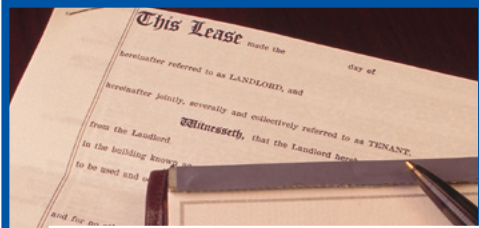


*A Practical Guide to*

Hiring a

LAWYER



# A PRACTICAL GUIDE TO HIRING A LAWYER

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## I. Introduction

A lawyer's job is to help people fix problems that involve the law and prevent future problems. Situations that most often require the services of a lawyer include drafting a will, selling or purchasing a home, obtaining a divorce, handling a dispute regarding children or automobile related matters, resolving disputes about a purchase or rent, or defending criminal charges. Lawyers best serve their clients by being vigorous but objective advocates and advisors. They receive special training to be able to see all sides of any situation in order to achieve the best result for their clients.

## II. When Do You Need a Lawyer?

If you are charged with a crime, whether a minor charge (misdemeanor) or a more serious charge (felony), a lawyer's help can be very important. If the charge carries the possibility of jail or prison time, a lawyer's help is so important that the court may appoint a lawyer for you if you are unable to pay.

Non-criminal matters are called civil cases. They include contracts, divorces, wills, personal injury, housing (landlord/tenant), and consumer complaints. Factors to consider in determining whether to hire a lawyer include: the complexity of the matter, the effect it could have on the life or lives of those involved, and the cost of the lawyer, among others. It is a good idea to consult with a lawyer to determine whether his or her services are required.

## III. How to Find a Lawyer

### State Bar Find a Lawyer Tools

The State Bar's website offers you two powerful tools to help you find help for your legal problems: a [directory](#) listing everyone licensed to practice law in Michigan that includes a free "find a lawyer" function, and a staff-assisted [lawyer referral service](#).

## A. Referrals

Finding a good lawyer is like finding a good doctor. One good way is to ask people whose judgment you trust who regularly deal with lawyers—people like an accountant, doctor, or financial advisor, your pastor or priest, realtor, or other businessperson. You might find that a few names keep coming up and you will learn something from everyone you ask.

Once you have a few names, do not be afraid to interview several lawyers. Many lawyers offer a free or reduced fee consultation. [Our tools can point you to lawyers who do offer free consultation or reduced fee consultation].

It can be helpful to look for a lawyer who regularly practices the kind of law you need. But it is important to know that in Michigan lawyers are not certified as specialists in particular legal fields.

In addition to the tools provided on this website you may also visit the Attorney Discipline Board website at [www.adbmich.org](http://www.adbmich.org) to view a listing of all Michigan lawyers who have been subject to professional discipline.

## B. Lawyer Referral Service

If you are looking for assistance in determining your legal need and finding a lawyer, the State Bar's lawyer referral service can help. We will help direct you to a lawyer referral service lawyer in your geographic area who will consult with you at no cost for 25 minutes about your need. For most matters there is a \$25 service charge for this referral. After the 25 minutes the amount of the lawyer's fees charged for the consultation and further representation is a matter of negotiation between you and the lawyer. If your income level qualifies you for legal aid or special reduced fee programs, or if your matter is one of the following, the service charge will be waived.

The administrative fee will be waived for tenants with urgent housing problems, Social Security claimants, workers' compensation claimants, and personal injury plaintiffs.

The State Bar Lawyer Referral number is (800) 968-0738. If you live in one of the following counties the local state bar also operates a lawyer referral service that you should consult:

**Genesee County**

Genesee County Bar Association (810) 232-6000

**Kent, Ottawa, Muskegon, & Allegan Counties**

Grand Rapids Bar Association (616) 855-0273

**Macomb and St. Clair Counties**

Macomb County Bar Association (586) 468-8300

**Oakland County**

Oakland County Bar Association (248) 338-2100

**Washtenaw, Western Wayne, Lenawee, Livingston, and Monroe Counties**

Washtenaw County Bar Association (734) 996-3229

A referral from the State Bar is not an endorsement of the lawyer's services or qualifications, other than the lawyer's status as a member in good standing and availability for the 25-minute consultation.

**C. Unauthorized Practice of Law**

Any time you are asking someone to give you advice about legal issues or to assist you in preparing legal documents you should ensure that the person is qualified to assist you. It sometimes happens that someone will tell you that they can handle your matter or lead you to believe that they are lawyers when they are not. A lawyer is trained to apply legal principles to the facts of a case and make a decision about the legal issue or issues concerning the case. It is the unauthorized practice of law for a person to undertake that activity on someone else's behalf, including drafting legal documents, when they are not legally authorized to do so.

