

# **HIRING A CIVILIAN ATTORNEY**

(Courtesy of the Fort Knox Legal Assistance Office)

## **The Army Judge Advocate General's Corps - Legal Assistance Services:**

All active-duty (and in some instances, reserve) Soldiers, Sailors, Airmen, Marines, their family members, and military retirees from all armed forces are eligible for free legal assistance provided by the Army Judge Advocate General's Corps. The mission of every Army Legal Assistance Office is to help, advise, and counsel eligible persons with their personal legal matters. Personal legal matters include the preparation and execution of wills, powers of attorney, and advance medical directives, and counseling on family law, landlord/tenant law, consumer credit transactions, real property transactions, and federal and state taxation.

As a part of the Army, a judge advocate's true expertise is in assisting soldiers in preparing rebuttals, statements or appeals to Army administrative actions including reports of survey, reprimands, bars to reenlistment, reduction boards, line-of-duty investigations, OER or NCOER appeals, and proposed reassignments from recruiting duty.

## **Hiring a Civilian Attorney:**

In certain situations, military legal assistance attorneys cannot resolve your problem. Military regulations restrict our ability to represent service members in civilian court, or to prepare documents that will be filed with a civilian court. In those situations it is necessary for military personnel to obtain an attorney from the private sector who has the expertise and the knowledge to assist with filing documents and making court appearances. Those situations most often involve civilian criminal matters, divorce, separation, paternity or other family related matters, personal injury cases, or matters destined for small claims court. Once you hire a civilian attorney, that attorney is your advocate on the case. You should work only with your civilian attorney to resolve your legal issues. Legal Assistance cannot assist you on an issue that is already being handled by a civilian attorney.

## **Civilian Attorney Referral List:**

The Some Legal Assistance Offices maintains an up-to-date list of civilian attorneys. These list has names, office locations, telephone numbers, and a brief

description of the type of law they practice. Like any other profession, some attorneys specialize in the practice of particular types of law. In hiring a civilian attorney, service members must be careful to hire one with expertise in the area of law matching their personal legal situation.

### **Do You Need an Attorney - Can You Handle the Problem Yourself?**

**Legal assistance attorneys can help you decide if you need a civilian attorney.** In making that decision, remember there are many things individuals can do for themselves without the aid of an attorney.

Small claims court is a great example. If someone owes you a small sum of money, small claims court allows you the opportunity to have a judge order payment of that money. Every state has established a small claims or conciliation court to resolve legal disputes involving an amount of money that is less than a set dollar amount. Many courts have raised the limit to \$3,000, and a few will hear disputes involving amounts of up to \$5,000 or more. Small claims courts and the rules that govern them emphasize informality and timely resolution of disputes. Most parties represent themselves in small claims court, in part because the facts of the dispute are simple but also because it makes little economic sense to pay attorneys' fees.

Minor traffic tickets are another example. If you receive a speeding ticket you believe is not warranted, you have the right to appear in court to contest the ticket and you are not required to have an attorney.

The expertise of an attorney is always advisable in complicated situations where a large sum of money is involved or where a criminal charge is substantial.

### **Negotiating Fees:**

Civilian attorneys will charge a fee for their services, but the fees are often negotiable. If you are on a tight budget, you may have to "shop around" a bit to find an attorney who can assist you within the limits of your financial ability. Most attorneys are willing to work on a payment plan with monthly or other periodic payments to cover the full cost of representation.

Depending on the nature of your case, an attorney may agree to represent you based on a contingency. A contingency arrangement is where the attorney agrees to represent you for free but is entitled to a percentage of what you gain from the law suit. For example, in a personal injury case, the attorney may not charge by the hour, but will receive 30 to 40 percent of any settlement or judgment. Other cases, such as a divorce or other family law proceedings, are not appropriate for contingency arrangements. In those cases a retainer (amount paid up front) and hourly charges may be required.

Your agreement with the attorney is a contract. Negotiation on the terms of the agreement must occur **before** you enter into the contract. In finalizing the contract, be sure to get it in writing, and be sure to require that you get a periodic itemized bill showing exactly what the civilian attorney did on your behalf.