



# CLIENT RESOURCE GUIDE



- meet your lawyer
- attorney-client relationship
- lawyer's fees
- the fee dispute resolution program
- no lawyer discipline system
- no paralegals
- finding the legal help you need



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# MEET YOUR LAWYER

## **A Lawyer's Qualifications**

No one but duly admitted members of the bar may practice law. A lawyer is trained to prepare legal documents for clients, to advise on personal and business matters and to represent clients before courts and government agencies. In order to qualify for admission to the bar in Missouri, an applicant must have completed the equivalent of at least six years of college training, the last three of them in an accredited law school. An applicant must display moral fitness to practice law, as determined by an investigation, and must successfully pass a rigorous examination in many fields of law given by the Missouri Board of Law Examiners, under the general supervision of the Supreme Court of Missouri. A lawyer admitted to practice becomes an officer of the court.

## **A Lawyer's Duties**

A lawyer's first duty is to see that clients are given the benefit of all the legal rights they enjoy in connection with their problems. A lawyer is sworn to conduct cases and matters in an orderly manner and so that they may be decided upon their merits. A lawyer may not make any agreements or incur any obligations that might conflict with a client's interests.

## **Services Lawyers Render**

A lawyer can help whenever you have a problem or perform an act that involves the law. Any business transaction, every instrument you sign or agreement you make, any accident you have, or actions you take involving property, taxes, sales and countless other situations may require the advice of your lawyer. Your lawyer: can give you advice on your legal problems by telling you what to do or not to do; can prepare written instruments, such as contracts and deeds; may be able to settle disputes for you out of court with a saving of trouble and expense; can represent you in the civil courts, where disputes over property, money, damages and family relationships are determined; and can render innumerable other services because of training and experience in the law.

## **When to Go to a Lawyer**

The best time to consult with a lawyer is before, not after, you are in some legal trouble. Just as your doctor can better help you if given a chance to practice preventive medicine, so your lawyer can save you both money and difficulties if you consult your lawyer when any legal change in your position is planned.

## **Preventive Law**

A person too often thinks of his lawyer as a “last resort,” to be consulted only when a dispute seems likely to result in litigation. Many disputes could be avoided, at small cost to the client, by agreements and contracts correctly and properly drawn in the first place. An ounce of prevention is worth a pound of cure in the courts. As a service to the public, The Missouri Bar has undertaken a program designed to point out, through brochures and other means, some of the situations where “preventive” law will help people avoid trouble and loss.

## **How Lawyers Charge For Services**

A lawyer generally makes only a nominal charge, if any, for a first visit. How fees are set sometimes depends on the area of practice or type of case. Some lawyers charge flat fees for document preparation. If a monetary settlement is involved, the charge may be on a percentage basis. Some types of legal work are charged by the hour. Your lawyer charges for actual time spent on such details as assembling facts and looking up the many possible laws affecting the case. When a lawyer charges for “advice,” this does not mean an offhand personal opinion. A lawyer’s advice is a conclusion reached after perhaps hours or days combing through volumes of law to exhaust all the authorities and find all the law affecting your problem. Do not be afraid to discuss how fees are determined with the lawyer. A clear understanding is to everyone’s benefit.

## **A Lawyer’s Duty to You in Civil Cases**

A lawyer’s whole career depends upon unswerving loyalty to clients. A lawyer may, however, see weakness in a particular case and may know that a court fight will be both expensive and probably futile for a client. In such a case, a lawyer may advise the client to bargain or, with the client’s permission, may bargain for the client. It is truly said that a settlement, even though for an amount less than claimed, may be far better than an expensive, lengthy lawsuit, the result of which is uncertain. Litigation can be a luxury. Lawyers recognize this and pursue conciliation and settlement wherever possible and advisable.

## **A Lawyer's Duty to You in Criminal Cases**

It is one of the glories of America that every person is considered innocent until proven guilty. Therefore, every defendant in a criminal case has a right to all the protection which the law gives to an innocent person. It is the duty of an accused person's lawyer to see that a client has the benefit of all rights under the Constitution of the United States and of the state, the laws passed by the duly elected legislative bodies, and the decisions announced by the courts over centuries of human experience. A lawyer must see that the client receives a fair trial and is tried for the alleged crime only on the basis of competent evidence, properly produced. The mere fact that a client's case is an unpopular one — even to the extent of being notorious — should not lessen the vigor with which a lawyer defends the client.

## **A Lawyer's Knowledge of the Rules of Evidence**

Trials are conducted under rules of evidence which have been developed over the centuries to produce fair trials. For example, witnesses often attempt to make statements regarding facts of which they do not have personal knowledge. Such testimony is called hearsay evidence. If it were allowed to become a part of the records of the trial, the result might be injustice. Rules of evidence, therefore, prohibit a witness from telling what someone else, who is not present in court, told him. Similarly, testimony regarding a conversation with a person who is dead at the time of the trial may be ruled out because there is no one who can prove that the testimony is true or false. A lawyer protects the client by seeing, in court, that the rules of evidence are followed and enforced. Likewise, only lawyers can properly advise clients as to their rights and effectively represent them in a host of matters involving business, personal, tax and other problems, because of their knowledge of evidence and its use.

## **Your Duty to Your Lawyer**

You should give your lawyer all of the facts concerning the case or other matter and make a full and fair disclosure of the entire situation. What you may consider unimportant or trivial may have a significant impact on your case. The relationship between lawyer and client is confidential, and any confidential information that a client gives a lawyer, even the confession of a crime, is considered privileged, and the lawyer cannot divulge it without the client's consent. A lawyer, furthermore, cannot represent both sides unless with their full knowledge and consent.