Relying on legal advice from someone who is not qualified to give it can be costly. You may end up having to pay a lawyer not only to handle the original matter, but also to fix additional problems caused by the unqualified person. You can call the State Bar at (800) 968-1442 or visit our member directory on our website at [www.michbar.org](http://www.michbar.org) to confirm that the person you are considering hiring is a member in good standing of the State Bar and thus legally qualified to help you.

#### D. Legal Services

Legal services organizations may be an option if you need assistance with certain issues, such as housing, eligibility for government services, consumer problems and sometimes family law problems. Legal services organizations, or “legal aid,” provide free or reduced cost legal advice and representation. Generally, there are income and other eligibility criteria that you must meet to qualify. If you do qualify, these legal services organizations may give you legal advice, information to help you represent yourself, or represent you in court proceedings. Your first contact with a legal services organization will usually be over the telephone in a preliminary screening or through an initial office visit. The State Bar’s lawyer referral service will assist you in determining if you qualify and help connect you to the right program, or you can explore online at [michbar.org/public\\_resources/legalaid](http://michbar.org/public_resources/legalaid).

### IV. Hiring a Lawyer

#### A. What to Expect

The first meeting with a lawyer is frequently called a “consultation.” This is an opportunity for you and the lawyer to get to know one another and discuss your matter. Some lawyers will offer a free consultation or a discounted rate for a short consultation. If you are contacting a lawyer on your own (not through the State Bar’s lawyer referral service), you should ask if there will be a charge for your first meeting with the lawyer when you call to set up the appointment.

A good lawyer will be honest and may tell you things that you do not want to hear, such as that you do not have a case. A good lawyer will also take the time to meet with you. You should not feel rushed to complete the meeting.

If you are not satisfied with your meeting, you always have the option to talk to other lawyers about your case. You should be completely comfortable with the lawyer you hire.

## **B. What to Ask**

Do not shy away from asking “tough” questions.

- Ask about the lawyer’s experience in handling matters similar to yours and how long the lawyer has been in practice. While it is okay to ask the lawyer to provide examples of prior matters, you should keep in mind that the lawyer cannot share other clients’ secrets and/or confidential information.
- Ask whether the lawyer has ever been professionally disciplined, and if so, whether he or she is now in good standing with the Bar.
- Ask how long it will take to complete the services. But always remember that things can happen which will affect the length of time that may be required for your case to be completed and lawyers cannot guarantee a particular result.
- Ask whether there are alternatives to the course of action recommended by the lawyer. For example, if you are meeting with an estate planning lawyer, you may wish to ask about the differences in cost and function between a simple will and a more complicated trust.
- Ask whether the lawyer carries malpractice insurance. You are entitled to ask this question and to know the limits of the policy. If the lawyer does carry malpractice insurance, you may ask that the name of the insurance company be included in the written agreement (retainer) you sign to hire the lawyer. Michigan, like the majority of states, does not require lawyers to carry malpractice insurance.
- Ask the lawyer any question that you have regarding your matter. There are no stupid questions. Legal matters can be com-

plicated and confusing. They are very important and can have a great impact on your life. Do not hesitate to ask someone with knowledge to help explain things to you.

### **C. Get it in Writing**

Make sure that your lawyer gives you a written retainer or fee agreement. While a written agreement is not required in all circumstances, it is highly recommended. Before signing the agreement, read it carefully. If you have questions, discuss each question with the lawyer before you sign the agreement. Make sure you get a copy of the signed retainer agreement.

At a minimum, the retainer agreement should describe the legal work to be provided, the amount of legal fees to be paid and how and when fees are due. The retainer agreement should also spell out which costs will be your responsibility (court filing fees, transcript fees, photocopying, long distance charges, postage, etc.). Do not be afraid to ask for an estimate of what the total amount billed to you will be, but remember that circumstances can change and they may affect what the total fee will be.

You should receive signed and dated receipts for all money paid to your lawyer and the purpose of each payment. No formal receipt is necessary. The lawyer's acknowledgment in writing on any paper is enough. As with any transaction, never pay cash without getting a receipt.

Always get a receipt for any property that you entrust to anyone, including a lawyer, for safekeeping.

### **D. Establishing the Ground Rules**

Make sure that you understand how you will be charged for communicating with your lawyer. Charges may vary for telephone calls, personal office visits, and after business hours contacts.

It's a good idea to keep a calendar or log of all contacts with your lawyer's office, with dates and times spent discussing your case



or other legal matters. This will help you understand some of the charges reflected on the bill.

- Ask for an itemized monthly billing statement. If you have questions regarding any of the charges in the bill discuss them with your lawyer immediately. Frequently, charges make more sense after a brief explanation.
- Ask the names and hourly rate charged of other persons in the law firm who will be involved in specific phases of your matter, such as drafting of papers, court appearances, trial, or appeal.
- Ask your lawyer to send you copies of all correspondence sent or received on your behalf, as well as copies of each legal paper or pleading. It is well worth the cost of postage and photocopying. If you have questions or concerns regarding any of the documentation, promptly discuss these issues with your lawyer.

