

Interview Questions to Ask Attorney

Many Attorneys offer a free initial consultation, although some charge a nominal fee for their time; find this out before you set up the interview. If you plan to interview several candidates, anyone who charges for that first consultation should be scheduled last. As with every other type of financial advisor, you are shopping for trust, integrity, and ability, all of which will be hard to judge in an initial interview. Below are questions that will help you get a sense of the Attorney you interview:

How Long Have You Been Practicing & In What Areas Of The Law Do You Specialize?

In all financial relationships, you don't want to be a guinea pig. That's particularly true of law, where one misstep could put you on the wrong side of a judgment. Find out the scope of the practice, whether your current needs are a good fit either for the individual Attorney or the firm. It's not that a patent attorney can't write up a good will, but you might have regrets when someday you discover what years of practicing intellectual property law have done to his skills as an estate-planning attorney. If an Attorney has several specialties, ask how her workload is divided between those areas of the law. An Attorney might do real estate contracts and estate planning, for example, but her business may be heavily weighted toward the former; if you come in with a complex estate situation, she may not have the depth of experience you want, even though estate planning is supposed to be one of her specialties. An Attorney had helped a couple out with several amendments to reflect life changes and at the last of those upgrades and the Attorney told us that what we needed next was some high-grade estate planning, and that his practice had become so focused on real estate with simple estate-planning matters thrown in that he didn't feel he was the right guy. Be sure to find out how long the Attorney has had each specialty.

Beyond A Law Degree, What Professional Credentials Do You Have?

Law is not an area where you must see specific credentials to feel comfortable with a practitioner. The law degree and license speak volumes about someone having achieved the minimum standards for competency. Still, there are some legal specialties, such as "certified tax Attorney" or "certified civil trial Attorney." While there are major trade groups like the American Trial Attorneys Association that have developed credentials, most national specialty law groups are membership organizations, rather than education/credentialing institutions. Thus, you may need to distinguish between whether the Attorney is a member or is certified. Credentials can be valuable when looking for an Attorney with a particular expertise, since maintaining these designations requires continuing education and some level of field experience, but not needed because they are not uniformly administered. You are looking for someone who is experienced in the kind of matters you have; if you are presented with a credential, find out the educational and experience requirements and ask to see a code of ethics, if there is one. The one time you will want to be picky about credentials is if your Attorney is going to wear two hats on your financial team. Some Attorneys are also CPAs or financial planners. If you intend to hire an Attorney-CPA, for example, be sure she has the appropriate accounting designations; if an Attorney doubles as a financial planner, look for an advisory credential (because, unlike law, there is no minimum standard of acumen to becoming a financial planner and Attorneys can expand into that arena without being truly qualified).

How Are Fees Charged? How Much Are Your Fees And For What Are They Paid?

With all the ways Attorneys bill clients, you want to know specifically what is involved. You are always entitled to an itemized bill for the lawyer's services, but you would prefer to know in advance how fees are calculated. Some Attorneys are always on the clock, meaning that your call to check with an Attorney on your case sets the clock in motion, as do your few minutes of small talk with the attorney. You do not want to be racking up charges while talking to your attorney about his family. Find out the ground rules for being charged. Will a five-minute phone call show up on your bill, or is that a free part of the Attorney's service? If you are charged, what's the rate going to be? Will you pay to have copies of important papers mailed to you? You do not want to have the meter running while you're talking to your attorney about the youth sports team he coaches. Find out the ground rules for being charged; it will affect how and how often you interact with an attorney.

What Other Costs Might I Incur?

Just because an Attorney gives you a great hourly rate doesn't mean you will get off cheaply. You might pay \$1 per photocopy, \$5 to receive a fax, or pay inflated tabs for secretarial work. Attorneys really aren't supposed to profit on costs, but many do. They build depreciation, secretarial time, and anything they can think of into charges for using the copier, for instance; you could pay a lot more than the two-cents-per-page charge from the corner office supply store. Again, there is nothing illegal about this, although the ABA says that Attorneys should only charge for "actual costs." Still, it's hard to complain about after the fact, because you agreed to pay Attorney's costs. Most Attorneys do not want to sound like they are squeezing clients dry. They may waive some charges if you press them for details in advance. If you don't ask about these charges up front, however, don't be shocked if your bill comes back padded with extra fees. Be sure this discussion also covers court costs that you might have to pay, plus any filing fees and the like. You may agree to the flat fee for preparation of a will or trust, and then be surprised to see charges for filing with the court, retitling assets to put them in the newly minted trust, and more.

