



Hiring and Working with an Attorney



COLORADO SUPREME COURT

OFFICE OF ATTORNEY REGULATION COUNSEL

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Adapted with permission from the Supreme Court of Ohio
“A Consumer’s Practical Guide to Managing a Relationship with a Lawyer”



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Introduction

Lawyers have a duty to advise and help their clients understand the legal system. In doing so, lawyers work to protect the legal rights of their clients, help solve legal problems, defend the accused, and guard against abuses by the government and its agents. It is likely that everyone, at some point, will need a lawyer.

Lawyers help write simple wills or detailed estate plans and can file the legal forms required to create a business. They also act for someone in court on family matters, such as divorce or custody issues. Lawyers also defend someone who is accused of a crime or sued over a debt.

For these and other reasons, many people find they need a lawyer's skill and support. When the need to hire a lawyer arises, people often are unsure how to choose a lawyer or what to expect after hiring a lawyer. This guide is intended to reduce the worry you may feel. By learning what to expect, you can be more confident in your lawyer-client relationship. This guide explains how to avoid possible problems with your lawyer, but is not meant to provide legal advice and should not be used for that purpose.



Learning How a Lawyer Can Help You

Why hire a lawyer?

If you have a legal problem or a question about your legal rights, it is important to ask a lawyer for help. Lawyers, also called attorneys or attorneys-at-law, do many things. As your advisor, your lawyer can help you understand your legal rights and obligations. In court, your lawyer can argue your position in a way that follows court rules. As a negotiator, your lawyer will try to get the legal result you want. The best time to ask for a lawyer's help is before you take any action, or any further action, that might have legal importance. For example:

- Before you sign a contract
- As soon as you become involved in a purchase, sale, or other matter that could affect your legal rights, like making an offer on a new home or creating a living will
- If you are arrested or charged with a crime
- If you are notified that you are being sued
- If you are injured in an accident and believe you are entitled to compensation.

There are lots of alternatives that claim to be money-saving options to hiring a lawyer. These include self-help books and companies that provide and complete legal forms. These resources may assist with understanding your problem, but they cannot take the place of an attorney. A trained attorney can tailor advice to your specific needs. A lawyer also is ethically bound to look out for your best interests.



Finding a Lawyer

Get referrals

When you hire a lawyer, you should take the same careful steps as when you choose a doctor, dentist, home contractor or other expert. If you do not know a lawyer, ask family, friends or neighbors for names. You also can ask others whose opinion you respect, such as a church leader, accountant, realtor or other professional. A suggestion from someone you know and trust based on that person's own experience often is the best way to find a good lawyer.

Lawyer referral services

There also are lawyer referral services in Colorado that can refer you to lawyers based on where the lawyers' offices are and the type of legal work you need. Generally, these services are operated by local bar associations or nonprofit community services.

You should not consider the information you get about an attorney from a referral service to be an approval of that lawyer. A referral service only can tell you how to contact the lawyer. It cannot assure the quality of the lawyer's work.

The Colorado and Denver Bar Associations publish a referral directory, available at http://www.denbar.org/repository/LegalResourceDirectory_2012.pdf.

The Colorado Criminal Defense Bar also has a "Find a Lawyer" directory, with the ability to search for criminal defense lawyers who offer reduced rates, available at <https://ccdb.org/>.

Advertisements and directories

Telephone directories and advertisements also are places for finding a lawyer. When reading an ad, remember that lawyers create their own ads and pay for the space used to publish them. While attorney rules in Colorado require lawyers to be truthful in advertisements, the directory or business printing an ad cannot ensure the information is accurate.

Web sites of legal groups and legal directories also can be helpful. Some legal resources, such as the Martindale-Hubbell Law Directory, list lawyers by city and state. These listings include facts about the lawyer's education and professional rating. You can find these directories at many public and law libraries.

Attorney specialization

Colorado does not certify lawyers as specialists in any particular field. However, lawyers may advertise themselves as specialists in a given area of law, i.e., criminal defense, workers' compensation law, or family relations law.

Specialization is one of many things to think about when hiring an attorney. You might want to choose an attorney who specializes, or has a lot of experience in, the kind of legal issue you are facing.

Legal aid organizations

If you cannot afford legal representation, there are a number of legal aid organizations in Colorado that may be able to help. Colorado Legal Services maintains a list of some of these organizations on its website at www.coloradolegalservices.org/lawhelp/find-legal-help/directory.



Factors to Consider When Hiring a Lawyer

Background, Qualifications, and Experience

It is a good idea to gather information about any lawyer you might hire before your first meeting. You can find information on the Internet, at some public libraries and bar associations, and in legal directories.

