
.....

Contents

Avoiding Grief with a Lawyer: A Practical Guide	1
Your Right to Counsel	2
Finding a Lawyer	3
The Responsibilities of a Lawyer	4
The Responsibilities of Clients	4
In the Beginning	5
Get It In Writing	6
Establish the Ground Rules	6
Just Say, "No Thank You"	7
The Check's in the Mail	8
The Check Bounces.....	8
Real Estate Matters.....	8
Personal Injury Litigation.....	9
Divorce, Separation and Family Law Matters.....	10
The Administration of Estates.....	11
Elder Law Issues.....	11
Debt Collection.....	12
Escrow Deposits	12
Calling It Quits.....	12
Fee Disputes	12
Complaining About Lawyers.....	13
First Judicial Department	13
Second Judicial Department.....	13
Third Judicial Department.....	13
Fourth Judicial Department.....	14
The Lawyers' Fund for Client Protection.....	14
Statement of Client's Rights	15
Statement of Client's Rights and Responsibilities	
(In Matrimonial Proceedings)	15
Other Helpful Telephone Numbers.....	17

.....

The New York Lawyers' Fund for Client Protection

Chairman

Eleanor Breitel Alter

Trustees

Bernard F. Ashe
Theodore D. Hoffmann
Charles J. Hynes
Ray W. Manuszewski
Eric A. Seiff
Shirley B. Waters

Executive Director & Counsel

Frederick Miller

© Copyright 1998

The New York Lawyers' Fund for Client Protection

Avoiding Grief with a Lawyer: A Practical Guide

Lawyers are essential in a civilized, democratic and just society. For good reason: it's the lawyer's unique duty to protect people from abuses by government and its agents, and to help remedy the wrongs of others, whether they be strangers or spouses, employers, or multi-national corporations.

In today's society — with its complicated network of laws, government regulations and court decisions — it's rare not to encounter lawyers as we move through life. And it's a fortunate fact that the vast majority of lawyers in New York State are skilled, honest, and conscientious. Lawyers are also generous in contributing their talents to their communities; far more so, perhaps, than any other class of professionals.

It's not easy to become a lawyer. There's a demanding course of law-school study after college, and a difficult bar examination to test the candidate's knowl-

edge of laws and court procedures. There's also an investigation of the lawyer-to-be's moral character and fitness to practice law before the oath of office can be administered.

Lawyers have a life-long obligation to observe high standards of ethical conduct imposed by the New York court system. These rules of ethical conduct are found in the *Lawyer's Code of Professional Responsibility*.



They are vigorously enforced by the court system and its lawyer discipline agencies, sometimes called “attorney grievance committees.”

There are attorney grievance committees in each region of New York State. Members of these committees, both lawyers and non-lawyers, are appointed by the court system to investigate complaints of professional misconduct by legal consumers. The committees are assisted by full-time professional staffs. Violations of the *Lawyer’s Code of Professional Responsibility* can result in a court-ordered censure, suspension from the practice of law, or disbarment. The penalty depends upon the seriousness of the lawyer’s misconduct.

Lawyers who fail to represent their clients competently are also subject to money damages to their clients for losses resulting from malpractice and negligence. For clients who have lost money or property as a result of a lawyer’s dishonest conduct in the practice of law, the legal profession in New York finances a special trust called the Lawyers’ Fund for Client

Protection that can reimburse up to \$100,000 per client loss. “Dishonest conduct” means the theft of law client money or property in the practice of law by a lawyer admitted to practice in New York State. Of course, the theft of money or other property is also a crime punishable in the state’s criminal justice system.

These programs and safeguards have been put in place to protect legal consumers, preserve the legal profession’s reputation for competence and integrity, and promote public confidence in the administration of justice.

It’s regrettable that some lawyers turn out to be incompetent or, worse, dishonest. That’s probably unavoidable, as there are bad apples in every occupation. But there are also ways to avoid grief with a lawyer. That’s the goal of this brochure, which has been designed to help clients choose the right lawyers, and to protect them once they enter into a lawyer/client relationship.

.....
Your Right to Counsel

You have the right to consult with, and be represented by, an attorney whenever you choose, and in all matters involving government at all levels. Generally speaking, the client is responsible for legal fees, just like any other professional service.