How Can I Reduce My Costs?

Find out if there are ways for you to minimize costs. In some situations, it may involve you doing the legwork to find certain documents or to drive documents around yourself, rather than relying on a courier service. The smaller an Attorney's practice, the more he or she will value your ability to do some of the menial chores on your own, and the savings will be very real.

Learn About The Attorney's Clientele & Scope Of Practice

Below are some questions you should ask to learn about the advisor's clientele and scope of practice so that you can make an informed decision of whether you fit within that niche.

Who Is Your Typical Client?

You don't want actual names, so this question does not violate attorney-client privilege. What you want to find out is whether the average client is an individual or a business and whether the average job resembles what you need done, both in terms of the legal matters being covered and, when applicable, the dollars involved. If you have a big estate and fear lawsuits, so that you want to set up an asset-protection trust, you don't want to be working with an advisor whose idea of asset-protection is an ordinary estate plan and protecting life savings from Uncle Sam. You're looking for someone who can make you virtually "suit-proof," and the difference is huge. While you want to be in the "sweet spot" for the Attorney's practice, understand that things change, as was just shown in the story of my own attorney. If you are not a good fit for a Attorney's practice today, you may be even further out of sync in the future, as the practice gravitates toward whatever specialty most pays the bills.

How Many Active Cases/Clients Do You Work With At One Time?

This is another good indicator of how likely the Attorney will work on your case. If he has a heavy workload, your run-of-the-mill situation may not get the attention it deserves. Your will may be an everyday document to an Attorney, but it is protection for your family, not something you want the Attorney to squeeze between 20 clients with needs he perceives as more pressing. If the Attorney overpromises saying you will get your documents quickly when you know there's a big caseload you should be nervous. There is one more major concern when it comes to an Attorney's caseload, namely "double billing," which happens when an Attorney goes to court for you and several other clients at the same time. While traveling, the Attorney catches up on other cases or reading and sends bills for that time to every client whose file is in the briefcase. You're paying for the Attorney's attention to your case, but it's not full attention; while the ABA has long condemned this practice, it can't punish members for it. If the caseload seems heavy, ask about double-billing and whether you get a reduction in the hourly pay rate if you are sharing time or don't have their full attention.

If You Don't Have The Expertise To Handle My Case On Your Own, Do You Work With Other Attorneys?

Determine what makes an Attorney nervous enough to seek help or back away from a case. Ideally, you hire an Attorney who is as aggressive or conservative in his or her approach to work as you are in your approach to life. If you are the conservative type who likes everything buttoned down before proceeding, you might be concerned about an Attorney who never consults with others before making new maneuvers for clients.

Under What Circumstances Would Refer Me To Another Attorney To Take Over The Case?

There are good and bad answers to this question. Good answers involve an Attorney passing you on to a partner or even an outsider who is better suited for the job or when she is too busy to give your case the attention it deserves. Bad answers are that your case is not interesting enough or not likely to generate enough in fees. If you go to a firm to interview a senior partner and find a fresh-out-of-school rookie handling your case, that's not good. You should meet and interview any Attorney who will handle your case before signing up for the firm's services. Under all circumstances, find out if the Attorney charges a referral fee, which means they get a fee or a piece of the action for passing you along. In most states, the ethical rules governing Attorneys say that a referral fee cannot be charged unless the client is aware of the situation and each Attorney works on the case and splits the fee proportionately to the work they performed. Equally important, the referral fee cannot make the total bill unreasonably high. Find out if the Attorney charges a referral fee, and if he or she will get a piece of the action simply for passing you along to someone who is better suited to help you.

Will Anyone Else From The Firm Be Working With Me?

You're the one paying the bill, and you want to get what you pay for. If the Attorney uses paralegals or junior partners to do the work, you should find out just how involved your attorney intends to be. It's dumb to pay for a figurehead. You also want to find out what, if anything, the involvement of others does to your projected costs; it can push costs up or keep them reasonable, depending on circumstances.

Could I Get Contact Details For Some Recent Clients To Use As References?

Attorney-client privilege can make this sticky sometimes, but someone who can act as a reference and say how the Attorney deals with clients will help cement your decision. If the Attorney won't give you the names of clients, ask for professional references, perhaps the names of Attorneys to whom he makes referrals. When you call those colleagues, do not identify the person who gave you his name at first, saying, "I was told you could be a reference for my Attorney. I was wondering who you consider to be the best Attorneys in town." If your Attorney's name comes up, then ask why the reference feels that way. If it's not on the list, ask why not.

