

THE STATE BAR OF CALIFORNIA

HOW CAN
I FIND
AND HIRE
THE RIGHT
LAWYER?

GET THE
LEGAL
FACTS
OF LIFE

How can I find and hire the **right lawyer?**

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1 Why might I need a lawyer?

You may have a legal problem and not know how to resolve it. Lawyers have been specially trained in the law and our legal system. And the right lawyer can advise and assist you with your particular problem.

If you are facing criminal charges or a lawsuit, for example, a lawyer can help you understand your rights, and the strengths and weaknesses of your case. A lawyer knows the rules and procedures for arguing the case in court. And a lawyer can make a big difference in whether or not your side of the story is successfully presented to a judge or jury.

A lawyer can help you get a divorce, file for bankruptcy or draw up a will. Or, if you have been seriously injured or mistreated, a lawyer can help you file a lawsuit. Some lawyers handle a variety of legal problems; others specialize in certain areas of the law.

In some instances, failing to call a lawyer immediately can make the situation worse. If you are arrested or involved in a serious auto accident, for example, someone should interview the witnesses and gather evidence as soon as possible.

In other situations, *preventive* legal advice could save you time, trouble and money by preventing legal problems before they arise. Take, for example, the purchase of your family home. You might have a problem in the future if you sign the purchase agreement without completely understanding it. Or maybe you are launching a business with a partner. A lawyer could point out the advantages and drawbacks of various partnership arrangements.

These are just a few of the many situations in which lawyers can provide advice and assistance.

2 How do I find a lawyer?

California has more than 160,000 practicing lawyers. You should be able to find the right one — if you know where to look.

Recommendations. Maybe you know a lawyer in a town where you used to live. Perhaps a lawyer who works for a corporation lives across the street. These lawyers may be able to refer you

to other lawyers who have experience with your type of problem.

You could also ask your friends, co-workers and employers if they know any lawyers. Business owners and professionals such as bankers, ministers, doctors, social workers and teachers might be able to give you the name of a lawyer.

Certified lawyer referral services. You could call a local State Bar-certified lawyer referral service. This type of service refers potential clients to attorneys. After interviewing you, the referral service staff will match you with a lawyer who is experienced in the appropriate area of the law. (There is usually a small charge for the initial consultation with a lawyer.)

For an online list of certified lawyer referral services, visit the State Bar's Web site at www.calbar.ca.gov/lrs. For a recorded message that can provide you with the phone numbers of certified services in your county, call 1-866-44-CA-LAW (1-866-442-2529). If you are out of state, you can call 415-538-2250 to hear the same recorded message. Or check the Yellow Pages of your telephone directory for a listing. (Keep in mind that the service's State Bar certification number must appear in all advertising.)

State Bar-certified lawyer referral services must meet minimum standards established by the California Supreme Court. And because the State Bar enforces those standards, you could turn to the State Bar if you have a problem with the service. And if you were to file a complaint, the State Bar would look into it. There are other advantages as well. For example, a certified referral service:

- Can refer you to a lawyer who has experience in the field of law that relates to your case.
 - Will refer you to attorneys who are insured.
- All lawyers who participate in certified lawyer referral services must carry malpractice insurance to protect their clients. This means that if your lawyer does something wrong, and you successfully sue for malpractice, the lawyer will have the ability to pay.
- Will screen your call to determine whether you have a legal problem — or need some other type of assistance. And if you do need another

type of assistance, the referral service can refer you to government agencies or other organizations that may be better suited to assist you. For example, you might have a problem that could be handled, without charge, by a rent control board or community mediation program.

- Will only refer you to an attorney who has met certain standards of experience and is a State Bar member in good standing.

- Will only refer you to an attorney who has agreed to do fee arbitration in the event of a fee dispute.

- May be able to provide an attorney at a reduced rate. Lawyer referral services are required to make arrangements to serve people with limited means.

- May be able to provide you with a bilingual attorney.

For more information on State Bar-certified lawyer referral services, see the State Bar's consumer education pamphlet *What Can a Lawyer Referral Service Do for Me?* To find out how to order a free copy of this or any other State Bar consumer pamphlet, see #16 (page 17).

Advertisements. You also could check the Yellow Pages, newspaper advertisements or the Internet in your search for an attorney.