## **Bar Associations**

All persons, including judges, entitled to practice law in Missouri are members of The Missouri Bar. The Missouri Bar was created by rule of the Supreme Court of Missouri to the end that its members “strive at all times to uphold the honor and maintain the dignity of the profession and to improve not only the law but the administration of justice.” In addition, there are local bar associations of lawyers in your city or county. These are voluntary organizations of lawyers and judges and have the same purposes as The Missouri Bar, with comparable activities and committees working on the local level for the improvement of the law and for the public welfare.

## **Legal Ethics**

The legal profession maintains a high standard of professional conduct based on the concept that loyalty to the client is a lawyer’s first duty. Committees of the bar are working quietly but effectively to maintain these public service standards. The Supreme Court of Missouri may disbar, suspend or censure a lawyer for unprofessional conduct or for acts involving moral turpitude. Honesty, fair play and loyalty to clients are emphasized in the law school training of all lawyers.

## **Unauthorized Practice**

Unauthorized practice is the rendering of legal service or advice by a person not admitted by the Supreme Court to the practice of law. Lawyers object to the unauthorized practice of law, not because of self-interest (for frequently they could make higher fees correcting the work done by untrained, unauthorized persons), but because lawyers know that the rendering of legal service or advice by such persons constitutes a real danger to members of the public. While a non-lawyer may have some knowledge about one phase of the law, a non-lawyer may not be aware of other laws that can cause an adverse result. It is far safer for the public to rely on an expert in any field of endeavor, be it law, medicine or any other professional field.

## **Why People Choose the Legal Profession**

Lawyers enter the profession because they are drawn by their temperaments into work which calls for patient study and the ability to reason and analyze. Prospective law students are warned against taking up law to get rich. A lawyer sells time, knowledge and advice. It is an honorable, ancient profession and the chance to be of service to the public is indeed an attraction to young people.



## **For Legal Advice, See Your Lawyer**

The Missouri Bar offers a free Lawyer Search function, located at [MissouriLawyersHelp.org](http://MissouriLawyersHelp.org). Those seeking representation can use the tool to locate lawyers by practice area, geographic location, and spoken language.

The Missouri Bar or the Office of Chief Disciplinary Counsel cannot provide legal advice or refer you to an attorney, but select local bar associations in Missouri offer assistance in finding representation. The Office of Chief Disciplinary Counsel does not screen the attorneys who are affiliated with these lawyer referral services, and OCDC does not have information on their credentials or abilities. If you would like a referral to an attorney in the St. Louis area, call (314) 621-6681. For a referral to an attorney in the Springfield or Greene County area, call (417) 831-2783.

Hiring a legal professional can be costly, but it is important to remember that you are paying for expertise. If you are unable to afford a lawyer, it might be possible to be represented at a lower rate or on a pro bono basis. In these situations, your quality of representation should not decrease, but your out-of-pocket costs will. The Missouri Bar does not match members of the public with pro bono lawyers, but it maintains a list of available discounted services, which is available at [MissouriLawyersHelp.org](http://MissouriLawyersHelp.org).

Additionally, some matters, such as an uncontested divorce or traffic ticket, may not call for a lawyer at all. The Missouri Bar produces numerous brochures and blog posts – all available at [MissouriLawyersHelp.org](http://MissouriLawyersHelp.org) – that address general legal questions. While they are not a substitute for a hired lawyer, they are helpful for background information on matters and can help you decide if you need to seek representation.

For more information, go to [MissouriLawyersHelp.org](http://MissouriLawyersHelp.org) or call 573-635-4128.



# THE ATTORNEY-CLIENT RELATIONSHIP

## Client

WHEN YOU HIRE A LAWYER, YOU SHOULD EXPECT PROFESSIONAL AND ETHICAL BEHAVIOR FROM A LAWYER WHO:

- Will treat you with respect and courtesy.
- Will handle your legal matter competently and diligently.
- Will exercise independent professional judgment on your behalf.
- Will charge a reasonable fee and explain in advance how that fee will be computed.
- Will respond promptly to telephone calls and written communications.
- Will keep you informed and provide you with copies of important papers.
- Will preserve client confidences learned during the lawyer-client relationship.
- Will exhibit the highest degree of ethical conduct and deal honestly and truthfully with you, the adversary, other lawyers and the judge.
- Will be guided by a fundamental sense of fair play for the process and the participants and will not abuse the system or the profession.
- Will respect your decisions on the objectives to be pursued in your case, as permitted by law and the Rules of Professional Conduct, including whether to settle your case.

## Attorney

YOUR LAWYER WILL EXPECT YOU:

- To be honest and forthright.
- To tell your lawyer the truth and promptly notify the lawyer of any change of circumstance.
- To understand that the lawyer has other clients who are equally deserving of the lawyer's time and efforts.
- To tell your lawyer immediately if you are unhappy regarding the representation and the reasons why.
- To refrain from asking the lawyer to engage in illegal, unethical or unprofessional activities.
- To be prompt in communications, for appointments or legal proceedings.
- To pay your lawyer promptly and as agreed.

- To question promptly billing entries which appear incorrect or which you do not understand.
- To discuss the matter with your attorney immediately if you cannot pay as agreed.

