

Legal Fees

This memo addresses the concerns many people have about legal fees.

In some cases, lawyers charge an **hourly fee**. The client pays the attorney a fee for every hour billed based upon the attorney's hourly rate. For example, if an attorney charges \$200 per hour for 10 hours of work, the total fee is \$2,000.

Sometimes lawyers charge a **flat rate**. A flat rate is the rate a lawyer charges for a specific project or document. For example, a lawyer may prepare a Revocable Trust for a total fee of \$2,000.

Estate planning lawyers often charge a flat rate. In fact, for several years, I charged a flat rate for my estate planning services. As you might expect, estate planning lawyers compete with each other to offer the lowest flat rate to clients. Low fees sound like a good thing, right?

Unfortunately, the unintended consequence is that estate planning lawyers often cut services so they can offer the lowest possible flat rate. In addition, lawyers who "lowball" their fees often delegate work to someone who may not be as qualified to perform the work. In the end, the client receives an inferior product which does not do what it is intended to do. A classic example is when an estate planning lawyer prepares a Revocable Trust to avoid Probate, but then the lawyer fails to help the client transfer assets to the Revocable Trust, so it is completely ineffective in avoiding Probate.

After much reflection, I have decided to charge an hourly fee for estate planning. That way, there is no incentive to skimp on your services or forego important details.

On the other hand, you want to be sure that your lawyer does not overcharge you by dawdling on your project. Rest assured: Like many lawyers, I have several (literally a dozen or more) legal projects at any given time. The last thing I want to do is delay a project or slow it down, or be inefficient in producing results for you. I am doing everything possible to move projects forward and get them off my desk!

Finally, you want to have a clear understanding of what your fee will be before you hire your lawyer. On average, my estate planning fees range between \$2,500 and \$3,500. My fees are not cheap, but they are competitive with other attorneys who specialize in estate planning. Your fees will depend on the complexity of your situation and not necessarily the size of your estate.¹ Complicating factors include, but are not limited to: second marriages and blended family situations, Medicaid planning, family conflict, advanced tax planning, multiple assets, disorganized asset structure, etc.

Note: Your initial deposit or retainer fee is not your entire legal fee. It is simply a "down payment" for the work being performed. Once your deposit is exhausted, additional payments must be made for the legal services you receive.

¹ Ironically, the most I have ever charged a client was in a Medicaid planning case. The client had very few assets. The reason my fees were so high was because it was a crisis situation and the planning was time-intensive and extraordinarily complex.

The Michigan Rules of Professional Conduct require that lawyers consider the following factors in determining the reasonableness of their fees:

- The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- The fee customarily charged in the locality for similar legal services;
- The amount involved and the results obtained;
- The time limitations imposed by the client or by the circumstances;
- The nature and length of the professional relationship with the client;
- The experience, reputation, and ability of the lawyer performing the services; and
- Whether the fee is fixed or contingent.

If you have any questions about legal fees, please contact me.

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