Lawyer requirements

To practice law in Colorado, a lawyer generally must:

- Graduate from college
- Graduate from law school
- Be approved by the Colorado Supreme Court Office of Attorney Regulation Counsel, which includes passing a rigorous character and fitness review
- Pass the Colorado or another state's uniform bar exam, which tests lawyers on their knowledge of the law
- Pass an exam about the rules of professional conduct governing a lawyer's professional behavior
- Take an oath administered by the Colorado Supreme Court

Lawyers practicing in Colorado must:

- Register with the Colorado Supreme Court every year
- Take continuing legal education classes
- Abide by the Colorado Rules of Professional Conduct

Those who do not complete these criteria or do not have a current law license cannot provide legal services for other people.

To find out if a person you want to hire as your attorney is licensed to practice law in Colorado, you can contact the Colorado Supreme Court Office of Attorney Regulation Counsel at (303) 928-7800, or visit www.coloradosupremecourt.com and use the "attorney search" function.

Interview the lawyer

The process of selecting a lawyer should include an interview meeting, similar to a job interview. During the interview, you should consider the lawyer's answers to your questions and how well the lawyer listens to you. You also want to pay attention to how easy it is to understand the lawyer's explanation of your legal problem, and how you feel about the lawyer's abilities.

During the interview, you may ask questions about the lawyer's background, qualifications and experience, such as:

- Where did you go to college and law school?
- How long have you practiced law?
- How many cases like this one have you handled?
- What kind of clients do you normally have?
- Would you be the only attorney working on my case or would others from your office also be involved?
- Do you belong to any legal groups?
- Do you belong to any other civic groups?

Before you call, prepare a short written summary of your case. Lawyers will ask questions before they decide to take a case. Make sure you are ready with answers.

The lawyer's fee

During the interview, you should ask the lawyer about the fee to be charged. Lawyers usually charge for their services in one of three ways:

Hourly — A specific amount charged for each hour or partial hour spent on your legal matter. You may be asked to make an advance payment, called a retainer, that will go toward your fee.

Flat fee — A fixed amount charged in advance for specific legal matters. A lawyer is required to refund any unearned portion of a flat fee.

Contingent fee — An arrangement in which a lawyer receives an agreed-upon percentage of the amount recovered on the client's behalf.

If the lawyer has not regularly represented you in the past, he or she is required to provide a written statement of the basis or rate of the fee. Once you hire a lawyer, you should ask for a written fee agreement listing the services to be provided and the fee to be charged.

Lawyers must follow strict rules about handling client money. For example, if a lawyer takes a retainer fee, he or she must keep it in a trust account until enough work is done to consider some or all of the money earned. Your lawyer should generally provide you written billing statements to show how much money has been earned.

If you hired your lawyer on a contingency fee basis, remember that your lawyer only gets paid at the end of the case if there is a settlement or judgment. Your fee agreement should explain what happens if you fire your lawyer before the case is over. Even if it does not, your lawyer might have a right to a percentage of the money you recover or to otherwise charge you for the reasonable value of the lawyer's services.

Professional liability insurance

You should ask if the lawyer carries professional liability insurance. This insurance also is called malpractice insurance. It protects clients against losses caused by a lawyer's neglect or lack of ability. In Colorado, lawyers are not required to have malpractice insurance, but many do. You can see whether your attorney has malpractice insurance by visiting www.coloradosupremecourt.com and using the "attorney search" function.

The lawyer's disciplinary history

The Colorado Supreme Court has a system for filing and processing complaints against lawyers for violations of the ethical rules for lawyers (called the Colorado Rules of Professional Conduct). To find out if a lawyer has been disciplined in the past, you can visit www.coloradosupremecourt.com and use the "attorney search" function.



The Duties of a Lawyer

When you hire a lawyer, a lawyer-client relationship is created between you and your lawyer. In this relationship, your lawyer has several duties.

Work hard to represent you

Your lawyer's main job is to work hard, devote the time needed to your case and use the skill necessary to represent your interests and protect your legal rights.

Use good judgment

Your lawyer must serve you as a neutral legal advisor and should not be swayed by the interests of other clients (called conflicts of interest). In order to avoid conflicts of interest, your lawyer must decide whether working for another client's interests is harmful to yours.

Carry out your wishes

Your lawyer must carry out your lawful goals in your legal matter. If you and your lawyer cannot agree on how to handle your case, then your lawyer may decide to stop representing you. However, your lawyer must follow your choices about certain parts of the case. This includes deciding whether to settle a civil matter. In criminal matters, it also includes whether to enter a plea, have a jury trial, or have you testify.