# LAWYERS' FEES

## What These Words Mean

*Contingent* – not certain to happen; possible

*Deposition* – written statements by a witness

*Retainer* – fee paid before work is done

## Why Do You Need a Lawyer?

- You or your friends do not know the fine points of law.
- A lawyer must go to college and law school, must pass a test to be a lawyer, and knows how to help you.
- You may not know how serious your legal problem is.
- The cost of a lawyer may be less than what you would lose if you did not use a lawyer.

## How Do You Find What a Lawyer's Fees Will Be?

Ask the lawyer how much the fee will be. It is important to both you and your lawyer that you talk about fees and costs at your initial conference. Unless fees and costs are discussed, either of you might make incorrect assumptions about what the other expects. If you cannot afford to pay the fee, tell the lawyer before he or she does any work for you.

## What is a Contingent Fee?

It is a fee that you pay only if the lawyer collects money on your case. You do not pay a contingent fee if you lose your case. If you fire the lawyer working for a contingent fee before the case is over, you may need to pay a fee for work the lawyer did on your case.

## How Much Are Contingent Fees?

You and your lawyer must agree on how much of the money he collects that he will keep for a fee. The contingent fee contract should be written and signed by you and your lawyer. You should have a copy of the fee contract. The contingent fee will depend on:

- the amount of your claim;
- the difficulty of your claim;
- how sure the lawyer is that you will collect.

Contingent fees can be 1/4, 1/3 or 1/2 of the amount paid on your claim. A contingent fee may be more than a fee based on time and work. If a lawyer is paid, even if the case is lost, the lawyer can afford to charge less than a contingent fee.

## **Who Pays Court Costs and Expenses of the Case?**

The court will require a cost deposit when a case is filed, and you must pay the deposit. Your lawyer cannot pay court costs. You must pay expenses of your case, such as doctors, depositions, photographs and medical records.

## **What is Included in the Lawyer's Fees?**

- The advice the lawyer gives you based on the research, study and work on your case or problem.
- The cost of the lawyer's office staff, secretary, books, equipment, rent and stationery.

## **How Does a Lawyer Set a Fee?**

Attorney fee arrangements are subject to a Supreme Court Rule that provides "a lawyer shall not make an agreement for, charge or collect an unreasonable fee or an unreasonable amount for expenses." There are eight factors that are to be considered in determining the "reasonableness" of a fee: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly; (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation, and ability of the lawyer performing the services; and (8) whether the fee is fixed or contingent.

There are four basic types of fee arrangements available to clients: contingency, advanced payment (hourly-based), flat or fixed fees, and limited scope engagement.

## **When Do You Pay the Fee?**

You should ask the lawyer when he will send you a bill for the fee and when it must be paid. A contingent fee is paid when your claim is paid. All other fees are due when you receive a bill.

## **Can a Lawyer Tell in Advance What the Fee Will Be?**

Yes, for some matters like a simple will, divorce, real estate contracts and deeds, bankruptcy and traffic court cases.

No, for cases in court that might take a long time.

## **Do You Need to Pay a Retainer?**

As a general rule, in cases which are hourly-based or limited scope engagements, an advance payment or retainer may be requested – especially in cases where there is likelihood that the acceptance of your case will preclude the attorney from representing the other party. In these instances, a reasonable portion of the advance payment may be considered earned when received. You should discuss with your attorney what portion of the advance payment is considered earned when received.

## **Will the Lawyer Talk About Fees?**

The lawyer wants you to be pleased with the service. The lawyer expects to be paid for the service. If the lawyer does not talk about the fee, you should ask. You have a right to know how the fee will be set.

## **If You Need Help Finding a Lawyer**

The Missouri Bar offers a free Lawyer Search function, located at [MissouriLawyersHelp.org](http://MissouriLawyersHelp.org). Those seeking representation can use the tool to locate lawyers by practice area, geographic location, and spoken language.

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# THE FEE DISPUTE RESOLUTION PROGRAM

## What is This Program About?

This program is offered as a public service by The Missouri Bar. The program is designed to assist with the resolution of disputes between lawyers and clients when there is a question about the amount or reasonableness of a fee charged by their lawyer for legal services. While only clients may file the complaint petition with the program, lawyers may suggest this program to their clients as an alternative to resolve disputes over fees. Participation in the program is voluntary.

The Missouri Bar Fee Dispute Resolution Program accepts fee dispute matters from throughout the State of Missouri with the exception of the Kansas City area. The Kansas City Metropolitan Bar Association sponsors a similar program and should be contacted if the dispute concerns a lawyer who practices in this area of the state.

## What are the Advantages of the Fee Dispute Program?

- **Informal proceedings** — much less formal than court trials or hearings
- **Faster resolution** — generally cases are moved to resolution much faster than a court case
- **Confidential proceedings** — unlike court cases that may result in a public disclosure

## What is the Cost of Using This Program?

There is **no charge** to either the lawyer or client for using the Fee Dispute Resolution Program unless another lawyer or a court reporter is hired.

## What Should I Do First When Involved in a Fee Dispute?

Clients are encouraged to directly discuss the fee dispute with their lawyer. In all fairness, the lawyer is entitled to know of the client's dissatisfaction and be given an opportunity to explain the fee. A very frank discussion often brings a satisfactory solution. However, if this fails, this program is offered as an alternative to a law suit. The program assists to achieve a resolution either through mediation or arbitration.

