



**NOW LEGAL DEFENSE
AND EDUCATION FUND**

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How To Find A Lawyer

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Finding an attorney can be a frustrating process. However, since there is a difference in the quality of attorneys, it is important to make every effort to choose carefully. Below are some things to keep in mind during your search.

WHERE TO START

One way to find an attorney is to contact a local or state bar association, which will be listed in the telephone book. These organizations maintain lists of lawyers and their specialties. However, keep in mind that generally any lawyer with a certain amount of experience can be listed through these services, regardless of the quality of his or her work. The standards are different from state to state, so feel free to ask how the lawyers are chosen when you call.

A local or state women's bar association may also make referrals, whether formally or informally. If you cannot find these in the phone book, call the state bar association for the number. Don't be discouraged if it has never heard of a women's bar association--ask the organization to check for any association of women lawyers. The women's bar and other local women's organizations may be able to put you in touch with attorneys who are more likely to be sympathetic and knowledgeable about women's concerns. For instance, rape crisis centers may be familiar with lawyers who specialize in sexual assault cases, or a battered women's shelter may know attorneys who are experts in domestic violence law.

A word of warning -- if you are involved in a divorce, avoid using an attorney recommended by your husband's attorney or any attorney who has worked for your husband, no matter how friendly the divorce seems. You need a lawyer who can work wholeheartedly for **your** interests.

MAKING A WISE CHOICE

As with any major decision you make as a consumer, you should consider all your options. Consulting several recommended attorneys improves your chances of finding the best representation. Although such "shopping around" is a smart idea, always ask about fees in advance. Sometimes there will be no fee, or a reduced fee, for the first consultation, but in some cases the attorney will charge her or his regular rate, which could be over \$200 an hour. The more complicated your case, the more important it is to take the time to find the right attorney. You could be spending a lot of time with this person and depending upon him or her to defend your rights.

Make sure that “what you see is what you get.” Ask the lawyer if she or he will be able to represent you throughout the entire case. (Sometimes an attorney may turn your case over to a junior attorney you have never met.) In addition, find out exactly what services the attorney will perform for you personally and which ones will be performed by other members of her or his staff.

WHAT IF I CAN'T AFFORD AN ATTORNEY?

If you cannot afford an attorney, call a local Legal Aid or Legal Services office, which may provide you with free representation if you meet its income requirements. These offices handle different types of cases, depending on the locality. For instance, in some cities Legal Aid doesn't handle divorces or child custody cases, while in other places, it has a separate family law office. If the local office cannot provide you with a lawyer, sometimes it can refer you to a low-cost attorney. You can also try calling some of the “chain” law firms and others that specialize in low-cost legal services to try to find an attorney you can afford, or look for a lawyer who will take your case for free (*pro bono*).

CONTINGENCY CASES

If an attorney thinks there is a good chance you will win a substantial financial award, she or he may be willing to take your case with the agreement that you will pay her/his fees once you have won. However, even in such a situation, the attorney will probably expect you to pay the costs of the suit as they are incurred, and may also expect you to pay part of the fee in advance.

COURT-APPOINTED ATTORNEYS

In some situations, the court will appoint an attorney if you cannot afford one.

- ◆ If you have been accused of a crime, you have a constitutional right to a lawyer and if you cannot afford one, the court **MUST** appoint one to represent you.
- ◆ If you have been accused of child abuse or neglect, the court will appoint an attorney to represent you in a parental rights termination hearing, **IN MOST STATES**.
- ◆ In divorce cases, the court will sometimes (when the husband can clearly afford it, for example) appoint an attorney at the husband's expense, through the amount awarded by the court may not cover the entire fee charged by your attorney. Usually, you will be responsible for paying the remainder.
- ◆ Since practices on court-appointed attorneys vary from place to place, you should ask the court clerk if you qualify.

BRINGING CRIMINAL CHARGES

If you are pressing criminal charges, a government attorney, called a prosecutor, **WILL** bring charges on behalf of the state. However, if you also bring a civil suit (for instance, if you sue for medical costs in an assault case) you must find your own attorney. For this reason, you may have two attorneys representing you concerning the same incident, but in different cases.

IF YOU ARE GETTING DIVORCED...

REPRESENTING YOURSELF IN A DIVORCE

In divorce cases, some law offices offer special deals where, for a reduced fee, the office will help you represent yourself. Attorneys and other staff fill out the necessary forms ahead of time but at the final court hearing, you appear *pro se* (which means on your own), without a lawyer. Thus, you may be able to obtain a divorce at a substantial discount. But be wary of such services unless your divorce is simple. If there are contested issues, substantial property, or questions of custody, this is probably not the best strategy for you.