Most lawyers choose not to advertise, other than to list their names, addresses and telephone numbers in the Yellow Pages. But lawyers are allowed to advertise in the Yellow Pages, in newspapers and magazines, on the radio and television, on billboards, on the Internet or any place else—as long as the ad does not contain false or misleading information. Lawyers may use ads to list their fields of law. They also may post their fees.

If you decide to call a lawyer featured in an advertisement, keep the ad for reference. If the ad was aired on the radio or television, make notes for your records.

Joint advertising groups. Sometimes lawyers join together and advertise their services as a group. Often a group of lawyers will share an 800 telephone number and/or a Web site. State law

requires that joint advertising groups identify by name the participating lawyers.

Public interest groups. Non-profit public interest organizations, such as groups concerned with civil liberties and housing discrimination, may be able to help you. Such groups sometimes have staff lawyers who handle such cases. Others provide legal help solely to groups of people rather than to individuals. For example, they might help you and your neighbors convince your city council to install a traffic light at a busy intersection.

To find such an organization, you could try contacting a local bar association, State Bar-certified lawyer referral service or government agency. For example, suppose you believe a landlord is discriminating against you. You might call your city or county housing office for the names of groups that are concerned with your problem.

Client-attorney matching services. To find an attorney through such a service, you would typically post a brief description of your case on the service's Web site. Attorney members of the service could then bid on the case by offering you a consultation. The selection of an attorney would be up to you. Such services (also called bulletin boards) are not State Bar-certified lawyer referral services.

Free legal aid agencies. What if you can't afford a lawyer? Depending on your income and the nature of your legal problem, you may be able to get free or low-cost legal help in non-criminal cases from a legal services program. Check the white pages of your telephone book to see if such an organization is located in your area.

A State Bar-certified lawyer referral service or local bar association may be able to refer you to a legal services program. California's statewide legal services Web site – www.LawHelpCalifornia.org – also could help you locate a local program and provide you with other resources as well. Or, maybe a law school clinic could assist you.

Suppose you are accused of committing a crime. If you cannot afford a lawyer, you might qualify for free help from the public defender's office. Look in the white pages of the telephone book under your county's listings. What if there isn't a public defender in your area? In such an

instance, a judge would typically appoint a private attorney to represent you free of charge.

Dispute resolution programs. In addition, many communities have “dispute resolution” programs. These programs can help you and another person “mediate” or work out problems instead of going to trial. For more information, see the State Bar pamphlet *How Can I Resolve My Dispute Without a Trial?* For instructions on ordering, see the contact information at the end of #16 (page 17).

Prepaid legal services plans. Perhaps you belong to a “legal insurance” plan through your employer, labor union, credit union, credit card company — or as an individual. Your plan may cover the kind of legal work you need — just as medical insurance plans pay certain medical costs. Generally, the premiums you pay entitle you to a certain amount of a lawyer’s time or to a lawyer’s services at a reduced rate.

3 Do lawyers specialize?

Some do. And the State Bar has a program designed to help you find skilled specialists. Lawyers can become State Bar-certified specialists (and advertise themselves as such) by passing a written examination, demonstrating a high level of experience in the specialty, fulfilling ongoing education requirements and being favorably evaluated. Currently, the State Bar certifies lawyers in 11 specialties: admiralty and maritime law; appellate law; bankruptcy law; criminal law; estate planning, trust and probate law; family law (divorce, custody and related issues); franchise and distribution law; immigration and nationality law; legal malpractice law; taxation law; and workers’ compensation law.

The State Bar also accredits the certification programs of private certifying organizations in: civil trial advocacy, criminal trial advocacy, family law trial advocacy, business bankruptcy law, consumer bankruptcy law, creditors’ rights law, elder law, legal malpractice, medical malpractice, Social Security disability law and juvenile law (child welfare). Lawyers certified by these organizations may also advertise as “certified” specialists. Keep in mind, however, that there are lawyers with experience in all of these legal areas

who simply do not seek certification.

For an online list of State Bar-certified specialists, visit www.californiaspecialist.org and go to *Specialist Search*. Or contact the State Bar's Office of Certification at 415-538-2120.