What Are The Potential Outcomes Of My Case?

This applies mostly to adversarial situations, where the final decision could be a win, a loss, or a settlement. Before engaging an Attorney particularly if you are paying on an hourly rate instead of a contingency fee, you want to an honest assessment of the strength of your case. This includes knowing whether the Attorney expects to settle the case or go to court and the plusses and minuses to each of those resolutions as well as whether a loss can be appealed and under what circumstances the Attorney would recommend it. If the Attorney expects the case to go to court, ask about trial experience, as there are plenty of attorneys who almost never set foot in a courtroom.

How Do You Work With Clients?

You want contact when it's necessary, so ask when the advisor typically finds it important to call or meet with a client, and what circumstances drive those meetings. By establishing how often and under what circumstances you will hear from the Attorney, you can decide whether that contact is sufficient for you to be satisfied. In addition, find out what paperwork, if any, the Attorney will give you copies of. A file of these papers is good to have, in case you decide to change Attorneys mid-stream.

What Do You Charge?

The following are different types of fee arrangements that Attorney usual engage in. Sometimes it will depend on the type of case, the complexity or whether it will be litigated, resolved or transacted.

Retainer Fees.

Payments made to the Attorney on a regular basis to make sure an Attorney is available when needed. Many Attorneys agree to take work from individuals in exchange for an up-front payment for part or all of their services; which typically amounts to a non-refundable advance. Retainers are not charge for service; you still must find out how you are being charged for the actual work. If a retainer is required, consider this a down payment; Be sure you know what the retainer actually covers.

Flat Fees Or Fee-For-Service Payments.

This arrangement is common when the procedure is straightforward and generally requires a routine amount of time, such as Estate Planning. Many Attorneys quote a flat rate on simple wills, title searches, reviewing a real estate contract, and other common practices. Routine procedures also are perfect opportunities to use prepaid legal plans and legal clinics. The prepaid plans sometimes offered as an employee benefit function as a kind of legal health-maintenance organization (HMO), where you pay an annual fee and are entitled to a specified amount of service from Attorneys who take part in the network. Legal clinics tend to offer low-cost representation, often with less-experienced attorneys than those in private practices; simple procedures such as those that generally are billed at a flat rate generally can be handled cheaply by this kind of law office.

Hourly Depending On Work Involved.

Once you get past routine work and into cases where the amount of work involved is less predictable, chances are you will pay *hourly rate*. This is the most common form of billing; depending on the specialty of law involved, expect to pay anywhere from \$40 to \$500 per hour, and it could go up depending on the expertise of the Attorney, the complexity of the case, the size of the firm, and if there is other work that must be turned down to accept and adequately prepare your case. Most Attorneys keep a detailed log of hours worked on your behalf, often breaking the time down into as much as tenths of hours. They may charge a higher rate for courtroom time than office or telephone minutes. Some Attorneys quote a maximum, basically saying that once hourly charges pass a certain point, they will turn off the clock. It is important for you to understand exactly when and why your Attorney is charging you. If the meter is running every time the Attorney picks up the phone, even if it is just to tell you there is no progress on your case, that might wear your pocketbook thin. Remember, too, that the Attorney's out-of-pocket expenses from court fees to messenger services, faxes, copying, and more will show up on your bill too, added to the hourly tab.

Contingency Fees.

Attorneys accept *contingent fees* on cases they believe they can win, usually for a client who cannot afford to pay the other types of fee. Contingency fees only apply in situations where money is being claimed, notably personal injury and worker's compensation cases; some states forbid criminal and domestic-relations attorneys from accepting cases on a contingency basis. If you win the case, the Attorney takes home a big cut, generally between 25 and 50%. Generally, the Attorney gets 1/3 of your winnings, although "sliding scale arrangements" can increase Attorney's cut if the case drags on or is appealed, or drop the percentage as the \$\$\$ value of the settlement rises. If you lose the case, there are no winnings to split up and the Attorney gets nothing. Win or lose, however, you will owe court costs. Unless the Attorney agrees to pick up filing fees and assorted court costs in the event of a loss, you are liable for those costs. Court costs are a key consideration in hiring Attorneys on contingency. You want expenses deducted from the monetary award *before* the Attorney's cut. If you win a \$15,000 judgment; court costs are \$3,000. If the Attorney's cut comes first, they take 1/3 (\$5,000); you then pay court costs and are left with \$7,000 for your win. By comparison, if court costs are paid first, your net award after expenses is \$12,000. The Attorney gets 1/3 (\$4,000), leaving you \$8,000. Many Attorneys prefer to be paid before expenses are taken from the award, but the point often is negotiable

Just How Tough Are You?