If you decide to represent yourself in a divorce, you should try to attend a *pro se* divorce clinic. Such clinics, which are quite scarce and found only in certain metropolitan areas, are generally run by legal services or women's groups. Usually an attorney experienced with the divorce laws of the state will guide you through the process, teach you to prepare the necessary forms, and be available to answer your questions. You will appear *pro se* at the final hearing. Such divorces cost very little, but you should only attempt this strategy if there is no way you can find an attorney.

Even where such clinics do not exist, it may be worthwhile to try to go ahead with the divorce on your own, if your only other choice is to remain married and you have strong reasons for wanting a divorce. Some states have very complicated procedures that you may find too cumbersome to tackle, but a few states have fairly simple forms that an ordinary person without special training can manage. In some states, there are even kits available at bookstores to help you with the process.

*** If you are seriously considering handling your own divorce, you should keep in mind that there are risks and difficulties. It is especially important to proceed cautiously where property and/or children are involved. Where the divorce is contested or complicated, all other possibilities should be exhausted first.

MEDIATION

Another option for divorcing couples is mediation. A trained mediator will sit in on divorce negotiations between the husband and wife and try to help them resolve their differences and come to an agreement on the various provisions of the divorce. If an agreement is reached, only a brief routine court procedure will be necessary for approval. Mediators usually charge less than attorneys, so a mediated divorce may be, though isn't necessarily, less expensive. However, approach mediation cautiously; your interests may be better represented by an attorney, especially if there is a great deal at stake and complicated legal issues are involved. Sometimes using both an attorney and a mediator can provide the best solution. **Mediation is not recommended for women who are victims of physical, emotional, or verbal abuse.**

IF YOU ARE BEING SEXUALLY HARASSED OR DISCRIMINATED AGAINST AT WORK...

The first step to beginning a lawsuit is to file a complaint with the Equal Employment Opportunity Commission (EEOC) office in your area and/or the human rights agency, which enforces your state and/or city equal employment laws. The complaint process is designed to be useful without lawyers and large expenditures of time and money. To find out more about the complaint process, call the EEOC at (800) 669-4000. NOW Legal Defense and Education Fund also publishes a legal resource kit on sexual harassment and discrimination in employment. Contact us for a copy. To find a lawyer, you can look at the National Employment Lawyers Association (NELA) website at www.nela.org/about/attorney_listings.htm. This website offers a national list of

attorneys specializing in employment law. If you do not have access to the Internet, please contact NOW Legal Defense and Education Fund for a copy of NELA attorney listings in your state.

DEALING WITH YOUR ATTORNEY

THE FIRST STEP

Read the retainer agreement -- the form outlining the attorney's responsibilities, hourly fee, costs you will be expected to pay, etc. Ask questions if there are any sections you do not understand. If you think any of the provisions are unfair, tell the attorney. If you are not satisfied with the agreement, try to negotiate changes, or reconsider your choice of attorney.

Some agreements allow the attorney to keep the entire retainer (which may be hundreds or thousands of dollars) if you decide to drop the case, even if the attorney has not yet done any substantial work on it. Try to convince the attorney to include a clause allowing you some portion of a refund (perhaps pro-rated) in the event you end legal proceedings. Also, make sure you receive a regular itemized bill unless you have agreed to a flat rate.

WHAT YOU CAN EXPECT

Keep in mind that you have hired the attorney; he or she is working for you. Your lawyer should keep you informed, return your calls, explain things you do not understand, and be attentive to your priorities. On the other hand, your attorney's time is valuable and you will be charged for it. Making frequent calls just to chat or check up on the progress in your case will end up costing you a lot of money. Many people find it more helpful and affordable to share questions of an emotional nature with a friend, family member, or a therapist or other mental health professional rather than a lawyer.

If you think your attorney is seriously neglecting your interests, it may be necessary to fire him or her and find a new attorney. If you decide to do this, ask for a refund of the remaining portion of the retainer, which is still yours unless your written agreement with the attorney specifies otherwise. Also, consider giving your attorney only copies of your documents, not originals. If he or she needs the original documents for a court appearance, you can give them to the attorney at that time. If you follow this advice, you will have all the necessary original documentation on hand if you do need to change lawyers.

If your attorney does neglect or otherwise mishandle your case, such a breach of ethics could be worth reporting to your local or state bar association, which may choose to conduct an investigation. If an attorney grossly misrepresents your interests, causing you to forfeit important rights or valuable property, you may sue him or her for malpractice. If you are successful, the attorney will be required to compensate you. The standard of proof in malpractice suits is very difficult to meet, however. It is not enough that the attorney merely did a bad job. He or she must have made very definite mistakes in handling your case, such as failing to file documents at the required deadlines, colluding with opposing parties, neglecting to prepare, etc.

Remember to select a lawyer with care. The right choice can mean the satisfactory resolution of a conflict or other problem and peace of mind. The wrong choice can cost money and aggravation.