Be cautious about signing any document that authorizes someone else to endorse or cash a check that is payable to you.

## **E. Your Rights and Responsibilities**

In order for a lawyer-client relationship to work effectively, you must be truthful in all discussions with your lawyer even if, and especially when, you think the information is hurtful to you and your case. It is important to give the lawyer all relevant information and documents in a timely manner. You should also tell your lawyer about any changes in your situation. If your lawyer is missing part of the picture, he or she won't be as effective representing you.

You are expected to pay the legal fees earned by the lawyer and other expenses that are outlined in the retainer agreement in a timely manner. If questions arise during the course of your relationship, you are expected to ask your lawyer for help in resolving them. A lawyer cannot address an issue you have if he or she is unaware there is a problem.

## F. The Lawyer's Rights and Responsibilities

A lawyer's conduct and responsibilities to you are described in formal *rules of professional conduct* which the lawyer must follow. Your lawyer is required to provide knowledgeable, objective advice and to make sure that your legal rights are fully protected. He or she must work diligently on your matter. If your lawyer does not provide you with a retainer agreement, ask that he or she do so. This is the framework governing the lawyer-client relationship. You have the right to be kept informed of the status of your case or legal matter and you are entitled to copies of all correspondence and legal documents prepared on your behalf or that your lawyer received from other parties.

You are entitled to make the final decision on the objectives of the legal representation and to make the final decision regarding any settlement or plea bargain. You also have the right to consult with your lawyer about the means to be used in achieving those objectives. But your lawyer is not required to pursue objectives or use means simply because you may want the lawyer do so. The lawyer must use his or her best professional judgment and follow ethical conduct standards. A lawyer is forbidden from pursuing objectives or employing means that would violate law or ethics rules. It is important to remember that your lawyer cannot guarantee a particular result in any matter.

Generally, lawyers must maintain the confidences and secrets you reveal to them in the course of your relationship. But lawyers are under an independent ethical duty to reveal certain illegal or fraudulent acts committed by a client or the intention of the client to commit a crime.

## G. How to Transfer to Another Lawyer

It's your choice about who your lawyer is but there are practical considerations to keep in mind about changing lawyers, such as increased costs. A new lawyer may require a retainer fee, despite the fact that you have already paid a retainer fee to the original lawyer.

The new lawyer will most likely charge you for the time it takes to become familiar with your matter.

As a rule, before you fire your lawyer, you should first talk to a different lawyer. The new lawyer may advise you to try to work out your problems with your current lawyer. If you decide to hire the new lawyer, remember your prior attorney is entitled to payment for services rendered up to the time of dismissal, in accordance with your retainer or fee agreement.

You should also be aware that after a lawsuit has been filed, transferring to a new lawyer usually requires the court's permission. If the case is pending in court, the court may not grant permission for the lawyer's dismissal if it will delay the proceedings.

## **H. Concluding Your Matter**

When your matter is over your lawyer will retain your file for a period of time. Before destroying your file, your lawyer must notify you and give you an opportunity to have any "client property" returned to you. Client property includes any document or thing you provided to the lawyer as well as any original documents such as deeds, wills, trusts, etc. The lawyer may charge a reasonable fee for copying or accessing files.

If you have not paid your bill, under certain circumstances, your lawyer may retain your file until you pay your bill. This is called a "retaining lien." Generally, a lawyer may not ethically use a retaining lien if you need the property to pursue your legal rights or when a refusal to turn over the file would prejudice your case.

## **V. Lawyer Regulation**

If you believe that a lawyer has committed an ethical violation you may file a complaint against the lawyer by writing to the Attorney Grievance Commission. The Attorney Grievance Commission is the agency created by the Michigan Supreme Court to handle complaints against lawyers and charge them with misconduct when appropriate.

Anyone can file a grievance. A lawyer-client relationship is not required. The filing of a grievance does not affect your case in any manner. It will not cause the case to be stopped. It will not extend the time for filing legal actions. You still need to take care of matters in your individual case. You may wish to consult with a new lawyer regarding the consequences of filing a grievance. For more information about filing a grievance, contact the Attorney Grievance Commission at (313) 961-6585 or visit their website at [www.agcmi.com](http://www.agcmi.com).

#### **A. Client Protection Fund**

The Client Protection Fund is a voluntary program of the State Bar of Michigan to reimburse clients in the rare case in which a client has been victimized by a lawyer who misappropriates the client's funds.

For more information see the Fund website at:  
[www.michbar.org/client/protectionfund](http://www.michbar.org/client/protectionfund)



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