4 *What should I do if a lawyer asks for my business?*

Be very cautious. Certain unsolicited communications from an attorney could violate the legal profession's code of ethics. Suppose you have been injured in an automobile accident and a lawyer or lawyer's representative visits you in the hospital and asks to handle your case. This kind of behavior is called *soliciting* and is not permitted under the code of legal ethics. If you think you've been solicited, you can report the lawyer to the State Bar by calling 1-800-843-9053.

5 *How will I know which lawyer is best for me?*

Before you meet with any lawyers, do some "comparison shopping." Make a list of several lawyers. Call each lawyer and ask questions that might help you make your decision. (Some lawyers may prefer to meet with you briefly in person.)

Ask about the lawyer's experience and when he or she last handled a similar case. Ask if he or she will meet with you once free of charge before you make your hiring decision. If there is a fee for such a consultation, find out how much it will be. In any case, do not expect a long first meeting; 15 minutes to a half-hour is average.

Write down everything that the lawyers have to say. Take time to think it over. Then make another appointment with the lawyer who seems right for you.

6 *Should I hire the lawyer?*

It depends on how you feel after your first meeting with the lawyer. Before the meeting, jot down key points in your case to share with the

lawyer. Bring the names, addresses and telephone numbers of everyone connected with the case. In addition, bring all papers related to the case. Some lawyers may want to review the papers before your meeting.

Ask about any similar cases that the lawyer has handled. And keep in mind that age may have nothing to do with the lawyer's ability to help you. A lawyer who has practiced 20 years may have less experience with your type of problem than a lawyer who is three years out of law school.

In addition, find out if the lawyer will handle your case personally. If the lawyer intends to have another member of the law firm handle any part of the case, you might want to talk to the second lawyer as well.

Be wary of any attorney who guarantees results. Most lawsuits and other legal work are not "sure things." However, a lawyer should be able to point out the strengths and weaknesses of your case.

Find out how long the lawyer expects your case to take, what steps will be involved, and what and how you will be charged. If you don't understand something, ask for a simpler explanation.

In addition, you can check the State Bar's Web site (www.calbar.ca.gov) to find out if the lawyer has ever been publicly disciplined by the bar. Simply go to *Attorney Search* and *Attorney/Member Search*, then type in the attorney's name or bar number.

You may decide to hire the lawyer after your first meeting, or you may want some time to think about it. Ask yourself a few questions:

- Will you be comfortable working closely with the lawyer?
- Do you think the lawyer has the experience and skill to handle your case?
- Do you understand the lawyer's explanation of what your case involves?
- Does the fee seem reasonable?

If your answer to one or more of these questions is "no," you probably should talk to another lawyer. If all of your answers are "yes," you may have found the right lawyer for you.

7 *How closely will I be involved in my lawyer's work?*

It will depend on your particular arrangement. You may be able to help by gathering papers and other evidence and by lining up witnesses. In any case, you should tell the lawyer everything you can about your problem and report any new developments immediately. To do a good job, the lawyer must know everything you know — including information that could be damaging to your case or that may seem unimportant to you.

Ask the lawyer to explain the various steps involved in handling your problem. You also could request copies of all letters and documents prepared for your case. And you may want to know how often the lawyer will update you. Depending on your situation, the lawyer may be able to provide a timetable that lays out the steps in the case. However, this may not always be possible. If you are involved in a lawsuit, for example, the court's schedule and backlog will influence how long your case will take.

If you have any questions as your case moves along, call the lawyer. However, keep in mind that, depending on the fee arrangement, you could be charged for the lawyer's time during the phone call.

8 *Can I hire a lawyer to just handle certain parts of my legal matter?*

Yes, in some cases. *Limited representation* — hiring an attorney who will assist you at particular stages of your case — may be appropriate for you. Whether it is a good option in your case could depend on the complexity of your legal matter and your financial situation. Generally, limited representation involves less cost.

While some attorneys will not work solely on portions of a case, others will agree to provide limited representation. These attorneys may be referred to as *consulting attorneys*, *coaches* or *providers of unbundled legal services*. Such attorneys do not take on the full responsibility for overseeing or handling your case. The limits of the representation are set by agreement. If you choose such representation, make sure you

understand the extent of the attorney's services. Such services might include, for example, assistance with a negotiation strategy, representation at a particular court hearing or the attorney's "sign-off" on any legal agreement.

