



# WILLS

# Matter

FULTON & COMPANY LLP

— celebrates 125 years —

## HOW MUCH WILL ALL THIS COST

Wills Matter columns encourage thoughtful estate planning and in many instances this may involve consulting an experienced Wills and Estates lawyer. It always helps to be aware of how legal fees are billed. There are three types of legal fees you could encounter: set fees; hourly rates; and contingency fees.

Set fees are most often used in the preparation of simple Wills, power of attorneys, and medical representation agreements. A lawyer will usually discuss the fee with the client before preparing any document. Once the document is prepared and signed, the client will receive a bill.

Alternatively, legal fees may be billed by the hour. This is often the case if litigation is involved. Hourly fees are often accompanied by retainers and retainer agreements. A retainer is essentially a deposit and allows the lawyer to start working on the file. The retainer is not an estimate of the total legal fees and the final bill could be higher or lower than the retainer. If the litigation is complex, a lawyer may ask for a large retainer or an additional retainer once work on the file is underway. A lawyer will accurately record his or her time and charge his or her hourly rate for the amount of time spent on the file.

Executors frequently seek the help of lawyers to prepare the required documents for probate. Typically, a lawyer will charge the executor his or her hourly rate and the legal fees are properly payable by the deceased's estate as a "testamentary expense".

The third type of fees, contingency fees, are most common in estate litigation. Here, the lawyer works for the client and receives a percentage of any settlement or award. The client does not pay before the lawyer starts working and does not pay additional money as the file progresses. If the lawsuit is unsuccessful and no money is received, the client typically pays only the lawyer's disbursements (i.e. out of pocket expenses).

Each lawyer and law firm may bill differently and asking your Wills and Estates lawyer about fees is the best way to ensure you understand how you will be billed.

### Contact Fulton & Company's Wills & Estates Team

if you have any questions regarding wills or estate matters.

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