

How Clients Can Abuse Contingency Fee Arrangements



Contingency fee arrangements are a common practice in the legal profession. In such arrangements, a lawyer takes on a case without charging the client upfront and receives a percentage of the settlement or judgment recovered. While contingency fee arrangements can be lucrative for lawyers, they can lead to conflicts between lawyers and clients. Sometimes, clients take advantage of the arrangement to seek lower fees, leaving lawyers in awkward situations.

One such situation involved a case where the fee was partially calculated on a contingency basis. The client approached the law firm about lowering their fee percentage in exchange for settling the matter early. While this may seem like a reasonable request, it stung the law firm as the percentage was already low, to begin with. The client's request left the law firm feeling taken advantage of, and they were tempted to accept the offer due to the client's power to decide if the matter went to trial. This situation highlights the power imbalance in contingency fee arrangements, leaving lawyers vulnerable to client exploitation.

Another challenge with contingency fee arrangements arises when one party has a contingency fee agreement while the other has an hourly fee agreement. In such situations, the party with the contingency fee arrangement may not be incentivized to settle the matter early. They do not have to bear any out-of-pocket expenses for litigation costs. This can lead to the opposing party's lawyer doing more work than they would if this power imbalance did not exist.

While there are solutions to such situations, such as requesting to be relieved as counsel if a client is being patently unreasonable, judges may not always grant such requests. This can leave lawyers in awkward situations where they may be forced to continue representing a client they disagree with.

Sometimes, clients can exploit contingency fee arrangements to seek free legal services. For example, when a plaintiff files a lawsuit, the defendant can file counterclaims, which the lawyer working on a contingency fee arrangement may need to address as part of the litigation. If the counterclaims against the client are successful, the amount owed to the lawyer may be more significant than any amount the plaintiff recovers. While lawyers can try to anticipate such situations in retainer agreements, it is difficult to anticipate every possible scenario.

In conclusion, while contingency fee arrangements can benefit lawyers and clients, they also come with significant risks. Clients can use the arrangement to take advantage of lawyers, leading to conflicts and awkward situations. Additionally, power imbalances can exist between parties with different fee arrangements, leaving lawyers vulnerable to exploitation. As such, lawyers should approach contingency fee arrangements with caution, ensuring adequate protection to safeguard their interests.