

Choosing an Attorney for a Civil Action

More and more victims are turning to the civil courts in pursuit of justice after a sexual assault. Civil cases have several advantages over criminal cases. Civil actions can be brought against perpetrators for assault, battery, invasion of privacy, sexual exploitation by a therapist, sexual exploitation by a member of the clergy, negligent supervision, inadequate security, intentional infliction of emotional distress, and more. The civil actions available will depend on the facts of the assault. For more information on civil actions, please see WCASA's fact sheet titled "Civil Legal Remedies."

The legal process can be lengthy, emotionally draining and confusing. Choosing an attorney is a personal and important decision. You will want to choose an attorney with whom you are comfortable and who will keep you informed and empowered throughout the process.

THERE ARE SEVERAL WAYS YOU CAN LOCATE AN ATTORNEY:

Ask around your community to find out who has a good reputation for handling this type of civil lawsuit. Sexual assault service providers in your area may know of good attorneys who understand the dynamics of sexual violence. If you are unsure about the location of the sexual assault service provider nearest you, call WCASA for a referral. For information about attorneys, contact the Wisconsin State Bar Association Lawyer Referral and Information Service (LRIS) at (800) 362-9082. LRIS will refer you to a lawyer in your area who has indicated an interest in dealing with this type of legal situation. You can also call the National Crime Victim Bar Association at the National Center for Victims of Crime at (844) 529-4357. This is a national membership organization that provides services to attorneys and consultants. You can call for a referral to an attorney who has a demonstrated interest in enforcing victims' rights and remedies. For more information visit <http://victimsofcrime.org/our-programs/national-crime-victim-bar-association/for-victims>.

If you are having trouble locating an attorney with experience, you might contact attorneys who advertise their services in the following three ways to see if they have experience with sexual assault cases or would be interested in your case:

- Personal injury attorneys
- Sexual harassment attorneys
- Attorneys who were formerly district attorneys

Remember: This is your case and the attorney is working for you. You have the right to know and understand every step of the legal process and to be included in making decisions about the case.

When you find an attorney you would like to call, see if a free initial consultation is possible. Sometimes it is helpful to have someone you trust accompany you on a visit to an attorney's office. This person could be a friend, family member, or someone from your local sexual assault service provider (if they are able to provide that service).

WHAT TO EXPECT WHEN YOU MEET WITH AN ATTORNEY:

When you meet with an attorney, they will ask you questions about the assault and how it affected you. This will include the details of the assault itself, as much information about the perpetrator as possible, and as much information about its effects as possible, including the types and costs of treatment you have received as a result of the assault. This can feel very invasive, but it is information the attorney will need to represent you. Preparing for these types of questions ahead of time can make this process easier. You are not required to hire an attorney after you meet with them. In fact, you might consider meeting with several attorneys before making a decision.

POSSIBLE QUESTIONS TO ASK AN ATTORNEY:

The following questions may be helpful for when you first meet with an attorney:

- How soon could you work on this case?
- How long do I have to file a case?
- What is my chance of winning?
- Is the law on my side?
- Will you take the time to explain the law to me?
- What is your experience with sexual assault cases?
- Have you handled cases involving the fact pattern in my case (sexual harassment, undocumented immigrants, voluntary intoxication, repressed memories, no report to the police for a long time, etc)?
- Will you be the attorney working on this case or will others be working on it as well?
- What types of discovery do you think will be asked for in a case like this, and will you try to protect my privacy to the greatest extent possible within this framework?
- What is your communication style?
- What is the average amount of time it takes to return a phone call or email?
- Make sure you understand the fee arrangements: Is there a retainer agreement? Are there out of pocket costs? Do you take cases on a contingency fee basis and if you do, what costs am I responsible for?

BEFORE MAKING A FINAL DECISION, ASK YOURSELF THE FOLLOWING QUESTIONS:

- Did you feel comfortable with the attorney?
- Did the attorney understand the reasons why you want to pursue a civil action?
- Did you feel that you could understand the explanations provided by the attorney about the law and your case?
- Did the attorney do a good job explaining the strengths and weaknesses of your case?
- Did you feel that the attorney would work well with you as a victim and be sensitive to your needs?
- Did the attorney clearly explain the fees and costs?

RETAINER AGREEMENT:

If you agree to hire an attorney, you will sign a contract, sometimes called a retainer agreement or an engagement letter. This contract will outline the fee arrangements for the legal work, who will pay the costs associated with the legal action, and what is expected of both you and the lawyer. The lawyer may also ask you to pay a sum up front to cover costs, sometimes called a retainer, and may require you to contribute more toward costs when this sum runs out.

WHAT IF I AM UNHAPPY WITH MY LAWYER?

If you are unhappy with your lawyer, you may hire a different lawyer, although you may still have to pay for the legal work completed by your first attorney. If you are having a fee dispute with your lawyer, you may contact the Wisconsin State Bar Association for information about its fee arbitration service at (800) 728-7788, although you are not required to utilize this service to resolve fee disputes. If you believe that your lawyer's conduct was unethical, you can file a complaint with the agency that regulates attorney licensing in Wisconsin, the Office of Lawyer Regulation. More information about the ethical duties of lawyers and filing a complaint can be found at <http://www.wicourts.gov/about/organization/offices/olr.htm>.

ADDITIONAL RESOURCES ON CHOOSING A CIVIL ATTORNEY:

- Wisconsin State Bar website: <https://www.wisbar.org/forpublic/ineedalawyer/pages/Iris.aspx>
- National Crime Victim Bar Association: <https://victimsofcrime.org/our-programs/national-crime-victim-bar-association/for-victims>