Chapter Two

LEGAL REPRESENTATION

Women with legal problems should consult with an attorney if possible. If the legal problem is complex, she may need to retain an attorney to represent her. This is the ideal; however, there are circumstances (usually lack of money) that may force a woman to represent herself.

When do I need an attorney?

The best time to see an attorney is before a problem occurs – not when you are in legal trouble. Preventative law can save time, trouble, and money. Many situations involving legal rights and responsibilities can be handled without the assistance of an attorney. However, if you are about to undertake a major obligation or if circumstances are confusing, consult an attorney. An attorney can analyze the legal implications of a situation, offer advice, and decide how best to protect your rights.

To help you decide if you need an attorney, ask yourself these questions:

- What is at stake?
- What are the consequences if the problem is ignored?
- Are there other ways to solve the problem?
- How much is it likely to cost to hire an attorney?
- Am I knowledgeable about the law governing this problem?

Some of the circumstances that may require professional legal assistance are:

- buying or selling real estate;
- major financial transactions;
- signing a lease or contract with major financial considerations;
- marriage, divorce, child custody, or adoption;
- if you are involved in a lawsuit;
- if you are arrested or charged with a crime;
- starting or closing a business;
- drafting a Will or other estate planning;
- if you have tax concerns or financial problems;
- when you have a serious accident; and
- when you make appearances, applications or appeals to government agencies or boards.

Why can’t I handle my own legal problems?

You may represent yourself in court and handle your own legal matters. Self-help “kits,” pro se packets, and preprinted forms are sometimes available. However, these items may not consider individual needs, differences, and complications.

Many laws are complex and are frequently changed. Attorneys are trained to explain the law, to provide legal assistance, and to be aware of court procedures, filing requirements, deadlines, and other details which a non-attorney could easily overlook. This role is important since judges and court personnel are
not allowed to give you legal advice.

REPRESENTING YOURSELF

If possible, make an appointment with an attorney for a consultation. Some attorneys give reduced rates for the first half hour or hour consultation. If you decide to pay for a short consultation, try to prepare for it in advance. Think about the questions that are most important to ask. You may want to prepare notes to take with you.

One of the things to keep in mind if you must represent yourself is to put things in writing. Keep notes on conversations and phone calls, including dates, times, names, and summaries of conversations. Follow-up with a letter whenever possible.

Keep letters short, concise, and businesslike. If possible, use plain businesslike stationary. Keep copies of all correspondence. Keep copies of information that may be useful such as receipts, tax records, and licenses.

If you need something done by a certain time, set a clear deadline in a letter. You may want to send letters by certified mail if you need to have a record that they were received.

Be punctual and businesslike when you meet with people. If possible, arrange childcare so you are able to give your full attention to the attorney. Prepare for meetings and think about which documents you may need to have with you.

Representing yourself is no substitute for having an attorney represent you. If at all possible, make arrangements to get legal counsel. If you cannot pay for an attorney, you may qualify for free help from Alaska Legal Services, the Alaska Network on Domestic Violence and Sexual Assault, and/or the Alaska Native Justice Center or the Alaska Institute for Justice. [See the Resource Directory at the back of this handbook for the office nearest you.] You also should check whether you or a relative is entitled to legal help through a union benefit plan. You might consider borrowing money to ensure that you are well represented.

FAMILY LAW SELF-HELP CENTER

The Family Law Self-Help Center is a free statewide public service provided by the Alaska Court System. It is dedicated to helping self-represented people understand family law procedures, increasing access to courts, and resolving their family law cases more quickly. The Center also provides referrals to social service and legal organizations and government agencies. The following services are available:

- **Self-Help Center Website:** [www.state.ak.us/courts/selfhelp.htm](http://www.state.ak.us/courts/selfhelp.htm)
  The website provides comprehensive information about divorce, dissolution, child custody, child support, paternity, and domestic violence protective orders. The page is easy to use and has detailed information and downloadable forms and instructions for virtually all commonly experienced situations. It is written in plain language and follows a frequently asked question format.

- **Statewide Telephone Helpline:** 907-264-0851 (in Anchorage) / 1-866-279-0851 (toll free in-state, outside of Anchorage)
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The statewide Helpline is available to anyone without a lawyer and strives to provide appropriate legal education to help people help themselves. In a typical call, the facilitator first explains that the Center can provide legal information, not legal advice or strategy, and confirms that there is no attorney representing the caller. The facilitator then asks the caller basic information to determine the type of case, the procedural posture, and identify what the caller is trying to do. The facilitator will provide background information about the issue at hand, present options, and discuss specific forms. If the person needs additional assistance, the facilitator will schedule a follow-up call. The facilitator cannot review forms for accuracy or completeness.

