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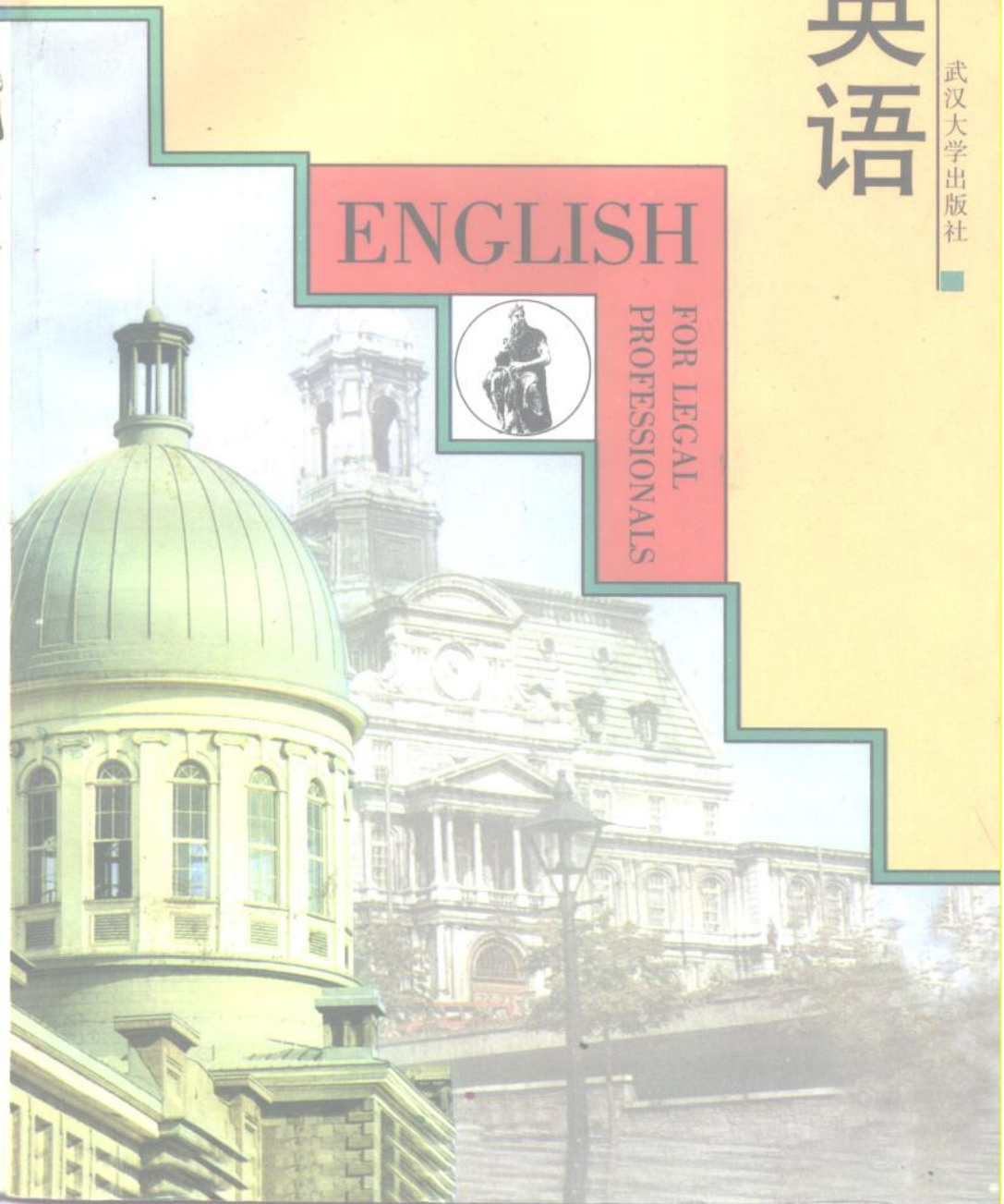
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编者说明