In civil matters not involving criminal penalties, people who are unable to afford attorneys (“indigent persons”) can seek the help of legal-aid organizations. County and city bar associations can provide the names, addresses, and telephone numbers of local organizations that provide legal assistance for the poor. Courts are also empowered to appoint counsel for “poor persons” in civil actions when appropriate.

A person who is charged with a crime has the right to counsel, at government expense, if the person is financially unable to privately hire an attorney. Bar associations and courts can provide addresses and telephone

And you can confirm that a lawyer is legally licensed to practice law in New York State by calling the Official Register of Attorneys in Manhattan at 212/428-2800 for current licensing information.

Legal consumers have a wide variety of choices in law firms. They include sole practitioners, small, medium, and even “mega-sized” law firms with hundreds of lawyers on staff.

Thoughtful consumers should take a law firm’s size into account, particularly if the legal matter contemplated might cover a period of years. Remember, like everything else in life, law firms and lawyers don’t last forever.



The Responsibilities of a Lawyer

When a person hires or retains a lawyer, a lawyer/client relationship is created between the two. In that relationship, the lawyer’s primary task is to

make sure that the law client’s legal rights are protected fully.

A law client is entitled to a lawyer who is fully capable of handling the client’s case or legal matter. Lawyers must use their best efforts on behalf of their clients. But lawyers cannot, of course, guarantee particular results in cases.

Lawyers must represent their clients zealously. They must also preserve confidences and secrets that are revealed to them in the course of a lawyer/client relationship.

A law client is entitled to a written contract, which is sometimes called a “retainer agreement” or “letter of engagement.” The client has the right to be kept informed of the status of the client’s case or legal matter, and is entitled to copies of all correspondence and legal documents prepared on the client’s behalf, or that the lawyer receives from a court or the opposing party or adversary.

A law client has the right to make the

ultimate decision on the objectives to be pursued in the client’s case, and to make the final decision regarding any settlement of that case.

A lawyer in New York cannot refuse to represent a client on the basis of race, creed, color, sex, sexual orientation, age, national origin, or disability. Your lawyer must show you courtesy and consideration at all times.

The New York court system has adopted a “Bill of Rights” for law clients generally, and a specific “Bill of Rights” for law clients who are involved in matrimonial proceedings in the New York courts. Both are reproduced in this brochure.



The Responsibilities of Clients

In order for a lawyer/client relationship to work effectively, the law client must be truthful in all discussions with his or her lawyer. The lawyer must be given all relevant information and documents, and be notified of changes in the client’s situation.

Law clients are also expected to pay the legal fees earned by their lawyers, and other expenses that are outlined in the retainer agreement. If questions arise during lawyer/client relationships, clients are expected to ask their lawyers for help in resolving them. After all, that's part of the job of lawyering.

.....

In the Beginning

The first meeting with a lawyer is frequently called a "consultation" — an opportunity for client and lawyer to get acquainted, and to discuss the client's legal matter. First consultations are frequently free, or for a modest charge.

You should ask if there's a legal fee when you telephone to schedule a consultation appointment with a lawyer.

Clients should not fear asking "tough" questions. Ask where the

lawyer attended college and law school. Inquire about the lawyer's experience in the area of law in which you need help.

Ask what bar associations the lawyer belongs to, and civic organizations in your community. Do not be afraid to

ask for references from other clients and lawyers; even a sample of the lawyer's written work.

Legal consumers should be aware that lawyers are not required, either by law or court rule, to maintain malpractice insurance, which protects against losses caused by a lawyer's negligence or incompetence.

Prospective clients should ask whether the lawyer or law firm has malpractice insurance. If it does, ask that the amount of coverage and the identity of the insurance company be set forth in the written retainer agreement.



Get It In Writing

Make sure that your lawyer or law firm provides you with a retainer agreement. Before signing it, take it home and study it carefully. At a minimum, the retainer agreement should set forth the legal work to be provided, the amount of legal fees to be paid the lawyer and others in the law firm, such as “associates,” “paralegals,” and “investigators.” The retainer agreement should also cover your responsibility for other expenses like court filing fees, photocopying, telephone calls, etc. Ask for an estimate of the total charges that will be billed to you.

If you’re required to pay all or part of the fee in advance, make sure that the retainer agreement does not describe it as a “non-refundable” fee. That sort of fee is unethical in New York State.

As a further protection, tell your lawyer that you consider all fees and other expenses paid in advance to

remain your property until those fees are earned, or the expenses are actually paid. Ask that this be put into the written retainer agreement.