Another alternative would be to hire a *collaborative* attorney. In this process, those on both sides of the case and their collaborative attorneys meet to work out their differences through an out-of-court process. If the dispute is not settled, however, those involved would have to hire new attorneys if they want legal help in preparing for a trial.

9 *Is it important to have a fee agreement?*

Yes. You and your lawyer should agree on what you will pay the lawyer and what services will be provided. This way, both of you will know what to expect from each other.

By law, fee agreements must be in writing when the lawyer expects the fees and costs to total \$1,000 or more. But even if the lawyer fails to draw up a written fee agreement, you may still have to pay the lawyer a reasonable fee for any work done. In any case, it is always a good idea to have a written record of the agreement. If there is a written agreement, keep a copy for your records; if you have an oral agreement, make a written note of it.

10 *What should be in the fee agreement?*

The fee agreement should list the services that the lawyer will perform for you, and the type and amount of fees that you will be expected to pay. The agreement should also explain how the *costs* (the other expenses of your case) will be handled and billed. And if the lawyer is going to add interest or other charges to unpaid amounts, the agreement should make this clear as well.

A fee agreement may also include your obligations as a client — to be truthful, for example, and to cooperate and pay your bills on time.

In forming an agreement with your lawyer, make sure that you understand all of his or her

terms. If you are not sure what to ask, you might want to bring a friend or relative along with you when you meet with the lawyer.

Here are a few key questions:

- How will the lawyer bill for his or her time? (See #11 and #12 describing lawyer fees.)
- Who else will be working on the case – associate lawyer, legal assistant, paralegal? How will their work be billed?
- What can be done to reduce fees and costs?
- What is the lawyer’s estimate of the total charges?
- How will *costs* as opposed to *fees* be paid? (See #13.)

Keep in mind that an estimate is just that – a calculated guess as to how much the fees and costs will be. The amount could change as circumstances change.

The lawyer may have a pre-printed fee agreement. If you don’t like any part of the agreement, ask the lawyer to make revisions or to draw up a new agreement better suited to your case.

For more information on fee agreements, along with some sample fee agreement forms, visit the State Bar’s Web site at www.calbar.ca.gov. (Go to *Public Services* in the left menu, then *Addressing a fee dispute with an attorney*.) If you do not have access to the Internet, call 415-538-2020.

Make sure you understand the agreement before you sign it. If you are not comfortable with any of the terms, don’t sign it. And if you can’t work out your disagreement, you may want to find a new lawyer.

11 *How does a lawyer decide what to charge?*

Lawyers consider various factors when setting their fees. A lawyer who is well-known in a certain area of the law might charge more than someone who is not. If so, you will need to consider whether the lawyer’s special skills and experience will actually lead to a better or faster solution to your problem.

A lawyer also might consider the complexity of the case and the amount of time your matter could take. For example, the hearing or trial in your lawsuit may take just a few hours. But the lawyer may have spent days, weeks or even longer preparing for it – researching the law, finding and interviewing witnesses, and preparing documents and arguments for that hearing or trial.

12 *Do all lawyers charge the same kind of fee?*

No. There are several types of fee arrangements. And most of them must be put in writing.

If the fee arrangement is for a *contingency fee* – which means the attorney will get a percentage of the settlement if you win the case – the agreement must be in writing. And it must include, among other things, the agreed-upon percentage.

With *non-contingency* arrangements, the fee agreement must include the lawyer's hourly rate and other standard rates, fees and charges that would apply to your case. It also must explain the general nature of the services that the lawyer will provide for you.

Sometimes it is impossible for a lawyer to know exactly how much time your case will take. You can, however, ask the lawyer to include an estimate of the time and costs in a written fee agreement or letter. But do not forget that many unexpected factors could drive up the cost. For example, your case might involve a *cross complaint*. This means that the person you are suing is also suing you. A cross complaint could affect the type and amount of the lawyer's fee.

Apart from any fee you may pay for your first meeting with a lawyer, you probably will be charged either a *fixed, hourly, retainer, contingency* or *statutory* fee.

Fixed fee. This type of fee, sometimes called a *standard* fee, is commonly used in routine legal matters. For example, a lawyer may charge all clients the same amount to draw up a simple will or handle an uncontested divorce. Legal clinics often use this kind of fee arrangement. Before agreeing to a fixed fee, find out what it does and does not include. You also should find out if any

other charges might be added to the bill.

