

WORKING WITH A LAWYER

Choosing an attorney is an important decision for anyone who needs legal advice. For farmers this is particularly true because farming is an increasingly complex business that requires the assistance of an attorney who understands a broad range of legal topics.

Choosing the right lawyer can be a difficult task. Every attorney has a unique and very specific set of skills and knowledge. Some are familiar with farm issues and some are not.

On a very basic level, choosing a lawyer can be compared to the decision on what crop and variety of seed to plant. Each type of crop has a specific set of conditions that it requires for optimal growth. Within each crop type, many varieties were developed to be used in particular growing conditions. Similarly, lawyers have prepared themselves to deal with particular legal issues.

Selecting the “right” lawyer for the issues you are dealing with is as important as any other decision you may make regarding your farm.

When should you consult an attorney?

Written Documents

Before signing any legal document, it is important to make sure to understand how the document will impact you and make sure it says what you want it to say. If you will be signing a written document that could affect legal rights or obligations, an attorney can help make sure that you understand all of the terms of the document. The attorney may also be able to help by negotiating different language in the document that could be more advantageous for you.

Although it costs money to hire an attorney, it may save you money in the long run by avoiding problems later.

Legal Problems

If you do find yourself with a legal problem despite your best efforts, a lawyer can help you sort out your legal rights and responsibilities. The longer you wait to seek help, the fewer choices you may have for you and your family's future.

Sometimes people claim they can help you with legal problems even though they have no formal legal training. They may assure you that they can save you money, that you do not need a lawyer or that you have "rights" that lawyers will not tell you about or will not help you claim. Be careful before you agree to let someone such as this help you. A good advisor generally will recommend that you seek legal advice from a qualified attorney on legal questions.

If in Doubt

If you are not sure whether you need to talk to a lawyer, there are two services that can help you decide.

1) The staff at the Wisconsin Farm Center (800-942-2474) provides confidential legal information for farmers. The staff cannot represent you or provide legal advice, but they can

assist you by providing legal information and education about some general legal issues. In addition, the Wisconsin Farm Center may assist you with locating an attorney.

2) The State Bar of Wisconsin has a Lawyer Referral and Information Service at (800) 362-9082. They also maintain a lawyer hotline that can provide general legal information on simple legal issues such as small claims procedures. If you have a specific legal question, the Lawyer Referral and Information Service will schedule an appointment for you to receive a call from an attorney who will briefly discuss your question free of charge. For additional information on finding and attorney and legal services, visit the State Bar of Wisconsin's website at: http://www.wisbar.org/AM/Template.cfm?Section=Finding_a_Lawyer

Selecting a Lawyer

Once you have decided you need legal assistance, the next step is selecting a lawyer. First, identify several potential attorneys. One way to locate a competent attorney is to ask people whose opinions you respect to provide you with suggestions. You can also use the referral services listed above to find an attorney. You should then talk to them prior to deciding whether to do business with them.

Two of the most important factors in a successful relationship with your attorney are having faith in his/her competence and having trust that he/she will be the best one to represent your interests in whatever legal issues you are dealing with.

Your attorney should be someone with whom you can share private, confidential information. You need to trust the attorney to protect your legal interests and rights. To do this he/she will need to look at private documents, such as financial papers and tax records, so he/she can advise you.

It is important that you feel comfortable providing complete information to the attorney you select and that you have confidence in the recommendations they make.

The second step in selecting an attorney is to make an appointment for a phone or office consultation. This is the time to get as much information as possible so you can make an informed decision on whether to hire a particular attorney. It is important to remember that you do not need to hire the first attorney you interview. Your attorney will be working on your behalf so do not be afraid to ask questions. Write down your questions ahead of time so you will not forget them. Always have a pad of paper available to take notes on.

Questions to Ask:

Has he or she has experience helping farmers?

Farming is a complicated business and your lawyer should understand this before trying to represent you.

Has he/she had clients that you can talk to about his services?

Call these people to find out if they were satisfied with the legal representation they received.

Does he/she consult with other lawyers who are experienced in farm law?

A good lawyer will be honest and tell you he/she may not have all the answers. Be wary of the attorney who acts as if he/she has all the answers.

Does he/she represent creditors as well as farmers?

Particularly in smaller communities, lawyers may do work for farm creditors. Most attorneys will do what is known as a “conflict” check early in their discussion with you. This is to prevent a conflict of interest where the attorney represents a client whose interests may conflict with yours.

Even if an attorney does work for a local business or does work for creditors you may be involved with, he/she may still be able to do work for you. In fact, in some cases a lawyer who understands creditor issues may be the best attorney, as long as there is no conflict. Knowing how to approach an issue from both sides can be very advantageous when developing a legal strategy.

What are the charges for their services?

In credit situations, lawyers usually either charge an hourly rate, billing you for time spent on your case, or use a flat charge. They may require you to pay an amount of money, called a retainer fee, before beginning work on your case. The retainer fee pays for at least the first part of the services your lawyer performs. Generally, if you expect your case to be straightforward, the hourly charges will be a better deal. If you expect a battle with your creditors, a flat rate may be better, but lawyers also know this and may set the rate higher to cover the unexpected.