Establish the Ground Rules

Make sure that you understand when you can communicate with your lawyer, whether by telephone, or personally in the office. Ask the names of other persons in the law firm who will be handling specific phases of your matter, such as the drafting of papers, court appearances, trial or appeal.

Keep a calendar, or log, of all contacts with your lawyer’s office, with dates and times spent discussing your case or other legal matter.

Ask for a monthly billing for legal services and other expenses. If you dispute any of the charges in a bill, discuss them with your lawyer immediately.

Get dated and signed receipts for all money paid to your lawyer or

law firm, and the purpose of each payment.

Ask your lawyer to send you a copy of all correspondence sent or received on your behalf, as well as a copy of each legal paper, or legal pleading. It’s well worth the cost of postage and photocopying. If you’re dissatisfied with any documentation, discuss it immediately with your lawyer.

Never sign blank documents, receipts or checks on bank accounts.

Never sign a power of attorney, or retainer agreement, that authorizes someone to endorse or cash a check that’s payable to you unless it’s absolutely necessary.

Always get a receipt for any property that you entrust with a lawyer or law firm for safekeeping. If you are required to make an “escrow” deposit, ask for a copy of the escrow agreement. Make sure that the escrow agreement identifies the bank where the escrow funds will be deposited.

It's important to keep your lawyer informed of your position and status, and for you to be informed, by your lawyer, of the progress in your legal matter.

If your lawyer fails to return your telephone calls, respond by expressing your disappointment to the lawyer in a polite written letter. Keep a copy.

Remember that a law client has a "professional" relationship with his or her lawyer. In that relationship, the lawyer is obligated to serve as an objective legal advisor. Clients and lawyers should avoid romantic, personal, business or social situations that can damage that objectivity, and the truthfulness that's required in a professional relationship.

.....

Just Say, "No, Thank You"

P rivate business relations and transactions between lawyers and law clients are very dangerous. A reputable lawyer will not borrow money from a private client, or solicit investments in the lawyer's real estate, property, or other business ventures unless special precautions are taken to protect the client.

Loans and investments with lawyers, while dangerous, are not illegal; and a client with knowledge of all the facts can loan or invest money with a lawyer. But the lawyer must make full financial disclosure to the client.

At a minimum, a client who's been asked for a loan or an investment should consult an independent lawyer or other professional advisor. The lawyer

soliciting the loan or investment should pay the expense of that consultation.

Better yet, law clients should politely decline these investment opportunities with a "No, thank you." Investment opportunities that seem too good to be true usually are, even with lawyers.



The Check's in the Mail

If a lawyer repeatedly stalls or neglects a client's requests for information or telephone calls, that's a sign that something may be amiss. This is particularly true if money is involved, like the payment of an insurance settlement or a bequest from an estate or trust. Give the lawyer a polite written deadline, and indicate that further delay will obligate you to file a complaint with an attorney grievance committee.

The Check Bounces

Lawyers in New York are obligated by court rules to preserve client and escrow money in special bank accounts that bear the designations, Attorney Trust Account, Attorney Escrow Account, or Attorney Special Account.

Those bank accounts should always be in perfect balance. If a check on this type of account bounces because of insufficient funds, there's obviously a problem, and a possible misuse of client money.

If a lawyer bounces a check payable to a client, the best course of action is to immediately notify the local attorney grievance committee.



Real Estate Matters

New Yorkers generally need legal help when they purchase or sell real estate. The sales contract for residential real estate (which includes condominium units and cooperative shares) frequently requires a down payment from the buyer which is equal to 10 percent of the purchase price. The contract frequently requires that the down payment be deposited with the seller's lawyer as "escrow agent". Sometimes the contract designates a real estate agent or broker as the escrow agent.

New York law requires that these down payments be deposited in special bank accounts, and that the sales contract identify the bank where the down payment will be kept in escrow.

The buyer and seller of residential real estate should ask their lawyers if it's practical to use an interest-bearing escrow account. The buyer should make sure that the down payment is deposited in the special

escrow account by checking the indorsement on the down payment check.

At the closing of title to the property, the buyer and seller should require written "closing statements" that account for all money that changed hands in the transaction.

Buyers and sellers should also insist that funds required at the closing be paid by certified or bank checks.

.....