Hourly fee. Some lawyers charge by the hour, and the amount can vary from lawyer to lawyer. Ask the lawyer to estimate the amount of time your case will take. Suppose you contact three lawyers, and one charges more per hour than the others. You will need to decide whether this lawyer has the skills or experience that could bring your case to a faster solution. Also, remember that circumstances may change, and your case may take longer to handle than the lawyer initially expected.

Retainer fee. This kind of fee can mean different things to different people; make sure you understand your particular fee agreement.

A retainer fee can be used to guarantee that the lawyer will be available to take a particular case. This could mean that the lawyer would have to turn down other cases in order to remain available. With this kind of retainer fee agreement, the client would be billed additionally for the legal work that is done. If the fee agreement is a true non-refundable retainer agreement, you may not be able to get your money back — even if the lawyer does not handle your case or complete the work.

A retainer fee also can mean that the lawyer is “on call” to handle the client’s legal problems over a period of time. Certain kinds of legal work might be covered by the retainer fee while other legal services would be billed separately to the client.

In addition, a retainer fee sometimes is considered a “down payment” on any legal services that the client will need. This means that the legal fees will be subtracted from the retainer until the retainer is used up. The lawyer would then bill you for any additional time spent on your case or ask you to replace the retainer.

Contingency fee. This kind of fee is often used in accident, personal injury or other types of cases in which someone is being sued for money. It means that you will pay the lawyer a certain percentage of the money you receive if you win the case or settle the matter out of court. If you lose, the lawyer does not receive a fee. Either way, though, you will have to pay the court costs and certain other expenses. And, depending on the circumstances, these charges could be quite high. Ask the lawyer for an estimate of such costs. In some cases, the lawyer may pay some of these costs for you when they are due, using money that you receive from the case.

If you agree to a contingency fee, make sure the written fee agreement spells out the lawyer's percentage and whether his or her share will be figured before or after other costs are deducted. This can make a big difference. Suppose, for example, you were awarded \$20,000 in a personal injury case and your lawyer was entitled to 40 percent. Court costs and other expenses amount to \$2,000. If your lawyer's share is figured after the \$2,000 is deducted, the lawyer will receive 40 percent of \$18,000 — or \$7,200; you will receive \$10,800. But, if the lawyer's share is figured before costs are deducted, the lawyer will get 40 percent of \$20,000 — or \$8,000; then, after the \$2,000 in costs is deducted from the remaining amount, you will get \$10,000.

Contingency fee agreements must state, among other things, whether you will be required to pay the lawyer for *related* matters (matters not specifically covered in the written fee agreement) that might come up as a result of your case. In many cases, the agreement also must note that the attorney's fee is set by the attorney and the client — not by any legal *statute* or law.

Statutory fee. The cost of some probate and other legal work is set by statute or law. For certain other legal problems, the court either sets or must approve the fee you will pay.

13 *What additional out-of-pocket costs will I have to pay?*

The lawyer will charge you for the costs of your case as well as the fees. You will be responsible for paying these costs even if your case is not successful. Costs can add up quickly. It is a good idea to ask the lawyer for a written estimate of what the costs will be. You can tell your lawyer that costs over a certain amount have to be approved by you in advance.

Here are some typical costs:

- Certified shorthand reporters' charges for taking down testimony at depositions and trials and for providing written transcripts of that testimony.
- Copying and facsimile (fax) costs. These are usually charged on a per page basis. Lawyers also may charge for secretarial time spent on these tasks and telephone charges.

- Experts and consultants' charges. These costs generally relate to any time spent evaluating the case and testifying in court.
- Filing fees, which are required by courts before they will accept legal papers.
- Investigators' bills. Investigators may help gather facts related to the case. They usually charge by the hour and may bill for expenses such as mileage, meals and lodging as well.
- Jury fees and mileage costs. These are paid to jurors in civil cases in amounts set by law. The party requesting the jury must pay such expenses in advance.
- Postage, courier and messenger costs for mailing, shipping or personally delivering documents to you or others involved in your case.
- Service of process fees charged by individuals who locate parties and witnesses and deliver legal papers to them.
- Staff time for secretarial services, including overtime, word-processing time.
- Telephone bills for long distance calls.
- Travel expenses for the lawyer when he or she travels on the client's behalf. These charges can include gasoline, mileage, parking fees, meals, airfare and lodging.
- Witness fees and mileage charges. The individuals who testify at depositions and trials receive fees in amounts set by law. You also may need to pay travel expenses if a witness must be brought in from far away.