- **Free Self-help Computer/Printer Workstations:**
  In cooperation with Alaska Legal Services Corporation, the Family Law Self-Help Center has deployed seven workstations at various courts for use by self-represented people in any type of civil case. These workstations provide access to unlimited internet service, Microsoft Word and Excel software, and telephones with local access and pre-programmed speed dialing to relevant statewide providers. The self-help workstations are located in Anchorage, Fairbanks, Juneau, Ketchikan, Kenai, Kodiak, and Palmer.

How can I find an attorney?

There are several ways to locate an attorney:

- If you know an attorney, ask for a recommendation to an attorney who handles the type of case you have.
- Ask a friend who has had a similar case to recommend the attorney they used.
- Check the Yellow Pages of the telephone directory under Attorneys Fields of Practice to locate an attorney who works in the area of law you need.
- Contact the Alaska Bar Association to obtain a list of attorneys who belong to a particular section of the Alaska Bar Association that deals with your type of case, e.g. family law or bankruptcy.

The Alaska Bar Association also provides a service called Lawyer Referral. [See the Resource Directory at the end of this handbook for contact information.] This service will give you the names of three attorneys who consider referrals of the kind of case you have and who guarantee to charge a set fee for the first half hour of the appointment.

You may find it in your best interest to interview more than one attorney regarding their fee schedule, attitude, and experience with your particular problem. If you do not feel comfortable with an attorney you have interviewed, it is okay to interview and choose another attorney.

Can I change attorneys?

You have a right to expect competent representation. If you are unhappy with the attorney you chose to handle your case, there are several things you can do:

- Talk with your attorney to express your concerns. You may want to send a letter that outlines your specific complaints. Allow the attorney an opportunity to correct the problem.
- If you are still dissatisfied, you may discharge your attorney. In most instances, you may inform the attorney of your decision to terminate her/his services, and the attorney must then withdraw from representation. In some situations, withdrawal may be obtained only by order of the court. You and
your attorney have a contractual relationship. Even if you discharge an attorney, you may have to pay a reasonable amount for the work already done on your case, as well as for costs that have already been incurred.

- If you believe that your attorney has acted improperly, you may contact the Alaska Bar Association Office for more information about your rights.

**LEGAL FEES**

**When should legal fees and costs be discussed?**

It is appropriate and important to discuss fees when you first visit an attorney. You have a right to know how you will be charged, how much the case is likely to cost, and when you have to pay.

Various factors and arrangements may influence the costs of legal services. Your attorney can explain how fees are computed and may outline options available to you. The attorney can sometimes provide a reasonable estimate of the time and costs involved in serving your particular needs.

Your attorney will want you to be satisfied not only with the service provided, but also with the fee you are charged. Candid discussions about fees and your ability to pay will avoid misunderstandings and help you decide if you want to retain the attorney.

**Should I expect to pay an initial consultation fee?**

Policy and practices vary. Don’t hesitate to ask about the initial consultation fee when calling for an appointment with an attorney. Some attorneys have a policy of “no charge for the initial consultation,” while others charge for a client’s first visit.

If after an initial visit you decide not to take further action, you are under no obligation to proceed. However, you will be expected to pay for the initial visit unless you are advised or promised otherwise.

**Is a written fee agreement necessary?**

A clear understanding of fees is important to the attorney-client relationship. No matter which fee arrangement you agree to, the attorney must provide a written agreement if the fee exceeds $1,000. An attorney must advise you in writing or if she or he does not have malpractice insurance of a required amount. The attorney must advise you in writing later if that insurance drops below that amount or is terminated. If you have any questions about the written agreement, you should ask questions and clarify them before you sign. You should keep a copy of the signed agreement.

**Who is responsible for the fee?**

As the client, you are responsible for paying legal fees and expenses. In some court cases, a judge may award a partial or full fee to be paid by an opposing party.

**When is the fee payable?**

In many cases, an attorney will require a deposit, generally called a “retainer,” before agreeing to handle your matter. Such payment can assure the attorney’s availability and may be applied to initial work and expenses. Attorneys must follow strict regulations for the safekeeping and accounting of these deposits.
and all client funds.

Fee arrangements vary depending on the type of service, personal preferences, and attorney practices and policies. Be sure you understand your options and obligations when your case is first discussed.

**What if I think the fee is too high?**

If you have questions about a bill, contact your attorney and discuss it. Most attorneys maintain detailed records of time spent and expenses associated with each case and can itemize or thoroughly explain any charges you think are confusing or improper.

**Can I do anything to reduce legal expenses?**

The following suggestions may help reduce legal costs:

- Gather pertinent information before meeting with your attorney. Write down names, addresses, and telephone numbers of all persons involved in the matter.
- Be organized. Bring letters, documents, and other relevant papers to the first meeting with your attorney. Summarize essential facts. Write down questions you want the attorney to answer.
- Be concise in all interviews with the attorney.
- Answer questions fully and honestly.
- Avoid unnecessary telephone calls to the attorney.
- Be informed and keep your attorney informed. Discuss ways you can help, such as obtaining documents, lining up witnesses or providing other assistance to reduce costs.