- 一、本书的读者对象为具有初级英语水平的读者,可以作为大学法律专业本科、专科以及法律专业学生培训的英语教材。
- 二、编写本书的目的是为了帮助读者提高法律专业英语水平、掌握有关的英语词汇、名词术语和表达方式,以增强读者对英语法律文章、文件等书面材料的阅读理解能力。
- 三、本书的编写力求简明和口语化,可以作为法律专业英语口语教材使用,帮助读者提高英语口语表达能力,亦可供口译工作者参考。
- 四、本书基于英语国家现行市场经济法律状况编写,可供法律专业工作者了解外国法律,对外交流之参考。

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1. WHY DO YOU NEED A LAWYER

Almost everything we do — from making a purchase, to driving a car, to interacting with others — is affected by the law in some way. While it often seems hard to live with laws, it would surely be harder to live without them.

The availability of the law does, however, reveal a bewildering variety of choices. When do you need a lawyer? When can or should you handle a matter on your own? The purpose of this article is to help you make the best choices.

There are many legal situations that you may and should handle on your own, without the assistance of a lawyer. However, when circumstances and laws are unique, complicated, or confusing, you may need the advice of a lawyer to guide you. You also may need a lawyer's services when you so close to a personal problem that you are unable to see your way through to a proper solution. This article will help you recognize such legal matters, but it cannot examine specific situations. It can, however, help you determine when you should hire a lawyer, what a lawyer can and cannot do for you, and what you can do to help.

Although the law enters into nearly all aspects of daily living, you do not need a lawyer every time you become "involved" with the law. For example, if you buy a new refrigerator and it stops working just as the warranty expires, you needn't contact a lawyer im-

mediately. First, you should notify the merchant or the manufacturer. If that does not work, you may contact a consumer protection agency. As a last resort, you may file suit in a court. You can do all this without a lawyer.

Unless your problem is obviously so serious that only a lawyer can resolve it, you should first consider another source of help. Many newspapers and TV stations offer a "watchdog" service designed to help with consumer problems. Remember that these sources can help only a small number of people. However, when these watchdogs do try to solve a problem, results usually come quickly. When confronted with the possibility that a consumer complaint will be aired in public, most businesses will act quickly to cure the problem. By doing this, the businesses also will boost their own reputations as being fair and dependable.

But in serious matters, if you call a lawyer as a last resort, it may already be too late. It is difficult for a lawyer to protect you after you have signed away your rights. Some legal matters are so important or so complex that you must hire a lawyer at the beginning to deal with them effectively.

There are times when you should see a lawyer. While these matters are sometimes hard to recognize, nearly everyone agrees that you should talk with a lawyer about major life events or changes, which might include:

- Being arrested for a crime or served with legal papers in a civil lawsuit.
- Being involved in a serious accident causing personal injury or property damages.
- A change in family status such as divorce, adoption, or death.

WHY DO YOU NEED A LAWYER

—A change in financial status such as getting or losing valuable personal property or real estate, or filing for bankruptcy.

Once you have determined that you need professional legal help, get it promptly. Lawyers should be thought of first as preventers of legal problems. When dealing with legal issues, an ounce of prevention is worth many dollars and anxious hours of cure.

A lawyer (also called attorney, counsel, counselor, barrister, or solicitor) is a licensed professional who advises and represents others in legal matters. When you picture a lawyer, you probably think of an elderly gentleman in a three-piece suit. That picture is no longer accurate. Today's lawyer can be young or old, male or female.

A lawyer normally spends more time in an office than in a courtroom. The "practice of law" most often involves researching legal developments, investigating facts, writing and preparing legal documents, giving advice, and settling disputes. Laws change constantly, and new cases regularly alter the meanings of laws. For these reasons, a lawyer must put much time into knowing how the laws and the changes will affect each circumstance.

A lawyer has two main duties: to uphold the law and to protect a client's rights. To carry out these duties, a lawyer must have both knowledge of the law and good communication skills.

To understand how laws and the legal system work together, lawyers must go through special schooling. The state has enacted standards that must be met before any person will be licensed to practice law. In the United States, for example, before being allowed to practice law, a person must:

- Complete four years of college.
- Complete three years at an accredited law school.

