

you an estimate based upon past experience. Sometimes, a lawyer may quote a total charge (flat rate) for the work involved, or may just give you an hourly figure for the estimated time required on a particular matter.

A written fee agreement is highly recommended for the mutual benefit of both you and the lawyer.

You should NEVER hesitate to discuss fees at any time during the handling of your legal matter. If you receive a statement and believe the fee isn't proper, talk it over with your lawyer. Usually, misunderstandings about fees result from the fact that the client is not aware of the extent of the lawyer's work on the case.

This is by no means the client's fault. Clients who do not regularly see a lawyer may understandably believe that the activities of the lawyer are limited only to those evident. It is always a good idea to obtain copies of all documents and correspondence pertaining to your case. The lawyer's obligation is to explain, if asked, how the charges were made. If you and the lawyer are not able to resolve a fee dispute, the State Bar of Georgia offers a fee arbitration service that either of you may want to consider.

The purpose of this program is to provide a convenient mechanism for the resolution of disputes between lawyers and clients over fees. It is a process that may be invoked by either side after the parties have been unable to reach an agreement between themselves. Regardless of whether it is the lawyer or the client who takes the initiative of filing a petition requesting arbitration of the dispute, the petitioner must agree to be bound by the results of the arbitration. This is intended to discourage the filing of complaints which are frivolous or which seek to invoke the process simply to obtain an advisory opinion. If the respondent also agrees to be bound, the resulting arbitration award will be enforceable under the general arbitration laws of the state.

A unique feature of this program provides that where the petitioner is a client, whose claim after investigation appears to warrant a hearing, and the respondent lawyer refuses to be bound by any resulting award, the matter will not be dismissed, but an ex parte arbitration will be held regardless of whether the lawyer participates. If the outcome of this hearing is in the client's favor, the State Bar will provide a volunteer lawyer, at no attorney's fees, to the client to represent the client in subsequent litigation to adjust the fee in accordance with the arbitration award. This is intended to relieve the client of the burden of paying a second lawyer to recover fees determined to have been excessive as charged by the first lawyer.

This program provides an economical and effective means of resolving such disagreements. However, a good understanding of the fee at the initial meeting and open

discussion of possible subsequent misunderstandings will likely avoid the need for utilizing the State Bar's Fee Arbitration Program.

### When do you have to pay?

The time for payment of legal fees depends on the type of legal service you wish rendered. In many cases your lawyer may require a payment before agreeing to undertake the work. This is frequently referred to as a retainer. Such payment may be only to assure his availability, or it may be for credit against services to be performed or applied to costs which might be incurred. You and the lawyer should discuss this and reach a clear understanding as to which is applicable to your case.

If you want to put a legal fee or costs on a credit card, ask your attorney whether or not he or she participates in a plan for one of the credit cards you hold and whether the particular charge qualifies.

If you are not certain you will be able to pay promptly, talk it over with your lawyer. You should be able to reach an arrangement.

### What are the standards of conduct for a lawyer?

Lawyers are subject to the highest degree of ethical conduct under the State Bar of Georgia's Code of Professional Responsibility. The ethical conduct of a lawyer may be reviewed, upon written request, by the State Bar's Office of General Counsel.

### What about lawyer referral services?

Many associations of lawyers (called "bar associations") maintain lists of their members who, as a public service, are willing to consult and advise clients at a special rate set by the bar association (for the first conference only). This is known as a "lawyer referral service." Anyone who inquires will be told the amount of the initial consultation fee and will be given the name of a lawyer for an appointment.

If additional legal service is needed, the fee is subject to agreement between the lawyer and client and, of course, should be discussed in advance. While this lawyer referral service is not available from the State Bar of Georgia, many city, county or other local bar associations within Georgia do offer it. You should call the bar association in your geographical area if you wish to request this service.

### How can you hold down your legal fees?

- Write down the names, addresses and telephone numbers of all persons involved, as well as all the facts

you can recall which pertain to the case. Doing this yourself will, obviously, cut down on the time the lawyer will have to spend gathering the information.

- Take any papers relating to the case to the first interview.
- Be as brief as possible in all interviews with the lawyer.
- Do not allow emotion to color the facts given – be as accurate as you can.
- Make full and honest disclosure to the lawyer of ALL the facts, good or bad. This is essential in making a determination about your case, and your lawyer will keep it in strictest confidence.
- Avoid unnecessary telephone calls to the lawyer. (Understand that if you are being billed on an hourly basis, you are billed for these calls.)
- Get legal advice before signing documents or taking legal action. Then follow the advice of the lawyer.
- Consider the financial advantages or disadvantages of a proposed legal action by discussing it with your lawyer. (For example, would the court costs and legal fees be more than the amount of the bad debt you would like to recover?)

### Conclusion

Our suggestion that you consult a lawyer is for your benefit, not for the benefit of a lawyer. Litigation should be the last resort and competent legal advice will help you adequately explore other avenues. Preventing legal problems before they arise will not only save you money but will also save our judicial process valuable time.