## **What is the Difference Between Mediation and Arbitration?**

In a mediation session, the mediator(s) will assist the parties to attempt to reach a resolution of the dispute, but they will not decide how the dispute is resolved. In a binding arbitration hearing, the arbitrator(s) will hear both parties and their witnesses and will make a decision/award to which the parties have agreed to be bound in advance of the hearing.

## **Who are the Mediators and Arbitrators?**

The mediators and arbitrators are volunteers from throughout the state who give their time to this public service program. They are lawyers and non-lawyer professionals who have experience and have completed training in the areas of mediation and arbitration.

## **How Does The Missouri Bar Fee Dispute Resolution Program Work?**

### **1. How to Begin**

Contact the Fee Dispute Resolution Program at The Missouri Bar by writing to P.O. Box 119, Jefferson City, MO 65102 for a complaint petition form. The form is also available on The Missouri Bar website at [www.mobar.org](http://www.mobar.org).

### **2. Completing and Mailing the Form**

The client disputing a fee should submit the completed complaint petition form to the Fee Dispute Resolution Program at The Missouri Bar. A letter will be sent to the client acknowledging receipt of the complaint, and the lawyer will be notified that the complaint petition has been filed.

### **3. Choosing Mediation or Binding Arbitration**

The client's notice that the petition has been received will also include a form to be used to choose mediation and/or binding arbitration. If mediation is selected, one or more mediators will meet jointly with both parties and assist them to attempt to reach a mutually acceptable agreement. The mediator(s) will not make a decision. If arbitration is selected, the arbitrator(s) will jointly meet with both parties, hear the facts and make a final decision. It is usually desirable to attempt mediation initially, although it is the client's choice. (If choosing arbitration, go to Step 7.)

### **4. Lawyer Consent to Mediation**

Upon receipt of the petition from the client, the lawyer will be sent a

copy and asked to provide a written response within 20 days. In addition, the lawyer will be asked to give consent to participate in mediation and/or binding arbitration. The client will be provided a copy of the lawyer's response.

If the lawyer refuses to participate or does not respond to the complaint by providing a response and giving consent to mediation or binding arbitration, the client will be referred to a facilitator who will contact the lawyer for a response to the complaint. If the lawyer still refuses to participate, the client will be offered an ex parte (non-binding) arbitration hearing. The lawyer will not be allowed to attend or submit documents unless he/she agrees to participate in arbitration, which would then result in a binding arbitration hearing.

### **5. Preparing for the Mediation Session**

The program administrator will arrange for the mediation session in a convenient setting for both parties. Mediation sessions could be held in libraries, offices or other informal settings. The parties may have a different lawyer represent them, at their own expense, although the program is designed to make that unnecessary.

### **6. The Mediation Session**

The mediator(s) will hear both sides of the issue and will assist the parties in reaching a satisfactory conclusion. The agreement will be reduced to writing and the parties will sign the document.

If the lawyer and client cannot settle the dispute, the parties may request a binding arbitration hearing, but both parties must agree to participate in order for the arbitration hearing to go forward.

### **7. Choosing Arbitration**

The client may initially choose a binding arbitration hearing to resolve the dispute. Or, if the parties cannot reach an agreement in a mediation session, they may choose arbitration at that time. Both the client and lawyer must sign a form agreeing to abide by the decision/award rendered by the arbitration panel. If the lawyer refuses to sign the consent form, the hearing may proceed without him/her being present, although the lawyer will not be bound by the decision.

### **8. Preparing for the Arbitration Hearing**

One arbitrator will be appointed if the amount in dispute is less than \$10,000. If the amount in dispute is \$10,000 or more a panel of three arbitrators will be appointed.

## **9. The Arbitration Hearing**

All parties shall be given an equal opportunity to be heard, to present evidence and to cross-examine witnesses.

If either party fails to appear at the hearing after both have signed the arbitration agreement form, the arbitrators may proceed and enter a binding decision/award.

## **10. The Decision**

The arbitrators will reach a decision within 30 days after the hearing. The decision/award will be by majority vote, placed in writing and signed by the concurring members.

## **11. Enforcement of Awards**

In any case in which both the client petitioner and the lawyer respondent signed the consent to binding arbitration form, the decision of the arbitration panel may be enforced by a court of competent jurisdiction according to Chapter 435, RSMo.

## **Who Do I Contact for More Information?**

Fee Dispute Resolution

The Missouri Bar, P.O. Box 119, Jefferson City, MO 65102-0119

Telephone: (573) 635-4128 Website: [www.mobar.org](http://www.mobar.org)

Kansas City:

Fee Dispute Resolution

Kansas City Metropolitan Bar Association, 1125 Grand Ave., Suite 400

Kansas City, MO 64106

Telephone: (816) 474-4322

This brochure briefly outlines the procedure used in The Missouri Bar Fee Dispute Resolution Program, which assists the parties when a dispute between lawyer and client arises over fees charged for legal services. A complete copy of the Rule may be obtained by contacting the Fee Dispute Resolution Program Administrator at The Missouri Bar, P.O. Box 119, Jefferson City, MO 65102-0119, or by checking The Missouri Bar's website at [www.mobar.org](http://www.mobar.org).

Procedures between programs will vary.

# MISSOURI'S LAWYER DISCIPLINE SYSTEM

## Discipline System

Clients have a right to expect a high level of professional service from their lawyer. In Missouri, lawyers follow a code of ethics — known as the Rules of Professional Conduct — which guides their practices and their relationships with clients. When lawyers fail to meet the ethical standard, they are subject to disciplinary action.