- Pass a state bar examination, which usually lasts for two or three days. It tests knowledge in all areas of law and in professional ethics and responsibility.
- Pass a character and fitness review. Each applicant for a law license must be approved by a committee that investigates his or her character and background.
- Take an oath swearing to uphold the laws and the state and federal constitutions.
- Receive a license from the state supreme court.

Most lawyers concentrate on one or a few specific areas, including: business law, domestic relations, labor law, criminal law, personal injury, real estate, taxation, immigration, and intellectual property law, etc..

I. Words and Expressions

1. lawyer 律师, 英文亦称 attorney, counsel, counselor, barrister, solicitor 等; 其中 lawyer 和 attorney 在美国最常用。
2. consumer protection agency 消费者保护署
3. file suit in a court 在法院起诉
4. “watchdog” 原义为看门狗, 转义为监督者
5. served with legal papers in a civil lawsuit 在民事诉讼中被送达法律文件
6. personal injury or property damages 人身伤害和财产损害赔偿
7. real estate 不动产
8. filing for bankruptcy 申请破产
9. three-piece-suit 三件成一套的旧时律师制服
10. “practice of law” 律师职业

11. case 案例, 在普通法系国家, 案例是法的渊源之一。
12. client (律师的)当事人
13. accredited law school (国家)认可的(大学)法学院
14. bar examination (美国的)律师资格考试
15. constitution 宪法
16. supreme court 最高法院
17. business law 商法
18. domestic relations 家庭关系
19. labor law 劳动法
20. criminal law 刑法
21. taxation 税收
22. immigration 移民
23. intellectual property law 知识产权法

II. Questions

1. Do you need a lawyer for every legal circumstance?
2. If you do not use a lawyer, who else can help you?
3. Are there specific cases when you should see a lawyer?
4. Should you always wait until a problem becomes serious before you contact a lawyer?

2. LOOKING FOR A LAWYER

The lawyer will be helping you solve your problems. So, you must feel comfortable enough to tell him or her, honestly and completely, all personal facts necessary to resolve your problem. No one you listen to and nothing you read will tell you which particular lawyer will be the best for you; you must judge that for yourself. Most lawyers will meet you briefly to "get acquainted". This will allow you to talk with your prospective lawyer before making a final decision.

It is important that you trust the lawyer you hire. Furthermore, you should believe that he or she will do the best job possible in protecting your legal rights. However, remember that lawyers cannot work magic. No lawyer can be expected to win every case, and the best legal advice may not be what you want to hear.

The lawyer's area of expertise and prior experience are important. You may ask about your lawyer's areas of concentration. You also may wish to ask about the type of cases your lawyer has handled.

Another consideration is the convenience of the lawyer's office location. Also consider the amount of fees charged and the length of time a case may take. Although there are not always wise guidelines, consider your personal preferences about the lawyer's age, sex, and personality. These preferences may guide you in locating

LOOKING FOR A LAWYER

someone with whom you feel most comfortable.

There are many sources for finding a reliable lawyer. Some of the best are recommendations from a trusted friend, relative, or acquaintance. Be aware, however, that a lawyer who is right for someone else may not suit you or your legal problem.

Many lawyers are willing to meet with you briefly without charge so the two of you can get acquainted. During this first meeting, you can decide whether you want to hire that lawyer. Many people feel nervous or intimidated when meeting lawyers. However, remember that you are the one doing the hiring. Most importantly, the lawyer's services should satisfy you, especially when you consider the money you will be paying. Before you make any hiring decisions, you might want to ask certain questions to aid in your evaluation.

Ask about the lawyer's experience and areas of practice. How long has the lawyer and the firm been practicing law? What kinds of legal problems does the lawyer handle most often? Are most clients individuals or businesses?

Ask if nonlawyers, such as paralegals or law clerks, will be used in researching or preparing the case. If so, will there be separate charges for their services? Who will be consulted if the lawyer is unsure about some aspects of your case? Will the lawyer recommend another attorney or firm if this one is unable to handle your case?

Occasionally, a lawyer will suggest that someone else in the same firm or an outside lawyer handle your specific problem. Perhaps the original lawyer is too busy to give your case the full attention it deserves. Maybe your problem requires another's expertise. No one likes to feel that a lawyer is shifting him or her to another attorney. However, most reassignments within firms occur for a good

reason. Do not hesitate to request a meeting with the new attorney to make sure you are comfortable with him or her.