Your lawyer may charge you for other costs as well. Make sure you understand *all* of the costs for which you will be responsible. Ask the lawyer if you will have to pay such costs directly or if you will be reimbursing the lawyer for such costs paid on your behalf.

14 *When is my lawyer's bill due?*

Unless you have a contingency fee agreement, you probably will be billed monthly.

If you are paying by the hour, you may want the lawyer to get your permission before spending more than a certain amount of time on your case. You also can ask for itemized bills detailing how the lawyer spent time on your case. In addition, you have a right to an itemized bill that lists expenses such as photocopying, telephone calls and travel costs. In fact, a lawyer must provide the bill within 10 days of the date that you request it (unless the lawyer provided a bill within the previous 31 days). And from then on, you are entitled to make similar requests at 30-day intervals after the initial request.

15 *What if I can't pay?*

If you cannot afford to pay your lawyer's bill, try to work out a payment plan or other arrangement with the lawyer. If you cannot reach an agreement on how to handle the problem, the lawyer may be entitled to stop working on your case or even withdraw as your lawyer. You might ask if the work could be temporarily postponed to allow you to lower the bill.

If you think your lawyer's bill contains an error or an unauthorized charge, contact the lawyer immediately and try to resolve the problem.

16 *How can I help build a successful lawyer-client team?*

You could make sure that:

- You and your lawyer have the same goals.
- You understand and are comfortable with the lawyer's working style. Get a clear picture of the expected timetable in your case — when you can expect significant developments, and when and how often the lawyer intends to contact you.
- You provide the lawyer with the information and documents necessary to understand your case.
- You understand and agree with the lawyer's billing practices.
- If you have questions or concerns about your legal matter, you express them to the lawyer

and listen to his or her responses.

- You raise questions about your bill in a timely manner. If appropriate, submit your questions to the lawyer in writing.

These simple tips should help you develop a positive, productive working relationship with your lawyer. However, problems could still arise. And in such instances, help is available. Many local bar associations, for example, have client relations programs that assist clients with non-responsive lawyers.

Many of them also have fee arbitration programs to help clients resolve fee disputes with lawyers. The State Bar's Mandatory Fee Arbitration (MFA) Program, conducted through the local bar associations, is available to help resolve attorney-client fee disputes without litigation. Attorneys are required to participate in such arbitration if a client requests it. If there is no local program to handle your fee dispute or if a conflict of interest exists with the local program in your case, contact the State Bar's MFA Program.

To locate a program in your area, contact your local bar association. Or visit the State Bar's Web site (go to *Public Services*), or call the State Bar's MFA Program at 415-538-2020.

You may believe your lawyer intentionally mishandled your case. Maybe he or she told you that a will was filed for probate when it was not. Perhaps the lawyer settled your personal injury case without your approval. Or maybe you think your lawyer misused or stole your money. As an arm of the California Supreme Court, the State Bar investigates complaints about attorney conduct that could involve violations of legal ethics rules. If an attorney is found guilty of ethical misconduct, he or she could be disciplined. To file a complaint against an attorney in California, call 1-800-843-9053 or go to *Attorney Complaints* on the bar's Web site.

You also might qualify for the bar's Client Security Fund, which compensates eligible clients up to \$50,000 for some losses caused by an attorney's misconduct. (The fund is supported by all practicing California attorneys.)

If you believe that you're eligible for such a payment, call the State Bar at 213-765-1140. A complaint must be filed against the attorney in

order to pursue a Client Security Fund claim.

For more information, see the State Bar pamphlet *What Can I Do if I Have a Problem with My Lawyer?* To order a free copy of this pamphlet or any of the State Bar's consumer education pamphlets, send an e-mail to pamphlets@calbar.ca.gov. To find out how to order pamphlets by mail, call 1-888-875-LAWS (5297). Or, visit the State Bar's Web site – www.calbar.ca.gov – where you'll find the online versions of the bar's consumer education pamphlets, as well as information on ordering them.

The purpose of this pamphlet is to provide general information on the law, which is subject to change. It is not legal advice. Consult a lawyer if you have a specific legal problem.

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