

# LAWYERS' FEES

## What These Words Mean

*Contingent* – not certain to happen; possible

*Deposition* – written statements by a witness

*Retainer* – fee paid before work is done

## Why Do You Need a Lawyer?

- You or your friends do not know the fine points of law.
- A lawyer must go to college and law school, must pass a test to be a lawyer, and knows how to help you.
- You may not know how serious your legal problem is.
- The cost of a lawyer may be less than what you would lose if you did not use a lawyer.

## How Do You Find What a Lawyer's Fees Will Be?

Ask the lawyer how much the fee will be. It is important to both you and your lawyer that you talk about fees and costs at your initial conference. Unless fees and costs are discussed, either of you might make incorrect assumptions about what the other expects. If you cannot afford to pay the fee, tell the lawyer before he or she does any work for you.

## What is a Contingent Fee?

It is a fee that you pay only if the lawyer collects money on your case. You do not pay a contingent fee if you lose your case. If you fire the lawyer working for a contingent fee before the case is over, you may need to pay a fee for work the lawyer did on your case.

## How Much Are Contingent Fees?

You and your lawyer must agree on how much of the money he collects that he will keep for a fee. The contingent fee contract should be written and signed by you and your lawyer. You should have a copy of the fee contract. The contingent fee will depend on:

- the amount of your claim;
- the difficulty of your claim;
- how sure the lawyer is that you will collect.

Contingent fees can be 1/4, 1/3 or 1/2 of the amount paid on your claim. A contingent fee may be more than a fee based on time and work. If a lawyer is paid, even if the case is lost, the lawyer can afford to charge less than a contingent fee.

## **Who Pays Court Costs and Expenses of the Case?**

The court will require a cost deposit when a case is filed, and you must pay the deposit. Your lawyer cannot pay court costs. You must pay expenses of your case, such as doctors, depositions, photographs and medical records.

## **What is Included in the Lawyer's Fees?**

- The advice the lawyer gives you based on the research, study and work on your case or problem.
- The cost of the lawyer's office staff, secretary, books, equipment, rent and stationery.

## **How Does a Lawyer Set a Fee?**

Attorney fee arrangements are subject to a Supreme Court Rule that provides "a lawyer shall not make an agreement for, charge or collect an unreasonable fee or an unreasonable amount for expenses." There are eight factors that are to be considered in determining the "reasonableness" of a fee: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly; (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation, and ability of the lawyer performing the services; and (8) whether the fee is fixed or contingent.

There are four basic types of fee arrangements available to clients: contingency, advanced payment (hourly-based), flat or fixed fees, and limited scope engagement.

## **When Do You Pay the Fee?**

You should ask the lawyer when he will send you a bill for the fee and when it must be paid. A contingent fee is paid when your claim is paid. All other fees are due when you receive a bill.

## **Can a Lawyer Tell in Advance What the Fee Will Be?**

Yes, for some matters like a simple will, divorce, real estate contracts and deeds, bankruptcy and traffic court cases.

No, for cases in court that might take a long time.

## **Do You Need to Pay a Retainer?**

As a general rule, in cases which are hourly-based or limited scope engagements, an advance payment or retainer may be requested – especially in cases where there is likelihood that the acceptance of your case will preclude the attorney from representing the other party. In these instances, a reasonable portion of the advance payment may be considered earned when received. You should discuss with your attorney what portion of the advance payment is considered earned when received.

## **Will the Lawyer Talk About Fees?**

The lawyer wants you to be pleased with the service. The lawyer expects to be paid for the service. If the lawyer does not talk about the fee, you should ask. You have a right to know how the fee will be set.

## **If You Need Help Finding a Lawyer**

If you need help finding a lawyer, call The Missouri Bar Lawyer Referral Service at 573/636-3635.

In St. Louis, call  
314/621-6681

In Springfield, call  
417/831-2783