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Attorney Fees

Thank you for your inquiry regarding attorney fees and the different formulas for attorney compensation. I hope you find the following to be of interest and I urge you to call me if you have any questions or wish to discuss a fee for a potential case.

The first question in any attorney-client relationship is to define the client's goal and determine what steps can be taken to achieve that goal. The second question is how much is this going to cost.

Alternative Fee Agreements

It has long been thought that alternative fee agreements cannot successfully be applied to litigation, that the expense of litigation can only be measured on an hour-by-hour basis. This is no longer accurate. All fees are negotiable and any creative method of compensation is considered. My agreements can take into account the financial risk of an adverse result, the likelihood of a positive outcome, and the predictability of the expense of litigation. For most clients the predictability of the expense of litigation is of paramount importance due to budgeting and timing concerns.

Budgeting

A fair assessment can be made of the progression or staging of a case. While spikes of attorney time may not be predicable as to when they will occur, or as to the amount, a budget with a specific payment plan can spread the cost over a set time period.

The Hourly Fee

The hourly fee has traditionally been used to measure attorney compensation. Time is measured in .10 of an hour increments and the timekeeper describes the task in an itemized bill. Theoretically it is an exact method of keeping time, but is often vague when it comes to description of an activity and is notoriously suspect as to the appropriateness of the number of hours spent on a specific activity. As far as the hourly fee is concerned I expect my clients to question any time entry on any of my invoices.

I have found that the best utilization of the hourly fee occurs when the experience and expertise of an attorney is assessed against the complexity and exposure of the case. There is a difference between the "bet the company" case and one involving a simple

breach of contract. This concept can be drilled down further. Hourly fee agreements can, and should, reflect different hourly rates for different attorneys and for different attorney activities. As a result a more economical approach may be designed in regard to attorney utilization.

Hourly fee agreements may include discounts for payments made within a certain time frame. A lower hourly rate may be utilized with a premium (success bonus) if a defined result is achieved. Examples include resolution within a certain time frame, a specific financial result, or successful negotiation with a non-financial result. Negotiated hourly fee agreements may be subject to a lower fee, or discount, based upon the certainty of future work.

Flat Fee

When the work necessary to prosecute or defend a case is predictable or reoccurring, a flat fee arrangement is worth considering. Flat fees are also appropriate where the client wants to limit attorney fees to a specific amount.

A flat fee can apply to an entire matter or portions of a case. Examples include one fee for handling a case from beginning to end or different fees for handling various activities in the prosecution or defense of a matter (a set fee for depositions, research, trial) and flat fees based upon the time a matter has been in litigation.

Flat fees may be part of an hourly fee agreement.

A flat fee should always be considered when an attorney is working with in house counsel or in association with other counsel in the joint representation of allied parties.

Contingent Fee

A contingent fee agreement transfers the risk of compensation, and in some cases the expense of the case, to the attorney. The attorney only gets paid in the event of a favorable outcome. In this respect contingent fees can be blended with lower hourly rates to create an incentive for early resolution of a case or a particular result. A contingent fee agreement is always subject to negotiation and is not subject to one formula.

Software as a Service

Through the use of “SaaS” (software as a service) or cloud technology the client and the attorney may have immediate access to the other’s time keeping programs to streamline budgeting, time review, case status and payment of fees. Privacy is enhanced based on the level of encryption.