Your lawyer should explain to you how they set their fees. Keep in mind that they may not be able to predict how expensive a case may become if there are complications. The attorney should provide you with periodic billing statements so that you can monitor the cost of their services.

What You Can Expect From a Lawyer

You can expect and should demand certain things from your lawyer:

- 1) He/she should return your phone calls. If they are too busy to do that, they may be too busy to handle your case properly.
- 2) He/she should send you copies of all correspondence pertaining to your case and keep you informed of any progress. He/she should consult with you on all agreements made on your behalf.
- 3) He/she should keep you regularly informed of work they have performed and billing for that work.

What a Lawyer Expects From You

While this chapter has emphasized what to look for in a lawyer you can trust; trust must run both ways. A lawyer cannot help you unless you also follow some rules:

- 1) Provide all the necessary paperwork and other information you may have. This may include:
 - Financial statements and cash flow projections.
 - Your FSA Farm and Home plan calculations regarding cash flow if you are an FSA borrower.
 - Tax returns for the past three years.

- Documents of indebtedness, including: a) promissory notes; b) UCC agreements; c) installment sales agreements; d) accounts payable; e) stated accounts; f) judgments; g) liens; and h) contracts.
- Documents of ownership and security, including: a) titles; b) deeds; c) mortgages; d) trust deeds; e) contracts; f) financing statements/security agreements; and g) leases.
- Additional documents including: a) letters of interest; b) photographs; c) legal forms; or d) receipts.

2) Most importantly, **be completely honest with your attorney**. Always provide complete, up to date and accurate information regarding the issue you are dealing with. If you cannot do that, you should not hire the attorney because his/her effectiveness will be compromised if you are not giving him/her all the information needed to competently represent you. If in doubt, err on the side of providing too much information. Even if you may think the information is not important, the attorney may find it is of significance.

If You Are Dissatisfied with Your Lawyer

Even if you do everything suggested, you still may be dissatisfied with your lawyer.

The first step is to **talk with your lawyer**. If there is a problem with communication, you may be able to clear it up by letting the attorney know you are not satisfied with the way they are communicating with you.

If you are concerned about the advice the lawyer is giving you, you may want to **get a second opinion**. A reputable lawyer will not be offended if you tell him/her that you wish to consult someone else.

If you are still unhappy, **look for a different lawyer**. You hired the lawyer and you can decide to replace him/her with a new lawyer.

If you have a disagreement with your lawyer about the fee you are being charged, you may want to **submit your dispute to the State Bar of Wisconsin for arbitration**. This service is voluntary. Neither you nor the attorney can be compelled to participate, however, if the State Bar Lawyer Referral Service referred you to a lawyer, the lawyer must agree to arbitration if there is a fee dispute.

For more information on arbitration, contact the State Bar of Wisconsin, P.O. Box 7158, Madison, WI 53707-7158, (608) 257-3838 or (800) 728-7788. You may find more information on fees and the fee arbitration program online at: <http://www.legalexplorer.com/legal/legal-QA.asp?Sid=5&Qid=3#quest>

If you believe that your attorney may have done something that is not ethical or legal, **the Office of Lawyer Regulation (OLR) investigates grievances against lawyers**. Grievances can be submitted over the telephone. Call (608) 267-7274 or (877) 315-6941 (toll free) to file your grievance. If you wish to file a grievance in writing, no special form is necessary. The OLR does provide a Grievance Form and publishes an informational pamphlet that explains in detail the service that it provides.

For more information on filing a grievance, contact: Office of Lawyer Regulation, Suite 315, 110 E. Main St., Madison, WI 53703, (608) 267-7274 or (877) 315-6941. You may find additional information and download the Grievance form and informational pamphlet at <http://www.wicourts.gov/about/organization/offices/olr.htm>.

Although your attorney should do their best to provide the best representation possible, lawyers are human and can make mistakes. If your attorney makes a mistake, they should be willing to admit it and try to correct it.

Remember that your attorney cannot perform miracles. They have to deal with the laws that may not always allow them to obtain the result you would like. They may be dealing with a creditor than you do.

With these suggestions, you should be able to find a lawyer you can trust and work with to find the best solution for the issues you are dealing with.

The Legal Guide should not be relied upon as a source for legal advice and it is not a substitute for advice from a competent attorney. In preparation of this publication, every effort has been made to offer the most current, correct, and clearly expressed information possible. Nevertheless, inadvertent errors in information may have occurred as well as changes in laws, regulations and procedures following publication. The information and data included in this publication have been compiled by Wisconsin State Government staff from a variety of sources, and are subject to change without notice to the user of this publication. The State of Wisconsin and its agencies, officers, employees, authorized agents and contractors make no warranties or representations whatsoever regarding the quality, content, completeness, suitability, adequacy, sequence, accuracy, or timeliness of the information contained in this publication. The reader is advised to consult an attorney regarding any decision or action that may have legal ramifications.

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