On other matters, such as those involving complex, legal, or tactical points, your lawyer must use expert judgment in your best interest. Your lawyer cannot assist you in illegal or deceptive conduct. If you ask your lawyer to act in an illegal or unethical manner, your lawyer may stop representing you.

Lawyers always should respect opposing attorneys and parties, as well as court officials. Your lawyer also should complete all legal tasks on time, and avoid offensive methods.

Keep your confidences

Your lawyer must keep the information you provide about your case confidential, both during and after the engagement. This is true except in rare instances when your lawyer is required or permitted by law or other rules to reveal the information.

Charge a reasonable fee

Your lawyer's fee for services must be fair. You should be told ahead of time how the fee will be determined and billed. Sometimes, you may agree to a contingent fee, which is based on how your case is decided.

Your lawyer must give you, if you ask, a listing of the work performed on your case. The listing must include the amount of time spent and the total amount charged for each task. Your lawyer also should provide you with a receipt for any payment you make.

Protect your funds

Your lawyer must protect any money held for you and must keep accurate records of those funds. Your lawyer must give those records to you if requested.

Provide updates

Your lawyer must inform you about the progress of your legal matter. To do this, your lawyer should give you copies of important papers, answer your questions and return your calls in a reasonable amount of time. Your lawyer also must explain options for ending the legal matter, as well as any positive or negative effects.

Not discriminate

A lawyer cannot refuse to take your case on the basis of race, color, age, religion, gender, sexual orientation, national origin, marital status, or disability. Also, your lawyer should treat you with respect at all times.

Rules of Professional Conduct

Lawyers are bound by the Colorado Rules of Professional Conduct. To read the full rules, click here: <http://www.cobar.org/index.cfm/ID/22119/CETH/Colorado-Rules-of-Professional-Conduct/>.

Oath of Admission

Those who have passed the Colorado Bar Exam and been admitted to practice law in Colorado must take the Oath of Admission.

I do solemnly swear that:

I will support the Constitution of the United States and the Constitution of the State of Colorado;

I will maintain the respect due to Courts and judicial officers;

I will employ only such means as are consistent with truth and honor;

I will treat all persons whom I encounter through my practice of law with fairness, courtesy, respect and honesty;

I will use my knowledge of the law for the betterment of society and the improvement of the legal system;

I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed;

I will at all times faithfully and diligently adhere to the Colorado Rules of Professional Conduct .



The Duties of a Client

Be truthful

You must be truthful and give all important information needed to handle the legal matter. Even if you believe certain facts may hurt your case, hiding those facts most often will hurt the case in the end. If given all the facts upfront, your lawyer will have time to deal with them.

Cooperate

Give all related papers to your lawyer, respond on time to your lawyer's requests for information, and tell your lawyer of changes in your situation. Also, work with your lawyer to meet deadlines in your case.

Keep meetings

You have a right to be present for all meetings and court appearances related to your matter, unless a court orders otherwise. Respect your lawyer's time. Be on time for meetings and legal proceedings. Often, being late for court can result in penalties or delays. If you cannot attend a scheduled meeting, call your lawyer right away so other clients are not affected.

Pay your legal bills

Pay legal bills promptly. Your lawyer cannot be expected to work without being paid, so always request a receipt to show your payment.

Be respectful

Treat your lawyer and your lawyer's staff with respect. Also, show respect for the legal system by dressing nicely for legal meetings, acting properly in court, and being polite to all members of the legal field, including court workers.

Communicate clearly

Openly share your beliefs, concerns or questions with your lawyer. Do not assume your lawyer knows or should know when you have concerns or questions. Regular contact between client and lawyer greatly improves the lawyer-client relationship.



Preventing Problems with a Lawyer

Agree upon goals

At the start of your lawyer-client relationship, talk clearly with your lawyer about your problem and what you want the lawyer to do. After reviewing options with you, the lawyer will decide whether you can be helped. Both you and your lawyer should agree upon the services to be provided.

Be sure to ask your lawyer for a written engagement agreement outlining the scope and objectives of the representation.

You have a right to have your goals respected by your lawyer, including whether to settle.

Decide how you will communicate and how often

At the beginning, ask when you will hear from or talk with your lawyer, whether by telephone, letter, e-mail or personally in the office. Also, ask for the names of other people in the law firm who will work on certain parts of your case. This can include writing papers, going to court hearings or working on a trial or appeal.

Be reasonable in your need to talk with your lawyer. Most legal matters have times when there is no activity, as well as other times when things are busy. When there is little or no activity on a case, it may be unreasonable for you to expect to hear from your lawyer.