*This pamphlet was prepared by the Communications Committee of the State Bar of Georgia as a public service. It is not intended to be a comprehensive statement of law. Its purpose is to inform, not to advise on any specific legal problem. If you have specific questions regarding any matter contained in this pamphlet, you are encouraged to consult an attorney.*



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# Lawyers and Legal Fees



State Bar  
of Georgia  
**Consumer  
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Series**

## What is a lawyer?

A lawyer is a professional who is an officer of the court authorized to explain and interpret the law for you, to handle legal matters, as well as to appear in Court. In addition to other tasks, a lawyer's work involves counseling and preparing documents. But, foremost, a lawyer is a representative or an advocate on behalf of a client.

## How does one become a lawyer?

To be admitted to practice law in Georgia today, one must have a college degree and, in addition, have completed at least three years of legal education in a school of law. One's character and moral fitness to practice law must be approved after a thorough investigation. Then, he or she must successfully pass an exhaustive written examination given by the State Board of Bar Examiners and approved by the Georgia Supreme Court.

## Can non-lawyers practice law?

Every citizen has the right to practice law for himself or herself. But before one can become a lawyer and represent another in court (or make a practice of giving legal advice), he or she must meet the high standards laid down by the Supreme Court for admission to the Bar. These are for the protection of those persons who employ lawyers.

The law covers dozens of different fields. Any given set of facts may involve one or more of those fields. While someone who is not a lawyer may have great knowledge about a particular subject, it is impossible for that person to be familiar with the whole body of law even in that particular field, not to mention laws concerning other subjects likely to be involved. Laws and their interpretations are constantly changing; a non-lawyer cannot know all the possible legal consequences or hazards. This is why a license to practice law is granted exclusively to trained experts. It is a public safeguard, established and enforced by the court.

## When do you need a lawyer?

A lawyer can help you after you get into trouble, but the best time to consult one is before you have a legal problem. Never think of a lawyer as a "last resort."

Preventive law is the most valuable service a lawyer can perform for you and those who depend on you. Here is a checklist for areas in which you should consult a lawyer before you act:

- The purchase or sale of a home or other real estate;



- The purchase, sale or lease of other property;
- The execution of written contracts with major financial provisions or consequences;
- Tax problems;
- The execution of a will or estate;
- The start of a business;
- The organization of business associations, such as corporations or partnerships;
- Accidents involving damage to persons or property;
- Domestic matters; and
- Matters concerning substantial change in your economic status.

## What is the basis for a legal fee?

Abraham Lincoln once emphasized the value of a lawyer's time when he said, "A lawyer's advice is his stock in trade."

Probably the most basic ingredient in any fee charged by a lawyer is the amount of time spent on a particular problem. In one important way, a lawyer's professional services differ from those of a doctor or dentist; much of the work is accomplished when the client is not present.

Many clients are, therefore, often unaware that the four-page document and the advice given in a few minutes are actually the products of many hours of work. In addition, this end result may have involved time spent by other persons in the lawyer's office (i.e., a legal assistant, a lawyer associate or a legal secretary). When you engage the services of an attorney, remember that you really may be hiring an entire law office to work for you.

Since a lawyer is rarely confronted with two legal situations which are exactly alike, the fee will depend upon the factors involved. After you have related the facts in your case, your lawyer will give you an estimate of the fee.

## How is the fee computed?

A lawyer usually computes a fee on an hourly rate. This can range anywhere from \$75 an hour to more than \$300 an hour, depending on the circumstances of the case, as well as the experience and expertise of the lawyer.

In computing the fee, your lawyer considers a number of elements, including:

- **Time.** This is the basic element in determining a fee. While many lawyers work a minimum of eight to 10 hours a day, only about 65 percent of that time can be billed to clients. The remaining time is devoted to keeping up with the many new and changing laws, continuing legal education courses, attending bar association committee meetings and taking part in related studies and projects, and volunteering in legal services programs;
- **Ability, Experience and Reputation.** Good law school training combined with later legal experience constitutes a lawyer's legal education. An experienced lawyer may be better trained to handle your problem. If your lawyer is well known as an able lawyer in one field, a higher fee may be charged because those specific services are in special demand. This situation is similar to that found in the field of medicine when a doctor charges more for a complex operation than for a routine one;
- **The Results Achieved.** In some cases, the result itself may decide the fee. An example of this is the "contingency" agreement, often used in personal injury cases. The lawyer receives no fee unless money is recovered for the client. If money is recovered, then the lawyer is paid an agreed-upon percentage of the recovery. In Georgia, this percentage ranges from about 25 percent to 50 percent, depending on the amount recovered, the area of the state, the circumstances of the case and many other factors. The client, by law, is responsible for court costs, such as filing fees and subpoena fees. The client must also reimburse the lawyer for any actual expenses paid out of the office funds (for items such as long-distance telephone calls, investigators, medical reports and depositions).  
When no contingency fee arrangement has been made, the lawyer will expect to be paid whether the client wins or loses the case. Always keep in mind that no lawyer can guarantee the results of any court proceeding; and
- **Operating Expense and Overhead.** The cost of operating the average law office (including such items as rent, equipment, law libraries, supplies, professional and non-professional staff and insurance) amounts to nearly 50 percent of the gross annual income derived from legal fees.

## What about discussing the fee?

You should discuss the cost of legal services at your first interview with a lawyer. The lawyer may not be able to determine the exact amount of time and effort required to handle your case but should be able to give