Personal Injury Litigation

In court actions to recover damages for personal injuries, lawyers are required to provide their clients with retainer agreements. Official retainer statements are filed with the New York State Office of Court Administration, in Manhattan, at the beginning of the action. A supplemental or "closing" statement is filed by the lawyer when the action is finally resolved, either by court decision or settlement.

These statements set forth the legal fees and expenses involved in the court action. Ask your lawyer for a copy of the "opening" and "closing" statements. A client can also obtain copies from the Office of Court Administration. Telephone (212) 428-2807.

The expenses of litigation may be advanced by a client's lawyer, with the client reimbursing the lawyer when the litigation is resolved. Ask your lawyer to keep you advised as expenses are incurred. Also ask that the lawyer notify you if there is an offer to settle your litigation prior to trial.

Remember, it's unethical for a lawyer, or someone acting on the lawyer's behalf, to solicit or ask you to retain a specific lawyer as your attorney. In the event of a solicitation, you can complain to an attorney grievance committee,

or to another lawyer who can file a complaint for you.

Do not sign documents in blank, including receipts and bank checks.

Do not sign a retainer agreement or a power of attorney that authorizes



10

another person to endorse a check that is payable to you unless it is absolutely necessary. A check that is payable to a law client should be endorsed by that client.

In personal injury settlements of \$5,000 or more, the law requires insurance companies to notify clients, in writing, when settlement checks are mailed to the client's lawyer.

Remember, a lawyer's failure to promptly pay money that's owed to a law client is a signal that something may be wrong. Contact another lawyer for advice, or file a written complaint with an attorney grievance committee.

Divorce, Separation and Family Law Matters

Written retainer agreements are required in matrimonial litigation (sometimes called "domestic relations matters") in New York State. Matrimonial litigation includes proceedings for divorce, separation, annulment, cus-

tody, visitation, maintenance, and child support.

A lawyer is also required to provide the matrimonial client with an official "Statement of Client's Rights and Responsibilities." The New York court system also operates a binding arbitration system for resolving disputes between lawyers and clients over legal fees in domestic relations matters.



.....

The Administration of Estates

When you retain a lawyer to prepare a Last Will and Testament, inquire about the estimated legal fees and other costs of administering your estate.

Seek your lawyer's advice about requiring your Executor to secure insurance (sometimes called a surety bond) to protect your estate and beneficiaries against losses resulting from the misuse of estate assets.

The Executor of an estate is legally responsible for paying all estate debts, bequests, and expenses of administration. The Executor cannot delegate that responsibility to another person, not even to the lawyer who is helping with the estate's administration. The Executor must maintain a special bank account for this purpose.

An Executor should maintain a written inventory of all estate assets.

Money must be deposited in the special bank account, and other property has to be properly safeguarded as estate property. A safe deposit box may be necessary.

All payments from the estate's bank account should be made by checks that are personally signed by the Executor. The Executor should never sign checks or withdrawal forms in blank.

The Executor should insist that the original (or a copy) of each monthly bank statement be mailed directly to the Executor. Each month the Executor should make sure that all checks drawn on the bank account bear the Executor's signature and the payee's endorsement.

These rules and precautions apply to all persons who are appointed fiduciaries, including Trustees and Guardians.

.....

Elder Law Issues

11

Senior citizens frequently need legal advice on matters relating to health care decisions, estate planning, and special laws for seniors. Many lawyers now limit their law practices to serving the legal needs of older people. These "elder law" lawyers generally have experience and skills in estate planning, housing, taxes, and government programs like Social Security and Medicare/Medicaid.

Consumers should take the same precautions in hiring elder law lawyers as they would specialists in any other area of law. Inquire about the lawyer's experience and the services that can be provided.

Remember, it's important for families, or trusted friends, to be involved in these important decisions for seniors.

Debt Collection

Business owners frequently require lawyers to help collect debts. Again, the retainer agreement should be in writing and fully disclose what legal fees, commissions, and other costs are involved.

Arrange for the attorney or law firm to provide monthly or other periodic accountings of all funds received on your behalf. Make sure that the lawyer understands that there can be no settlement of debts that are owed to you without your consent.

Escrow Deposits

An “escrow” is a legal arrangement to help parties perform contracts and avoid disagreements. In the typical escrow, a “depositor” entrusts money with an “escrow agent”, which will be paid to a “beneficiary” when some future event occurs.