However, when there is activity on the case, your lawyer should have regular contact with you. Remember, a lawyer must manage time when working for many different clients. Understanding this is critical to keeping a good working relationship with your lawyer. Be assured, however, that your lawyer must act carefully and promptly when acting for you. Your lawyer must keep you informed about your matters, and respond to your calls and reasonable requests for updates.

Keep records

Keep a calendar or list of all contacts with your lawyer's office, with dates and times

spent talking about your legal matter. If your lawyer does not return telephone calls or attend scheduled meetings, you should contact your lawyer in writing and keep a copy of the letter.

Request records

Unless you have a flat fee or contingent fee agreement, it is wise to ask for monthly bill for legal services and other costs. Feel free, at any time, to ask for an itemized listing that details the work performed on your behalf. It should include the time spent on each task and the amount charged.

Discuss questions about fees with your lawyer right away. Your lawyer also should give you dated and signed receipts for all money you pay for your legal services. Your lawyer also should give you a receipt for any property or items you give for safekeeping.

Ask your lawyer to send a copy of all letters or forms sent or received on your behalf. Also ask for a copy of each paper filed in your case.

Your lawyer may charge you for the cost involved in providing the copies, but it is worth the cost to receive copies, because it will help you stay informed about the progress and status of your legal matter. Having these copies also allows you to ask questions about anything you do not understand.

Do not sign blank documents or powers of attorney to cash checks

Do not sign blank papers, forms, receipts or checks on bank accounts for your lawyer. Do not sign a “power of attorney” document giving your lawyer or the law firm permission to cash a check for you, unless there is an urgent need.

Avoid relationships with a lawyer that could cause conflicts of interest

Remember that you, as a client, have a working relationship with your lawyer.

It is important to avoid romantic, personal, business, or social situations with your lawyer that can change your lawyer’s ability to consider your case properly.

Becoming involved in private business relationships or deals with your lawyer is risky. A lawyer should not borrow money from a private client or ask for investments in the lawyer's real estate, property or other business dealings.

If this happens, take steps to protect yourself. This includes asking another lawyer for an opinion about whether the deal is in your best interest. To avoid possible problems, simply avoid any business deals with your lawyer by not agreeing to them.

If you want to make a gift of money or property to your lawyer in your will, you must hire another lawyer to write the will. The only time this rule does not apply is when the gift is to a lawyer who is related to you.



Dealing with Problems If They Occur

You and your lawyer may disagree on how to achieve your goals or on other matters involved in your case. If this occurs, your lawyer should talk with you to find a way to resolve the matter. If you and your lawyer are unable to agree, your lawyer may withdraw from your case or you may dismiss your lawyer.

Calling it quits

Because you, as a client, are free to choose a lawyer, you can end your lawyer-client relationship at any time and for any reason. But, if your case is pending in court, a judge may have to approve the removal of a lawyer from a case.

You can fire your lawyer on the telephone or in person. You also may do so in writing by e-mail or letter. The best way to dismiss your lawyer is to send a letter. Be sure to keep a copy of the letter for your records. When deciding to dismiss your lawyer, it is best to talk with a new lawyer to avoid missing important deadlines or creating other problems.

If you fire your lawyer, you still may owe legal fees for work already done and for costs and expenses spent on your behalf. It is important to ask for an itemized bill or an accounting, which is a detailed statement of the work performed on your behalf. This should include the time spent on each task and the amount charged.

If you paid your lawyer a retainer fee for services to be performed, ask for a refund of the unearned portion. If the lawyer was holding any other funds or property belonging to you, request a return of everything. Or you may tell the lawyer to send the funds or property to a specific person or group. Finally, ask the lawyer to send your file to your new lawyer or return the file to you.

When your lawyer closes his practice, becomes seriously ill, or dies

If your lawyer closes the law practice, becomes seriously ill, or dies before completing work on your case, talk with a new lawyer. If you have a case pending in court, call the court right away as well. If you have problems retrieving your file or a refund of

any unearned retainer funds from the lawyer's office, you should call the Office of Attorney Regulation Counsel at (303) 457-5800. In some cases, the Office of Attorney Regulation Counsel acts as "inventory counsel" to properly handle client files and money in the event of a lawyer's death or disability.

Arguments about fees

When there are disputes over the fees charged for your lawyer's services, you should review the fee agreement. If the agreement was not in writing, ask for a written statement from your lawyer listing all of the work done on your behalf. This should include the date work was completed, amount charged for each item listed, and copies of all related papers or forms. Review all of this carefully to make sure everything is correct. Then respond by presenting receipts, cancelled checks or other proof of payment for any disputed items. Also, ask your lawyer to explain other items listed on the statement that you question.

