team. This means that you will have assignments just as the lawyer has. You and the lawyer must coordinate who is doing what and have a progress report to each other.

**Number eight**, the parameters of a healthy attorney client relationship. Each state has a professional code of ethics which requires certain kinds of behavior from the lawyer. The lawyer should give you a copy of this code if you ask for it. It's also available on the internet. Your attorney has specific responsibilities to you that are embodied in that code of ethics. The provisions of the ethics code that mean the most to you have to do with competence, loyalty, confidentiality and vigorous representation. Any lawyer you hire must display basic competence and the ability to analyze legal issues. Hopefully you want more than just, any lawyer, and would rather have a specialist in that field. Also, the lawyer must have knowledge of the law applicable to your case. The lawyer also must communicate with you in a timely and effective way. The ethics code also requires that the lawyer owes you a duty of loyalty. This means the lawyer cannot represent two clients at the same time who have legal interests that conflict. One of the most important aspects of the attorney client relationship is the requirement of confidentiality. This is especially important because you must be able to tell the lawyer the whole story so the lawyer can plan for you correctly. But you too have to watch out that you don't inadvertently destroy the privilege of confidentiality. When you share confidential communications with other people, even if they are friends, you may inadvertently destroy the very privilege of confidentiality that you need to rely upon. What if things aren't going well with the lawyer you selected. Your lawyer is obligated to communicate with you and keep you advised about the case. That doesn't mean the lawyer has to hold your hand or call you all the time, but the duty to communicate continues throughout the case. So before you decide that your lawyer isn't communicating adequately with you, ask yourself whether you're being reasonable. Remember, when your lawyer talks to you it will cost you money. So remember if the lawyer feels the call is unnecessary it may be because there are no developments in the case and no need to talk to you directly at that time. If on the other hand you think the lawyer is no longer interested in your case, talk to the lawyer immediately. Be frank about your concerns, remember the lawyer has a duty of loyalty to you. It is also the case that the lawyer has to use independent professional judgment. If the two of you are at an impasse and stuck, find out about that immediately. If you feel that your lawyer has acted improperly or unethically, make sure that you speak to the lawyer directly about it as soon as possible. It may be an misunderstanding that can be explained. If you cannot resolve it directly with the lawyer, contact the lawyer disciplinary agency of your state to file a complaint. If the lawyer has acted unethically, the disciplinary authorities can take action. These actions may range from censure and suspension to disbarment. So if you think you're made a mistake, can you fire him. Of course, you can fire your lawyer at any point in time if you are unhappy with their services. You can fire even if the case has already gone to court, but remember the lawyer is entitled to

payment for services rendered up to the time of dismissal. If the case has already gone to court you may need the court's permission to allow the lawyer to withdraw. If the case is close to trial the court may be reluctant in granting permission to allow the withdrawal. Why, because it could cause a delay in the case. Therefore, make your decisions as early as possible. You must also remember that under the laws of some states the lawyer you fired may keep your file until you've paid your bill. That's not the case in California. In California the client owns the file. So anytime that you fire an attorney you have a right to the file. All the more reason to get it right the first time and work to maintain a good working relationship with your attorney.