Ask about fees and costs. How are fees charged—by the hour, by the case, or by the amount won? About how much money will be required to handle the case from start to finish? When must you pay the bill? May you pay it in installments? Ask for a written statement of what will be charged.

Beware of any lawyer who guarantees a big settlement or assures a victory in court. Remember that there are at least two sides to every legal issue, and many facts enter into how it will be resolved. Ask for the lawyer's opinion of your case's strengths and weaknesses. Will the lawyer most likely settle your case out of court, or will it go to trial? What kind of experience does the lawyer have in trial work? If you lose at the trial, will the lawyer be willing to appeal the decision?

It is in your best interests for you to ask how you may participate. When you hire a lawyer, you are paying for legal advice. Your lawyer should make no major decision about whether and how to go on with the case without your permission. Pay special attention to whether the lawyer seems willing and able to explain the case to you and answer your questions clearly and completely. Also ask what information will be supplied to you. How, and how often, will the lawyer keep you informed about the progress of your case? Will copies of relevant documents be sent to you?

I. Words and Expressions

1. personal facts 个人情况
2. area of expertise 专业领域
3. area of concentration 专长

4. personal preference 个人偏爱
5. areas of practice 执业范围
6. (law) firm 律师事务所
7. paralegals 律师助手
8. law clerks 律师事务所里的办事员
9. pay it in installments 分期付款
10. big settlement 圆满结果
11. victory in court 胜诉
12. settle a case out of court (法)庭外解决
13. trial 审判
14. lose at the trial 败诉
15. appeal 上诉

II. Questions

1. How do you choose a lawyer?
2. Are there any practical considerations to keep in mind when choosing a lawyer?
3. How will you determine whether you want to hire a specific lawyer?
4. What sort of questions should you ask?

3. LEGAL FEES AND EXPENSES

Although money is often a touchy subject in our society, fees and other charges must be discussed with your lawyer early. You can avoid future problems by having a clear understanding of the fees to be charged. You also can prevent conflicts by getting that understanding in writing—before any legal work has started. If the fee is to be charged on an hourly basis, insist on a complete itemized list and an explanation of charges each time the lawyer bills you.

Legal advice often does not come cheaply. A bill from a lawyer for preparing a “simple” one-page legal document or providing advice may surprise some clients. Remember that when you hire a lawyer, you are paying for his or her expertise and time.

Perhaps the best control for keeping fees from becoming unaffordable is the requirement included in lawyers’ ethical codes that all fees must be “reasonable”. Of course, what you consider reasonable may not seem so to another person. However, there are some broad guidelines to help in evaluating whether a particular fee is reasonable:

- The time and work required by the lawyer and any assistants, and the difficulty of the legal issues presented;
- How much other lawyers in the area charge for similar work;
- The total value of the claim or settlement, and the results of the case;

- How much time is available to work on the case;
- Whether the lawyer has worked for that client before;
- The lawyer's experience, reputation, and ability;
- The method used to charge fees; and
- The amount of other work the lawyer had to turn down to take on a particular case.

The method used to charge fees is one of the things to consider in deciding whether a fee is reasonable. For this reason, you should understand the different charging methods before you make any hiring decision. At your first meeting, the lawyer should estimate how much the total case will cost. Also, the lawyer should inform you of the method he or she will use to charge for the work. As with any bill, you should not pay without first getting an explanation for any charges you do not understand. Remember, not all costs can be estimated exactly, because there may be unpredictable changes during the course of your case.

The most common billing method is to charge a set amount for each hour of time the lawyer works on your case. The method for determining what is a "reasonable" amount depends on several things. More experienced lawyers tend to charge more per hour than those with less experience. Large law firms are often more expensive than smaller ones. Lawyers in big cities usually charge more per hour than those in rural areas. In addition, the same lawyer will usually charge more for courtroom time than for office or library hours.

Other billing methods include: contingent fee, retainer fee and fixed fee.

A client pays contingent fees to a lawyer only if he or she handles a case "successfully". Lawyers and clients use this arrangement