

THE BERMUDA BAR ASSOCIATION

UNDERSTANDING YOUR LAWYER'S FEE

Some people avoid going to a lawyer, because they fear it costs too much. Others go but don't ask about fees because they think it is improper to do so.

There is nothing mysterious, or secret, about a lawyer's fee. It's your money and you have the right to know how you will be charged, how it will cost and when you will have to pay.

Don't delay getting legal advice because you are afraid of the cost. You may jeopardize your legal rights and it may cost more in the long run.

WHAT ARE YOU PAYING FOR

When you hire a lawyer, you are buying:

- ❖ **Experience**
- ❖ **Skill**
- ❖ **Time**

The more you use of each, the more it will cost. However, there are steps you can take to keep your costs down and still receive fine service.

METHODS OF CALCULATING YOUR LAWYER'S FEE

There are no set fee schedules governing the amount lawyers charge. The method of calculating fees may vary with each lawyer, and with different types of legal services. Here are the most common methods:

Fixed Fee – If you hire a lawyer to provide a routine service such as a conveyance or an incorporation, the lawyer may be able to quote a flat fee regardless of the amount of work involved. A lawyer will only use this amount when he or she can calculate fairly accurately the time required.

Hourly Rate – In many cases a lawyer cannot predict the amount of time required when a case begins. For example, a complicated lease or dispute that possibly will have to go to court for a determination. In those situations, your lawyer should keep a record of the time spent on the case and charge you an hourly rate. If the case involves a court trial, your lawyer may set a daily trial rate.

Percentage Fee – Fees may be calculated as a percentage of the value of the subject matter. This approach is often used when probating an estate or collecting debts but its use in other areas of legal work is either limited or prohibited.

FACTORS YOUR LAWYER CONSIDERS IN CALCULATING THE FEE

In deciding what fee, rate or percentage to charge, your lawyer will take into account the following factors;

- ❖ The extent and character of the services to be rendered.
- ❖ The labour, time and trouble involved.
- ❖ The character and importance of the matter.
- ❖ The amount of money or value of the property involved.
- ❖ The results achieved.

SOME SPECIAL TERMS

Payment on Account – When first discussing your case with your lawyer, he or she will usually ask for a payment on account. This is the sum of money, usually described as a “retainer”, which will be deposited in the lawyer’s trust account as a credit against the services he or she will perform and expenses to be incurred on your behalf. As the case proceeds, the lawyer will submit accounts to you and will debit your account accordingly. You may be asked to make further payments on account as the matter proceeds if it is a lengthy one.

Disbursements – These are out-of-pocket expenses, such as court filing fees or stamp duty, which the lawyer incurs on your behalf. You are responsible for them. They are not normally included in the hourly rates, percentage or fixed fees.

Costs – When a case goes to court (not in criminal matters) the judge will normally award “costs” to the successful party. If you win, the losing party will be required to pay part of your lawyer’s account, calculated according to the fixed schedule.

Normally the schedule will allow only part of your lawyer’s total account, and you are responsible for the balance. If you lose the case, you will have to pay all of your own lawyer’s fees and a portion of the successful party’s legal fees.

DISCUSSING FEES WITH YOUR LAWYER

During the first appointment with your lawyer, you should quite openly discuss and settle the following:

- ❖ How you will be charged – e.g. a fixed fee, hourly rate, a percentage fee or a lump sum fee.
- ❖ What the fee, rate or percentage will be.
- ❖ What the total cost of fees and disbursements will be or at least an estimate.
- ❖ When you will be billed – e.g. payments on account each month or prior to trial.

Whatever you agree upon, it may be wise to get it in writing. Then both you and your lawyer will know exactly what you have agreed to and it will avoid disputes later. You should feel free to discuss legal fees and costs at any stage of your arrangement with your lawyer. In a long or time consuming case, where you received only an estimate of the legal fees, you should discuss frequently with your lawyer the costs at all stages of the proceedings.

WAYS TO KEEP YOUR LEGAL COSTS DOWN

Since you are buying your lawyer's time, the less you use the less it will cost. Here are some tips:

Before going to see your Lawyer

- ❖ Get all your papers and documents together, and put them in order.
- ❖ Write out a chronology of events.
- ❖ Note the names and addresses of witnesses.
- ❖ Write out the issues upon which you want advice.

When you talk to your Lawyer

- ❖ Stick to the facts.
- ❖ Tell the lawyer all the facts, good and bad.
- ❖ Ask questions if you don't understand the advice you are given.
- ❖ Ask what you can do to speed up the case in order to reduce your costs.
- ❖ Ask your lawyer to keep you informed of developments in your case.

After you have talked to your Lawyer

- ❖ Don't make unnecessary phone call to his or her office.
- ❖ Consider writing your lawyer instead of calling whenever possible. This provides a written record of your dialogue with him/her.
- ❖ If you must call, consider asking the lawyer's secretary to help you as a first line of information to reduce the time you must spend talking to your lawyer.
- ❖ Be realistic about matters in dispute. For example don't spend \$500.00 on legal fees to recover a \$200.00 TV.

IF YOU ARE UNHAPPY WITH YOUR LAWYER'S ACCOUNT

If you believe your lawyer's account is unreasonable:

First: Discuss it with your lawyer; there may be a genuine misunderstanding about what he or she had to do to resolve your legal problem.

Then: If you are still unsatisfied, you can apply to the Bar Council to have that matter adjudicated by its fees committee. This adjudication requires the consent of the firm or attorneys. Such complaints should be addressed to the Executive Secretary of The Bermuda Bar Association, P.O. Box HM 125, Hamilton HMAX.

This information is provided to you courtesy of the Bermuda Bar Association and the law firm whose business stamp appears below:

If you have any comments regarding this information or the operation of the Bermuda Bar Association, you are encouraged to direct your comments and queries to:

The Bermuda Bar Association
P.O. Box HM 125
Hamilton HMAX