Contrary to common belief, it is the Supreme Court of Missouri — not The Missouri Bar — which is in charge of the state's lawyer discipline system. In order to protect the public, the Supreme Court oversees a mechanism for investigation and, where necessary, discipline of lawyers who fail to meet their professional obligations. Examples of misconduct which may draw disciplinary action are: neglect (failure to communicate, failure to perform agreed upon duties, delay, etc.); trust violations (embezzlement of funds entrusted to a lawyer by or for a client); conflict of interest; and improper advertising.

## Who Is Involved in the Disciplinary Process?

Depending on the stage of the complaint, up to five different groups may be involved in the investigation and/or disciplining of a lawyer. These are:

- *Office of Chief Disciplinary Counsel* — This office was established by the Supreme Court of Missouri to investigate ethical complaints against lawyers.

- *Regional Disciplinary Committees* – These local committees, composed of both local lawyers and non-lawyers, are authorized to investigate ethical complaints against lawyers. These committees investigate complaints sent to them by the Chief Disciplinary Counsel.

- *The Advisory Committee* — This group, appointed by the Supreme Court and also composed of both lawyers and non-lawyers, serves as the administrative body for assigning cases to Disciplinary Hearing Panels. It also reviews decisions to close complaint files made by the Office of Chief Disciplinary Counsel or Regional Disciplinary Committees.

- *Disciplinary Hearing Panel* — This panel of two lawyers and one non-lawyer is selected from a larger panel appointed by the Supreme Court of Missouri. A Disciplinary Hearing Panel hears evidence about allegations of lawyer misconduct in a setting similar to a court proceeding and recommends what discipline, if any, to impose.

- *The Supreme Court of Missouri* — The state’s highest court has the authority to review all decisions made by the Disciplinary Hearing Panels and impose appropriate discipline on a lawyer.

## **The Complaint Process**

Anyone who believes that a lawyer has engaged in unethical conduct may file a complaint with the Office of Chief Disciplinary Counsel in Jefferson City. The complaint will be screened to determine whether the matter is the proper subject for a disciplinary investigation. If the complaint can be easily and quickly resolved, but is not necessarily appropriate for a disciplinary investigation, it may be placed into the Office of Chief Disciplinary Counsel’s Informal Dispute Resolution program. If the Office of Chief Disciplinary Counsel lacks jurisdiction to investigate the matter or if there is no probable cause to believe that an ethics violation has occurred, then the complaining person (the complainant) will be notified and no file will be opened.

In some instances it is appropriate to refer the complainant to the Complaint Resolution Program administered by The Missouri Bar or a fee dispute resolution program. The local bar association in Kansas City operates a fee dispute resolution program serving this area, while The Missouri Bar administers such a program for the rest of the state.

Once a complaint file is opened, the complaint will be investigated by the Office of Chief Disciplinary Counsel or by a Regional Disciplinary Committee. The investigation may be entirely in writing, or it may involve telephone calls and personal interviews.

Based on the results of the investigation, the Chief Disciplinary Counsel (or a Regional Disciplinary Committee) will take one of the following four actions:

- Close the complaint file upon a finding that no violation occurred;
- Enter into a diversion contract with a lawyer who has no disciplinary history, but may have committed a low-level violation that can be remedied through education;
- Issue a written admonition (becoming part of the lawyer’s record) if it is determined that a minor violation occurred; or
- File a legal document, called an Information, if it is believed that a serious violation by the lawyer has occurred. The Information sets out the charges being made against a lawyer.

The complainant will be notified of the action taken.

The complainant may challenge a decision to close a file. The complainant has 30 days to request a review by the Advisory Committee.

If a lawyer fails to respond to notice of an Information within 30 days, the Supreme Court may enter an order imposing discipline by default. However, if the lawyer timely requests a hearing on the Information, the Advisory Committee will appoint a Disciplinary Hearing Panel.

## **The Hearing Process**

The Advisory Committee will assign the case to a Disciplinary Hearing Panel. The Disciplinary Hearing Panel will hear evidence presented by the Chief Disciplinary Counsel and any evidence submitted by the lawyer charged. It is likely that the complainant may be asked to testify under oath at this hearing, as in a regular court proceeding.

After this hearing, the Disciplinary Hearing Panel will decide whether a violation of the Rules of Professional Conduct has occurred and recommend any of the following actions:

- Dismissal of the case if it finds no violation has occurred;
- Written admonition (becoming part of the lawyer's record);
- Reprimand;
- Suspension or disbarment.

Either the lawyer or the Office of Chief Disciplinary Counsel may appeal any recommendation of the Disciplinary Hearing Panel to the Supreme Court of Missouri.

## **Review by the Supreme Court**

If there is no agreement between the Office of Chief Disciplinary Counsel and the lawyer, the Supreme Court of Missouri will review the recommendation of the Disciplinary Hearing Panel. This may include the preparation of written briefs and oral arguments. The Court then will impose appropriate discipline on the lawyer.

Even when the parties agree with the recommendation of the Disciplinary Hearing Panel, the Supreme Court will review any recommendation for public reprimand, suspension or disbarment. The matter is not final until the Supreme Court issues an order of discipline.

The complaining parties do not participate at this level, but may be present at Supreme Court arguments.

