

HIRING CIVILIAN COUNSEL

Resources:

Montana Legal Services Association:

1-800-666-6899

<http://www.mtlsa.org>

Montana Office of Disciplinary Counsel:

(406) 442-1648

<http://www.montanaodc.org>

State Bar Lawyer Referral and Information Service:

(406) 449-6577

<http://www.montanabar.org/displaycommon.cfm?an=1&subarticlenbr=19>

Questions and Answers:

Q: When should I hire civilian counsel?

A: You should consider hiring civilian counsel anytime you go before a court or an administrative hearing (like one held by the Montana Child Support Enforcement Division). This is especially important if the legal matter is contested (like a lawsuit) or threatens important legal rights (like child custody).

Q: Can a JAG represent me?

A: Air Force regulations do not allow legal assistance attorneys to provide representation in civilian courts or administrative hearings.

Q: If I cannot afford an attorney, what can I do?

A: There are several options you may be able to take advantage of. The Montana Legal Services Association provides assistance in a broad range of issues. Contact them directly to see if you qualify. The American Bar Association's Military Pro Bono Project connects servicemembers grade E-6 and below with volunteer attorneys who accept pro bono cases. Meet with a legal assistance attorney to see if you would be a good referral to this project

This handout is meant for informational purposes only and does not substitute for the advice of a competent attorney. The discussion of law here is only a brief overview. Laws can and do change. If you would like to speak with an attorney, please call the Malmstrom Legal Office at 731-2878.

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Q: Can you refer me to a lawyer?

A: Air Force regulations do not allow legal assistance attorneys to refer clients to specific attorneys. However, we are allowed to direct you to the State Bar of Montana's Lawyer Referral and Information Service. This service can help you find an attorney in your area who practices in the legal field you issue falls in.

Q: How can I know whether I am hiring a good attorney?

A: There are many factors that go into being a good attorney. Some you may want to consider are:

- How long has the attorney practiced in the relevant field?
- How long have they practiced in the local area?
- What sort of cases have they handled?
- What outcomes do they tend to reach?
- Do they have any specialized certifications?
- Are they a solo practitioner?
- If they are not a solo practitioner, would anyone else be working on your case?

This is not an exhaustive list; it is merely meant to give you an idea of the sort of things you may want to consider in selecting an attorney. Ultimately, you must use your own best judgment.

Q: How much will an attorney charge me?

A: Attorneys' fees generally come in one of three forms. The most common method is the billable hour. Attorneys using this method charge a set hourly rate no matter the outcome. The second method is the flat rate, in which the attorney charges a flat upfront fee no matter how long the representation takes. The flat rate is more common with issues where the attorney can fairly accurately predict the amount of work that a case will take (for instance, writing a will). The third method is known as "contingency fee." An attorney charging a contingent fee collects some portion of any financial award you receive in the case, but generally collects nothing if you receive nothing. Contingency fees are not allowed in certain types of cases, such as divorces.

Q: How much is a reasonable fee?

A: There is no hard-and-fast rule for determining what makes a fee "reasonable." Instead, the fee will depend on a range of factors. Some of these could be:

- How likely are you to win?
- How complicated is the case?
- How long is the case likely to take?

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- Does the case involve any novel legal issues?
- How experienced is the attorney?

This list is not exhaustive. Just as with finding a good attorney, ultimately you must use your own best judgment about what sort of fee arrangement to accept. It is usually a good idea to consult with several attorneys about their respective rates before committing to any one of them.

Q: Are there other costs to consider, apart from paying my lawyer?

A: Yes. Depending on the sort of case, you may have to pay court filing fees, file-copying fees, investigation fees, transportation fees, etc. Carefully consider what the other costs of your case might be. Discuss these potential costs with your attorney before you sign any fee contracts, and be sure to come to an agreement with him or her.

Q: How do I make a complaint against an attorney?

A: If you believe that an attorney has violated the Rules of Professional Conduct, you can make a complaint to the Montana Office of Disciplinary Counsel. However, there should be a valid basis for your complaint. Valid bases can include things like the attorney breaching attorney-client confidentiality, having a conflict of interest, violating your fee agreement, etc. Losing a case, having a personality conflict, and minor unintentional errors are not usually enough to merit a complaint.

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