Escrow agents in New York State, including lawyers, are not necessarily insured. The wise consumer, or investor, will never deposit money with an escrow agent without proof that the escrow agent has insurance (or bonding) to protect the depositor in the event of theft or other loss.

Ask the escrow agent for the name and address of the bank, and the bank account number.

Calling It Quits

A law client is free to terminate a lawyer/client relationship at any time, and for any reason. But the careful client will first consult a new lawyer so that important deadlines and other problems are not overlooked.

If you discharge a lawyer, do it in writing and keep a copy. Remember, or course, that discharging a lawyer does not relieve a law client from legal bills that are owed the discharged lawyer or law firm. Remember, too, that a client’s legal file is the property of the client.

Fee Disputes

While lawyers are not permitted to charge unreasonable legal fees, lawyers are rarely censured, suspended from practice, or disbarred for complaints about legal fees.

In divorce and other domestic relations matters, law clients in New York have the right to use a court system program of binding arbitration to settle fee disputes. Arbitration can handle fee disputes not in excess of \$100,000. The determination in a fee arbitration proceeding is binding on both the law client and the lawyer.

Clients in other legal matters must resolve fee disputes by court action, or by special mediation and conciliation programs. Clients who cannot resolve fee disputes with their lawyers can contact an attorney grievance committee for information about local arbitration programs.

.....

Complaining About Lawyers

The authority to regulate and discipline lawyers in New York State is placed by law in the Appellate Divisions of the Supreme Court. There are four regional Appellate Divisions. Each of those courts has one or more Attorney Grievance Committees, to investigate and prosecute complaints of professional misconduct against lawyers.

Grounds for professional discipline of a lawyer include, but are not limited to, the neglect of client matters, malpractice, fraud, deceit, and the misuse of client funds.

There are eight Attorney Grievance Committees within the four judicial departments of New York. Each will accept written complaints of professional misconduct concerning lawyers with offices in their regions.

.....

First Judicial Department

For lawyers with offices in the counties of New York and Bronx:

Departmental Disciplinary Committee

41 Madison Ave., 39th Floor
New York, NY 10010
Telephone: 212/685-1000

.....

Second Judicial Department

For lawyers with offices in the counties of Kings, Richmond, Queens:

Attorney Grievance Committee

210 Joralemon St., 12th Floor
Brooklyn, NY 11201
Telephone: 718/624-7851

For lawyers with offices in the counties of Nassau and Suffolk:

Attorney Grievance Committee

6900 Jericho Turnpike
Syosset, NY 11791
Telephone: 516/364-7344

For lawyers with offices in the counties of Dutchess, Orange, Putnam, Rockland, Westchester:

Attorney Grievance Committee

399 Knollwood Road, Suite 200
White Plains, NY 10603
Telephone: 914/949-4540

.....

Third Judicial Department

For lawyers with offices in the counties of Albany, Broome, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Madison, Montgomery, Otsego, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington:

Committee on Professional Standards

AES State Office Bldg., 22nd Floor
P.O. Box 7013, Cap. Sta. Annex
Albany, NY 12225-0013
Telephone: 518/474-8816

Fourth Judicial Department

For lawyers with offices in the counties of Herkimer, Jefferson, Lewis, Oneida, Onondaga, Oswego:

Attorney Grievance Committee

465 So. Salina St.
Syracuse, NY 13202
Telephone: 315/471-1835

For lawyers with offices in the counties of Cayuga, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne, Yates:

Attorney Grievance Committee

42 East Avenue, Suite 404
Rochester, NY 14614
Telephone: 716/546-8340

For lawyers with offices in the counties of Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Niagara, Orleans, Wyoming:

Attorney Grievance Committee

1036 Ellicott Square Bldg.
Buffalo, NY 14203
Telephone: 716/858-1190

The Lawyers' Fund for Client Protection

The New York Lawyers' Fund for Client Protection was established by the State Legislature in 1981. The fund's purpose is to reimburse the misuse of law client money in the practice of law.

The fund is financed solely by lawyers, not tax dollars. It is managed by a Board of Trustees appointed by the state Court of Appeals, New York's high court. There are seven Trustees: five lawyers and two business executives. The Trustees serve without compensation for three-year terms of office.

The Trustees are authorized to reimburse money and property that is wrongfully taken in the practice of law, provided that the dishonest lawyer cannot make restitution.