## **Special Procedures**

A lawyer's conviction of a criminal charge may also lead to disciplinary action by the Supreme Court. The Court may issue an order to a lawyer who has been found guilty of a felony, or certain misdemeanors, to show cause why he or she should not be suspended from the practice of law pending the final disposition of the criminal appellate process. This action may be initiated only by the Office of Chief Disciplinary Counsel.

The Chief Disciplinary Counsel and Regional Disciplinary Committees may also conduct investigations of lawyers who may no longer be able to practice law due to physical or mental conditions or because of addiction to alcohol or other drugs. The Supreme Court will immediately suspend any lawyer who is found by a court to be incapacitated or otherwise unable to practice law.

In some cases, a lawyer being investigated for ethical misconduct may voluntarily surrender his or her license. When this happens, the Chief Disciplinary Counsel submits reports and recommendations regarding the matter to the Supreme Court. Similar action is taken by the Chief Disciplinary Counsel when a lawyer who has been suspended or disbarred seeks reinstatement of a law license.

## **Other Important Information**

To assist in the investigatory process, the Chief Disciplinary Counsel has authority to issue subpoenas for documents and witnesses to testify under oath. In order to protect the public, the Chief Disciplinary Counsel also has the power to investigate the unauthorized practice of law by non-lawyers. In connection with that mandate, the Chief Disciplinary Counsel may institute and prosecute proceedings against any party that, after thorough investigation, is suspected of engaging in the unauthorized practice of law. The Chief Disciplinary Counsel also refers many of these situations to the Missouri Attorney General and local prosecuting attorneys.

By calling the Office of Chief Disciplinary Counsel, you can obtain the following information about a specific Missouri attorney:

- (1) whether an attorney is in good standing in Missouri;
- (2) whether an attorney has public discipline in Missouri (but not whether an attorney has had complaints); and
- (3) The last address of an attorney registered with the Supreme Court of Missouri.



## How to File a Complaint

Complaints must be in writing. There is a form for filing a complaint at the Office of Chief Disciplinary Counsel's website, which is [www.mo-chiefcounsel.org](http://www.mo-chiefcounsel.org). The form may assist you in preparing your complaint, but is not required. You may prepare a letter instead of, or in addition to, the form. You should send your complaint to OCDC, 3335 American Avenue, Jefferson City, MO 65109-1079. Complaints are also accepted by fax. The fax number is (573) 635-2240. The telephone number is (573) 635-7400. In the complaint, give the name and address of the attorney that your complaint is against, tell what kind of matter the attorney was handling (for example, family law or criminal), state the facts in your own words about what happened, and what your concerns are. Please be sure to include your full name, address, and telephone number.

The Office of Chief Disciplinary Counsel cannot tell you over the telephone whether you have a valid complaint, and cannot give you legal advice.

## Complaints Against Judges

The Office of Chief Disciplinary Counsel investigates complaints against attorneys only. It **does not** investigate complaints against judges. To make a complaint against a Missouri judge, write to:

James M. Smith  
Administrator and Counsel  
Commission on Retirement, Removal and Discipline of Judges  
2190 S. Mason Road, Suite 201  
St. Louis, MO 63131  
For information, call (314) 966-1007.

## Fee Dispute Information

The Office of Chief Disciplinary Counsel cannot handle fee disputes. Several bar associations in Missouri have set up programs for this purpose. These programs are free. Participation in these programs is entirely voluntary. If the attorney is in the Kansas City area, call (816) 474-4322. If the attorney is in any other part of the state, call The Missouri Bar at (573) 635-4128.

## Lawyer Referral Service Information

The Missouri Bar offers a free Lawyer Search function, located at MissouriLawyersHelp.org. Those seeking representation can use the tool to locate lawyers by practice area, geographic location, and spoken language.

The Missouri Bar or the Office of Chief Disciplinary Counsel cannot provide legal advice or refer you to an attorney, but select local bar associations in Missouri offer assistance in finding representation. The Office of Chief Disciplinary Counsel does not screen the attorneys who are affiliated with these lawyer referral services, and OCDC does not have information on their credentials or abilities. If you would like a referral to an attorney in the St. Louis area, call (314) 621-6681. For a referral to an attorney in the Springfield or Greene County area, call (417) 831-2783.

Hiring a legal professional can be costly, but it is important to remember that you are paying for expertise. If you are unable to afford a lawyer, it might be possible to be represented at a lower rate or on a pro bono basis. In these situations, your quality of representation should not decrease, but your out-of-pocket costs will. The Missouri Bar does not match members of the public with pro bono lawyers, but it maintains a list of available discounted services, which is available at MissouriLawyersHelp.org.

Additionally, some matters, such as an uncontested divorce or traffic ticket, may not call for a lawyer at all. The Missouri Bar produces numerous brochures and blog posts – all available at MissouriLawyersHelp.org – that address general legal questions. While they are not a substitute for a hired lawyer, they are helpful for background information on matters and can help you decide if you need to seek representation.

For more information, go to MissouriLawyersHelp.org or call 573-635-4128.

*The Rules of Professional Conduct may be found in Supreme Court Rule 4 in the latest edition of Missouri Rules of Court. This rule explains the obligations of lawyers to the legal system and to their clients.*

*Missouri's lawyer discipline system is funded by an annual allocation of a portion of the dues paid by each member of The Missouri Bar. No tax money is used to fund the Office of Chief Disciplinary Counsel.*

# MISSOURI PARALEGALS

As the society in which we live becomes more complex, more and more people need the services of attorneys. Legal questions affect all aspects of our business, economic and personal lives. People often turn to attorneys for help in such matters as real estate transactions, divorce, adoption, business organization, estate planning, bankruptcy or litigation.