If you cannot settle a dispute about fees with your lawyer, then either:

- Contact the local bar association to learn about local "fee arbitration" programs or
- File a court action to settle the dispute.

If you choose to settle the argument using a fee arbitration program, be certain you understand the process and the possible outcome. If you choose to take court action, consult a new lawyer for help.

While lawyers cannot charge unreasonable legal fees, it is hard to decide if a fee is reasonable or unreasonable. That is why it is important for you to discuss fees with the lawyer before entering into the lawyer-client relationship. A written fee agreement should clearly give information about the type of work expected from the lawyer. The agreement also should explain the payment of fees and expenses, the billing process and should be signed by both you and your lawyer.

Attorney misconduct

Nearly all lawyers in Colorado act in an honest manner. But sometimes a few abuse the trust placed in them by their clients. In those instances, the Colorado Supreme Court has procedures for deciding whether a lawyer acted improperly and breached

the ethical rules for lawyers (called the Colorado Rules of Professional Conduct) and whether the lawyer should be disciplined as a result.

The lawyer regulation process does not generally settle a situation for the client by refunding money paid to the lawyer, and it does not find a new lawyer to take your case or overturn an unfavorable decision.

Instead, if the lawyer's conduct is a breach of the Colorado Rules of Professional Conduct, the Supreme Court of Colorado will decide on how best to address the matter to the lawyer.

Discipline or "sanctions" affects a lawyer's license to practice law in Colorado. Sanctions for professional misconduct by a lawyer can include:

Private Admonition - a non-public statement issued by the Colorado Supreme Court informing the lawyer that he or she committed misconduct.

Public Censure - A public statement issued by the Colorado Supreme Court informing the public that a lawyer committed misconduct.

Suspension - Temporary loss of a lawyer's right to practice law in Colorado.

Disbarment - Permanent loss of a lawyer's right to practice law in Colorado.

In addition, a lawyer who commits minor misconduct may be offered an alternative to discipline agreement, where the lawyer's disciplinary case will be dismissed if the lawyer meets certain conditions over an agreed-upon period.

The Supreme Court gives the Office of Attorney Regulation Counsel permission to investigate and prosecute lawyer misconduct. If you believe your lawyer committed professional misconduct, you may file a complaint with the Office of Attorney Regulation Counsel at (303) 457-5801.

Examples of professional misconduct include, but are not limited to:

- Neglecting a legal matter and thus harming you
- Allowing a conflict of interest to sway how your lawyer acts for you in the matter
- Stealing your money
- Knowingly lying to you or a court.

For more information about the lawyer disciplinary process, contact the Office of Attorney Regulation Counsel.

Colorado Supreme Court
Office of Attorney Regulation Counsel
1300 Broadway, Suite 500
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www.coloradosupremecourt.com

Reimbursements of stolen money or property

If you have lost money or property through the *dishonest conduct* of an attorney during the course of an attorney-client relationship, you may be entitled to seek reimbursement through the Colorado Attorneys' Fund for Client Protection.

The Attorneys' Fund for Client Protection is funded by a portion of the attorney registration fees paid by each Colorado attorney. No taxpayer dollars are used. The board administering the fund has set a limit of \$50,000 per claim.

There is no cost to file an application, and you do not need a lawyer to file the paperwork. Forms for the Attorneys' Fund for Client Protection can be obtained from the Office of Attorney Regulation Counsel.

For more information on the Attorneys' Fund for Client Protection, click here: https://www.coloradosupremecourt.com/Regulation/Attorney_Fund.htm.

Legal malpractice

Most lawyers are skilled, hardworking experts in their field. Yet, there may be times when you believe your lawyer acted wrongly. In general, "malpractice" occurs when a lawyer fails to follow the reasonable standards of the legal profession and the client is injured as a result.

The deadline for filing a legal malpractice case in Colorado is two years. Deciding when the two-year period starts depends on the details in each case. If you believe legal malpractice occurred in your matter, contact a private lawyer who handles legal malpractice cases right away to talk about the matter and get advice.



Conclusion

The lawyer-client relationship is created by an agreement, preferably in writing. The agreement states the legal tasks to be done by your lawyer and the fee you pay for those services. Once the relationship starts, your lawyer must provide you the agreed-upon legal services in a skilled and prompt manner that follows any related rules or laws. You must give the information needed for the lawyer to provide these services. You also must pay the agreed-upon fee. The duties of both you and your lawyer are critical to creating and keeping a successful lawyer-client relationship that avoids disputes or other problems. The information provided in this guide should assist you in finding and working with a lawyer to meet your legal needs.

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