Typical client losses covered include the theft of estate and trust assets,

down payments in real estate transactions, settlement proceeds in litigation, and money embezzled in investments for clients. The fund does not cover losses resulting from a lawyer's malpractice or neglect, and disputes concerning legal fees. Since 1981, the fund's Trustees have restored more than \$60 million to eligible clients.

The Trustees' claim procedures are uncomplicated and cost-free for law clients. That includes legal help, which most lawyers in New York State will provide claimants free of charge. The Trustees' reimbursement awards follow promptly after a dishonest lawyer's disbarment or criminal conviction for misusing client funds.

The offices of the Lawyers Fund are located at 119 Washington Avenue, Albany, New York 12210. Telephone 800/442-3863.

The fund has a Website on the Internet with helpful information for law clients and lawyers:
<http://www.nylawfund.org>

Statement of Client's Rights*

1. You are entitled to be treated with courtesy and consideration at all times by your lawyer and the other lawyers and personnel in your lawyer's office.
2. You are entitled to an attorney capable of handling your legal matter competently and diligently, in accordance with the highest standards of the profession. If you are not satisfied with how your matter is being handled, you have the right to withdraw from the attorney-client relationship at any time (court approval may be required in some matters and your attorney may have a claim against you for the value of services rendered to you up to the point of discharge).
3. You are entitled to your lawyer's independent professional judgment and undivided loyalty uncompromised by conflicts of interest.
4. You are entitled to be charged a reasonable fee and to have your lawyer explain at the outset how the fee will be computed and the manner and frequency of billing. You are entitled to request and receive a written itemized bill from your attorney at reasonable

* These statements have been approved by the New York State court system

intervals. You may refuse to enter into any fee arrangement that you find unsatisfactory.

5. You are entitled to have your questions and concerns addressed in a prompt manner and to have your telephone calls returned promptly.
6. You are entitled to be kept informed as to the status of your matter and to request and receive copies of papers. You are entitled to sufficient information to allow you to participate meaningfully in the development of your matter.
7. You are entitled to have your legitimate objectives respected by your attorney, including whether or not to settle your matter (court approval of a settlement is required in some matters).
8. You have the right to privacy in your dealings with your lawyer and to have your secrets and confidences preserved to the extent permitted by law.
9. You are entitled to have your attorney conduct himself or herself ethically in accordance with the Code of Professional Responsibility.
10. You may not be refused representation on the basis of race, creed, color, religion, sex, sexual orientation, age, national origin or disability.

Statement of Client's Responsibilities

15

Reciprocal trust, courtesy and respect are the hallmarks of the attorney-client relationship. Within that relationship, the client looks to the attorney for expertise, education, sound judgement, protection, advocacy and representation. These expectations can be achieved only if the client fulfills the following responsibilities:

1. The client is expected to treat the lawyer and the lawyer's staff with courtesy and consideration.
2. The client's relationship with the lawyer must be one of complete candor and the lawyer must be apprised of all facts or circumstances of the matter being handled by the lawyer even if the client believes that those facts may be detrimental to the client's cause or unflattering to the client.
3. The client must honor the fee arrangement as agreed to with the lawyer, in accordance with the law.
4. All bills for services rendered which are tendered to the client pursuant to the agreed upon fee arrangement should be paid promptly.
5. The client may withdraw from the attorney-client relationship, subject to financial commitments under the

agreed to fee arrangement, and, in certain circumstances, subject to court approval.

- 6. Although the client should expect that his or her correspondence, telephone calls and other communications will be answered within a reasonable time frame, the client should recognize that the lawyer has other clients equally demanding of the lawyer's time and attention.
- 7. The client should maintain contact with the lawyer, promptly notify the lawyer of any change in telephone number or address and respond promptly to a request by the lawyer for information and cooperation.
- 8. The client must realize that the lawyer need respect only legitimate objectives of the client and that the lawyer will not advocate or propose positions which are unprofessional or contrary to law or the Lawyer's Code of Professional Responsibility.
- 9. The lawyer may be unable to accept a case if the lawyer has previous professional commitments which will result in inadequate time being available for the proper representation of a new client.
- 10. A lawyer is under no obligation to accept a client if the lawyer determines that the cause of the client is without

merit, a conflict of interest would exist or that a suitable working relationship with the client is not likely.



Statement of Client's Rights and Responsibilities
(In Matrimonial Proceedings)

Your attorney is providing you with this document to inform you of what you, as a client, are entitled to by law or by custom. To help prevent any misunderstanding between you and your attorney please read this document carefully.