To help you with these problems, attorneys often use employees called “paralegals” or “legal assistants.” The team of individuals who will work with you may include both attorneys and paralegals. The purpose of this brochure is to help you understand what a paralegal is and the role he or she may play in your case.

## **What is a Paralegal?**

A paralegal is a person who is qualified through education, training or experience to perform legal work under the direction and supervision of an attorney. Paralegals perform a large variety of tasks that would otherwise be done by attorneys. The paralegal profession is a fairly new field, but it is growing steadily not only in size, but also in well-deserved recognition throughout the legal community.

## **What Do Paralegals Do?**

Paralegals perform a wide variety of legal work under attorneys’ supervision. Except for trying cases in court and giving legal advice, there are very few things paralegals can’t do. For example, paralegals may:

- investigate facts;
- interview clients and witnesses;
- research legal issues;
- draft legal documents;
- gather and organize information;
- assist the attorney during trial;

One of the most important things that paralegals do is communicate with clients. They can greatly facilitate communication between you and the attorney.

## **Where Do Paralegals Work?**

Paralegals are employed wherever there is legal work to be done. They work for:

- large law firms;
- small law firms;
- solo practitioners;
- various federal, state and local governmental agencies; and
- corporations.

They also may work in their own homes or offices as “free-lance” paralegals. Free-lance paralegals work for attorneys on an as-needed basis. Their work is still performed under the direction and supervision of attorneys, and they do not work directly for clients. Paralegals make valuable contributions to the legal and business communities.

## **Why Do Attorneys Use Paralegals?**

Attorneys use paralegals for a number of reasons, but probably the most important ones are saving time and money. This savings can be passed on to you, the client. Attorneys who use paralegals can provide more efficient legal services by concentrating on the type of legal work that only they can perform while delegating other matters to the paralegals. As a result, your legal problem may be solved more quickly. Because paralegals are skilled professionals working under the attorney’s direct supervision, you are assured of receiving high quality legal services.

## **What is the Paralegal’s Relationship With the Client?**

Paralegals work under the supervision of attorneys, but paralegals frequently engage in direct client contact. Paralegals have face-to-face as well as telephone conversations with clients in order to give or request information. Paralegals review and explain documents to clients, bring clients up to date on the status of cases, help clients get ready for court and answer clients’ questions. Paralegals do not give legal advice, but they may relay advice to clients from attorneys.

## **What Education or Training Do Paralegals Have?**

Most paralegals receive their education from a college that offers specialized legal courses for paralegals. Some paralegals complete their paralegal education as part of a college degree program; others attend paralegal training programs after having completed an undergraduate

degree; and some receive extensive on-the-job training. While educational requirements may vary, most paralegals are well-trained in such basic skills as:

- legal research;
- legal writing;
- litigation; and
- investigation.

They may take classes in specific areas of law, such as torts, contracts, family law, real property and business. Paralegals also update and improve their skills by attending seminars and workshops that offer continuing paralegal education.

### **What are the Ethical Obligations of Paralegals?**

Although there is no certificate or license required to become a paralegal in Missouri, paralegals are bound by the same ethical standards as attorneys. All information you give them is kept confidential, and they are not allowed to discuss your case with anyone outside their offices. The Missouri Rules of Professional Conduct require attorneys to supervise paralegals appropriately. The attorney is ultimately responsible for the paralegal's work. An attorney can face disciplinary consequences for failure to adequately supervise a paralegal's work.

There are several national organizations for paralegals. Two of them, the National Association of Legal Assistants (NALA) and the National Federation of Paralegal Associations (NFPA), have each adopted their own code of ethics for their members to assist paralegals in their work.

### **Will the Client be Billed for Paralegal Services?**

When you receive a bill from your attorney, you may see a charge for paralegal time for certain services. This fee will be lower per hour than what the attorney charges. These fees will only be charged for professional services done by a qualified paralegal — not for secretarial or clerical tasks. If your attorney charges you a flat fee or has taken your case on a contingency basis, you may not receive a bill itemizing paralegal services.

For more information, contact:  
The Missouri Bar Committee on Paralegals  
P.O. Box 119  
Jefferson City, MO 65102



# FINDING THE LEGAL HELP YOU NEED

## Legal Help Checklist

Yes    No

- Are you planning to buy or sell real estate?
- Do you plan to rent property?
- Are you having a dispute over rent, a mortgage or housing conditions?
- Do you have children but have never had a will prepared?
- Do you own land but have never had a will prepared?
- Do you have a dispute with your employer or your union?
- Have you recently been injured on the job?
- Have you been garnished or had your property attached?
- Have you been unable to collect a debt?
- Are you unhappy with something you have purchased?
- Have you signed a contract that you do not understand, or feel is unfair?
- Have you supplied materials or performed services for which you have not been paid?
- Are you in a dispute over your credit rating?
- Are you thinking about separation or dissolution of marriage?
- Are you in a dispute over child support or visitation rights?
- Do you feel your child support payments are unfair?
- Have you recently been given a drunken driving ticket?
- Is your child in trouble with the authorities?
- Have you been in an accident recently?
- Are you in a dispute over settlement of an insurance claim?
- Have you been given papers telling you to be in court?
- Are you being abused by the person with whom you are living?
- Are you arguing with the government over benefits?