You may want an aggressive Attorney, but you also must be able to live with the outcome. Some Attorneys are particularly tough in negotiating insurance settlements. If they can't get the desired amount from the insurer, they may walk away from a settlement and risk getting the money in court. That could tie the case up for years. While you want someone who fights tooth-and-nail on your side, you may not want to pay the price such an aggressive Attorney exacts.

How Can I Terminate This Relationship If I Am Not Satisfied?

Never enter any arrangement without knowing how to get out of it. Depending on why you need an Attorney and what kind of agreements you signed, you may just be able to walk away. If, however, an Attorney has invested hours on you and you then pull the plug, expect some charges and possibly some unpleasantness as you head for the door.

Your Relationship With An Attorney May Be Going Sour If

1. They appear to have lost interest or stopped working on a case. Unhappy clients often complain that an Attorney is not devoting sufficient time to the case. In fact, the client might not be completely aware of the progress being made or of delays beyond the Attorney's control. This might just be a communication issue. If the problem is more than miscommunication, write your Attorney a letter, which serves as a wake-up call because Attorneys know it is a prelude to building a case against them for not doing their work. In addition, every case has a time limit, called statute of limitations, within which it must be filed. If your Attorney is in jeopardy of missing these kinds of deadlines, you must either apply pressure to get the ball rolling or simply find someone else to tackle your case now.
2. Your instructions are not being followed. With the exception of doing something illegal, an Attorney advises a client of possible actions and outcomes and then takes the path chosen by the client, even if that is not the direction Attorney wants to go. If they are doing things as you had agreed on or if he is pushing hard to do things her way without explaining why, question whether Attorney respects you.
3. The bill is more than you expected or was not properly explained. You have a right to an itemized bill. You should have discussed the items ahead of time to avoid unpleasant surprises in the end.
4. You become aware of potential conflicts of interest. If an Attorney has a problem representing you because of other, existing relationships, you should have been made aware up front. He also can't work both sides of the same case without both parties' consent; if your Attorney has breached this ethic, seek new counsel immediately.
5. You have not received your complete share of a settlement. If you believe that the Attorney improperly took or kept money owed you, contact the state and local bar specifically its disciplinary board if your money is not returned quickly.

How Will We Resolve Complaints If I Am Dissatisfied?

Just because you know how to get out of an arrangement doesn't mean there won't be problems. Find out how potential disputes will be settled. Most state bar associations offer arbitration committees that settle disputes between clients and Attorneys. Or you could resolve those matters in small claims court. Fees are the biggest area of dispute between Attorneys and their clients; find out whether the Attorney has had this kind of problem in the past and how it has been resolved. If issues arise, contact Attorney and ask about the unexpected charges; if the situation cannot be resolved that way, contact the local or state bar association to ask about the fee arbitration process. Then determine how it will be resolved if it happens in your case, preferably settling upon fee arbitration as the most fair solution to potential problems.

Have Complaints Against You Been Filed With The ABA? Have You Been Sued For Malpractice?

This is the kind of cross-examination that can make an Attorney uncomfortable. But Attorneys know better than anyone that, well, suits happen. Many outstanding Attorneys have had to defend themselves from clients whose expectations were not met and who pursued the Attorney because they did not like the outcome or resolution. If your Attorney has been sued, ask what happened and how the case was resolved. You will have to use your intuition to determine whether past problems should send you off to visit someone else. Remember, too, that the Attorney is not obligated to provide details of problem cases. You will have to use your intuition to determine whether past problems should send you off to visit someone else. If your background check shows cases that the Attorney did not own up to, hit the road and search elsewhere.

Where To Complain If Things Aren't Working Out

If something appears to be going wrong, start at the source and talk to your Attorney. If you don't get satisfaction there, you have several options: 1) If the Attorney is in a firm, go to the managing partner. 2) If you are in a prepaid legal plan, contact the plan administrator. In either case, the boss should try to resolve the complaint and get you the kind of representation you seek. 3) Your state or local bar association can help in several ways. The disciplinary committee can answer questions about whether your complaint is legitimate. The fee-arbitration committee can help you if fees really are out of line, and may be able to help settle any disputes. And if you believe the Attorney has stolen money from you, you may pursue restitution from the bar's client security fund. 4) You can sue for malpractice. If the Attorney has been negligent and you have been damaged, you can pursue reimbursement. (Of course, suing for malpractice involves hiring another attorney, this one involved in handling professional liability cases.)