If you ever have any questions about the way your case is being handled, do not hesitate to ask your attorney. He or she should be readily available to represent your best interests and keep you informed about your case.

An attorney may not refuse to represent you on the basis of race, creed, color, sex, sexual orientation, age, national origin or disability.

You are entitled to an attorney who will be capable of handling your case; show you courtesy and consideration at all times; represent you zealously; and preserve your confidences and secrets that are revealed in the course of the relationship.

You are entitled to a written retainer agreement which must set forth, in plain language, the nature of the relationship and

the details of the fee arrangement. At your request, and before you sign the agreement, you are entitled to have your attorney clarify in writing any of its terms, or include additional provisions.

You are entitled to fully understand the proposed rates and retainer fee before you sign a retainer agreement, as in any other contract.

You may refuse to enter into any fee arrangement that you find unsatisfactory.

Your attorney may not request a fee that is contingent on the securing of a divorce or on the amount of money or property that may be obtained.

Your attorney may not request a retainer fee that is non-refundable. That is, should you discharge your attorney, or should your attorney withdraw from the case, before the retainer is used up, he or she is entitled to be paid commensurate with the work performed on your case and any expenses, but must return the balance of the retainer to you. However, your attorney may enter into a minimum fee arrangement with you that provides for the payment of a specific amount below which the fee will not fall based on the handling of the case to its conclusion.

You are entitled to know the approximate number of attorneys and other legal staff members who will be working on your case at any given time and what you will be charged for the service of each.

You are entitled to know in advance how you will be asked to pay legal fees and expenses, and how the retainer, if any, will be spent.

At your request, and after your attorney has had a reasonable opportunity to investigate your case, you are entitled to be given an estimate of approximate future costs of your case, which estimate shall be made in good faith but may be subject to change due to facts and circumstances affecting the case.

You are entitled to receive a written, itemized bill on a regular basis, at least every 60 days.

You are expected to review the itemized bills sent by counsel, and to raise any objections or errors in a timely manner. Time spent in discussion or explanation of bills will not be charged to you.

You are expected to be truthful in all discussions with your attorney, and to provide all relevant information and documentation to enable him or her to competently prepare your case.

You are entitled to be kept informed of the status of your case, and to be provided with copies of correspondence and documents prepared on your behalf or received from the court of your adversary.

You have the right to be present in court at the time that conferences are held.

You are entitled to make the ultimate decision on the objectives to be pursued in your case, and to make the final decision regarding the settlement of your case.

Your attorney's written retainer agreement must specify under what circumstances he or she might seek to withdraw as your attorney for non-payment of legal fees. If an action or proceeding is pending, the court may give your attorney a "charging lien," which entitles your attorney to payment for services already rendered at the end of the case out of the proceeds of the final order or judgment.

You are under no legal obligation to sign a confession of judgment or promissory note, or to agree to a lien or mortgage on your home to cover legal fees. Your attorney's written retainer agreement must specify whether, and under what circumstances, such security may be requested. In no event may such security interest be obtained by your attorney without prior court approval and notice to your adversary. An attorney's security interest in the marital residence cannot be foreclosed against you.

You are entitled to have your attorney's best efforts exerted on your behalf, but no particular results can be guaranteed.

If you entrust money with an attorney for an escrow deposit in your case, the attorney must safeguard the escrow in a special bank account. You are entitled to a written escrow agreement, a written receipt, and a

complete record concerning the escrow. When the terms of the escrow agreement have been performed, the attorney must promptly make payment of the escrow to all persons who are entitled to it.

.....

Other Helpful Telephone Numbers

NYS Office of Court Administration
Lawyer Licensing Information
212/428-2800

NYS Department of Law
Attorney General's Consumer Frauds Bureau
800/771-7755

NYS Department of State
Real Estate Broker Licensing Division
518/474-4429

NYS Banking Department
Mortgage Broker & Banker Licensing Division
212/618-6685 (New York City)
800/334-3360 (Outside New York City)

Lawyer Referral Services
Contact your local county or city bar association, or call the New York State Bar Association at 800/342-3661.



The Lawyers' Fund for Client Protection

of the State of New York

119 Washington Avenue, Albany, New York 12210
(800) 442-FUND • (518) 434- 1935 • FAX (518) 434-5641
www.nylawfund.org