If you are getting divorced but have no legal benefits or money, you still should consult an attorney. Ask if the attorney will take your case for future court-ordered attorney fees or go to court to get your spouse to give you money to pay your attorney. The attorney you choose may be willing to wait for a fee at the end of the case if you can help pay costs along the way.

You must have a written fee agreement between yourself and your attorney in the form of a letter or a contract if the fee exceeds $1,000. This agreement can keep you from later having a dispute over your bill. You can tell the attorney not to work more than a specified number of hours and not to run up high costs in your case without telling you what she or he is doing.

Divorce case fees are usually charged by the hour. Personal injury and some employment cases are usually handled on a contingent fee basis, which generally means the attorney receives a portion of any recovery actually received and the client pays the costs of representation.

Some laws, such as the federal Equal Employment Opportunity Act, award attorney’s fees if you win. In Alaska, a spouse may have to give the other spouse money for attorney fees in a divorce if that spouse has more assets or earning power. Alaska courts give the winning side an attorney’s fee award in some cases. [Civil Rule 82.]

**WORKING WITH AN ATTORNEY**

Do not be intimidated by your attorney. Do not hesitate to ask questions even if you are embarrassed. Remember, your attorney is there to help you and answer your questions.
Ask what you can do to save money on your legal bill, e.g., gathering your own bank information, medical records, or employment records. Also, ask the attorney what documents and information you should bring in to the office on your first visit.

Some attorneys will agree to provide you with “unbundled” legal services. This means that they will help you on one piece of your case, such as appearing for you at an interim custody hearing, but not represent you in the whole matter. This can substantially reduce your attorney costs and may be a good option if you feel able to do some of the legal work on your own. Talk with your attorney about this option.

Be aware that attorneys charge for their time. You will be billed for the time spent talking with your attorney both in the office and on the telephone. Try to call only when necessary. Ask the attorney’s secretary questions that are not legal in nature.

Realize that your attorney only provides legal services. The attorney is not your counselor, parent, minister, etc. Many people have emotional issues associated with their legal problems, especially if they are getting a divorce. Many domestic violence programs and women’s resource centers have trained advocates who can help you sort out your feelings and discuss your options.

If you are not happy with the service you are getting from an attorney, you can always fire that attorney and hire another one. But remember you will likely pay for any services provided to that time unless the attorney decides not to charge you. Some women stay with attorneys that are not working out for them because they think it will be too expensive to change. In some instances, a woman may be better off making a change in attorneys and incurring the costs associated with the change. If you need to fire your attorney, ask for a copy of your file so that you can give it to your new attorney.

LEGAL ASSISTANTS/PARALEGALS

Many attorneys employ legal assistants (also known as paralegals) to help them with their work. Legal assistants cannot represent people in state or federal courts. In some instances, they can represent a client in administrative hearings before the Workers’ Compensation Board, Social Security Administration, Wage and Hour Administration, etc. Working with an attorney who has a legal assistant can save you money since the assistant’s hourly rate is usually considerably lower than the attorney’s hourly rate. Legal assistants are also employed by many governmental agencies.

COMPLAINTS ABOUT ATTORNEYS

Attorneys are required to practice in accordance with the Alaska Rules of Professional Conduct (ethical standards for attorneys). A violation of these rules can subject the attorney to discipline by the Bar Association or the Alaska Supreme Court.

If you think your attorney is not acting in your best interests, you may file a complaint against the attorney with the Alaska Bar Association and they will review and investigate as needed. [See the Resource Directory at the end of this handbook for contact information.] The Bar Association provides a form for you to fill out. Just because you do not like the way things turned out does not necessarily mean that your attorney acted in bad faith or did not serve you as well as possible.
FEE DISPUTES

You may file a petition with the Alaska Bar Association if you think you were overcharged by your attorney. The Bar Association has a form to use for filing this petition. An arbitration panel, which is a group of three people (one of whom is not an attorney), will rule on the claim if it exceeds $5,000. If the dispute involves $5,000 or less, one member of the Panel will hear your case. The decision of the Arbitration Panel is final unless it is appealed in accordance with AS 09.43. The fee arbitration service is provided free of charge to you unless, in an unusual case, it is “complex” arbitration. [Alaska Bar Rules 34-42.]

FUND FOR PROTECTION OF CLIENTS

The Alaska Bar Association administers a Lawyers’ Fund for Client Protection to provide reimbursement when an attorney has taken money or property by dishonesty and there is no other source for reimbursement. You may apply for assistance by filling out an application through the Bar Association. You should first report any dishonest conduct to the Bar Counsel of the Bar Association because disciplinary action may be necessary before any reimbursement can be made. [Alaska Bar Rules 45-60.]