**If you answered “yes” to any of the above questions, you have a legal issue and probably need legal advice. Here are answers to questions you may be asking about where to get such advice.**

## **Where Do I Begin?**

First, consider the many private or government agencies that serve the public. One of them may have exactly the kind of help you need.

## **I Believe I Need a Lawyer, But I Have Little Income**

The public defender handles criminal cases for no fee for those who meet certain income guidelines. To find the public defender's phone number, call your county courthouse or directory assistance. In non-criminal cases, legal aid offices provide services to qualifying individuals who cannot afford to pay. Contact The Missouri Bar if a telephone listing is not available.

## **I Believe I Need a Lawyer, But I Don't Qualify for Free Legal Assistance. How Can I Find a Lawyer Who Is Right for Me?**

Selecting a lawyer who will meet your legal needs is not – and should not be – an easy decision. Legal problems can have an impact on your life for years to come if not handled properly. Thus, you want to carefully select an attorney who will represent you effectively and efficiently.

Perhaps the best way to find a qualified lawyer is to ask questions of people you trust: family, friends, doctors, or others whose advice you consider worthy. Have they had experience with a particular lawyer or law firm? Were they satisfied with the way the lawyer handled their case? Did the lawyer – win or lose – work hard on their behalf? Was the lawyer always available and responsive to requests for information? A lawyer's reputation for effectiveness and trust often speaks volumes about his or her character – something of vital concern to you as you work with him or her in addressing your legal problem.

Word of mouth, while an important factor in selecting an attorney, is not the only resource available to you. Other source of information include:

### *Martindale-Hubbell*

*The Martindale-Hubbell Law Directory* is a multi-volume publication that provides brief, yet detailed, information on lawyers and the law firms where they work. The information within this directory can provide you with a profile of the attorney, his or her background and education, expertise in particular areas of the law, how other lawyers assess his or her skills and character, and much more. *The Martindale-Hubbell Law Directory* can be found in most courthouses and law libraries, and may



also be available in some public libraries. In addition, Martindale-Hubbell has a lawyer locator at its web site, [www.martindale.com/locator/home.html](http://www.martindale.com/locator/home.html). The lawyer locator allows a potential client to search for a lawyer by name, firm, location or even law school attended.

### *Lawyer Referral Services*

Some local bar associations in the state's major metropolitan areas have established lawyer referral services to assist in finding a lawyer. If you are interested in finding a lawyer in your locale who practices in a particular area of the law, call either your local lawyer referral service listed in the Yellow Pages (in St. Louis and Springfield). Likewise, you may use the LawyerSearch feature on The Missouri Bar's website ([www.mobar.org](http://www.mobar.org)) to find a lawyer in your area who is now accepting cases in the area of law that concerns you.

### *Lawyer Advertising*

Advertisements by lawyers can offer additional information to be used in making a decision as to a lawyer's qualifications. However, these advertisements should be viewed only as a starting point for collecting information and should lead you to ask follow-up questions to that lawyer. Advertisements should be just one component of your search for a qualified, trusted advocate for you and your interests.

### *Ask Questions*

Finally, once you have settled on an attorney to interview, make an appointment. Don't hesitate to ask about his or her qualifications, background, and experience with the types of matters affecting you. As the client, it is your right to expect top-notch service from the lawyer you hire.

It is also important to note that neither the Supreme Court of Missouri nor The Missouri Bar grant certification of specialty areas of the law for lawyers. Thus, if a lawyer claims he or she is a "specialist" in a particular area of the law, be aware that this claim is not authorized by either the Supreme Court or The Missouri Bar.

## **Should I Make an Appointment?**

Most attorneys prefer that you do. However, some public agencies will not make appointments and ask you to come in during their office hours. Because each differs, it is always best to call first.

## **How Should I Prepare for My First Visit?**

To get the best help as quickly as possible and with a minimum of expense, you should bring all papers relating to your problem with you on your first visit. You may also find it helpful to write out your problem and just how it came about so you can better remember the details.

If you haven't seen a lawyer before, you may not know what to expect. Feel free to ask about anything you do not understand. Your lawyer is there to help you and will try to answer your questions. You should also feel free to discuss all aspects of your problem with your attorney. For instance, you may have a problem with your working conditions and be afraid you'll lose your job if you bring it to your employer's attention. This is something you should discuss with your attorney so he or she can give you the best advice.

Finally, you must be prepared to tell your attorney everything about your problem . . . both the good and the bad. Do this even if you think it might not be favorable to your case. Your attorney must work with the truth — all of it. Otherwise, he or she may learn about it too late and not be prepared to handle it.

## **What About Fees?**

As mentioned before, some services, like the public defender or Legal Aid, are free. If you see a private attorney, though, you should always ask about fees at your first meeting. Attorneys may or may not charge for the first conference. Be sure you ask when you phone for an appointment. Fees vary, so you should find out at the start how the fee will work. If the fee quoted by an attorney seems unusually high, you may wish to call another lawyer.

You also should ask how often you will receive a bill and what information will be contained in it. If a lawyer agrees to handle your case on a contingent fee basis, that agreement must be in writing. You may decide you would like any fee agreement in writing; if so, you should ask for this.

## **Will My Lawyer Keep What I Tell Him Confidential?**

Once you hire a lawyer, he or she must treat everything you tell him or her as confidential and may not reveal it to anyone. Unless you decide otherwise, your communications will be treated as absolutely confidential.



