

How to Negotiate a Compensation Package

The Career Development Office receives inquiries from students and alumni about how to discuss salary issues with current or prospective employers. From recent graduates starting a new legal job, to seasoned attorneys seeking a lateral move or anticipating a salary review and increase, many are unprepared to negotiate their compensation. You don't want to be underpaid, nor do you want to alienate an employer by demanding more than is fair under the circumstances. To avoid winding up accepting whatever is offered, we have some tips to negotiate a compensation package that you will be happy with.

Keep three things in mind when you are preparing to negotiate a compensation package for yourself:

1. Be prepared with all of the facts, figures and background knowledge relating to the issue at hand.
2. Know your absolute bottom line.
3. Be willing to listen and compromise.

Where to start?

You must begin by reviewing your basic requirements. Analyze your personal costs carefully and honestly. Examine your monthly total expenditures:

1. Housing costs – mortgage or rent payments, property taxes and insurance.
2. Medical insurance/costs - include life/disability insurance premiums for self/family
3. Household expenses – utilities, groceries, sundries
4. Clothing, including dry cleaning costs
5. Transportation costs – auto insurance, gas, car payments, parking, repairs, regular maintenance or, mass transit costs
6. Professional fees or dues – bar/professional associations, CLE, professional registration fees
7. Entertainment & travel – this would include gym and club memberships, computer software, music purchases and other nonessential items
8. Debt load – educational loans, credit card debt, personal loan payments

If you are relocating and are unsure about housing costs and other expenses in your new area, there are several good online sources for cost-of-living charts and calculations. Try these sites: <http://verticals.yahoo.com/salary/> or www.homefair.com. Also, check with the local Chamber of Commerce and look online at the local newspaper. The classifieds can give you a good idea of housing and transportation costs.

After assessing your basic costs, you must decide what standard of living you are willing to accept. Too often, people quickly accept an offer that barely covers their essential expenses, then wind up resentful and depressed. Make sure that you build in a little “breathing room” to be minimally happy. You may have to make allowances and sacrifices in lifestyle in order to accept a position you really want at a salary that is less than ideal. Be realistic. If you are holding out for the big numbers paid by the larger firms, you may be unemployed longer than you should. You may have to compromise and adjust your expectations.

You are selling yourself.

You must convince the employer that you are or will be an asset to the firm. Law firms anticipate that you will not become “profitable” right away. Know yourself, your skills and abilities and market them. Do an in-depth self-assessment and have a good idea of what you could be worth to the firm. Ask yourself what you will bring to this employer. Look at your professional skills and abilities. What is your potential as a rainmaker? Where are your greatest strengths? If the firm already employs you, keep track of your work and your achievements as well as your professional and community involvement. If this is a prospective employer, you will need training, but you must show that you are prepared to take the initiative and hit the ground running.

Know your market and analyze your future employer.

This is a critical element of your assessment. If you are negotiating compensation at a law firm, look at the following:

What is the geographical location?

What size firm?

What type of firm? (e.g., plaintiff or defense-oriented)

What are the substantive areas practiced?

What types of clients does firm represent? (individuals or businesses)

Answering these questions can help you determine what a firm is likely to pay.

For example, many insurance defense firms pay less than comparably sized firms doing exclusively or primarily business transactional work. A plaintiffs’ personal injury firm or private criminal defense firm with a contract to do public defender work will usually pay less than a small general practice firm of the same size that generates billable hours. Plaintiff-oriented firms generally pay less base salary to begin with, but offer larger bonuses or salary jumps after a year or two. This is because their income is primarily based upon contingency fees. Defense or business-oriented firms may pay more to begin with because theirs is based upon billable hours. Salary increases from year-to-year may therefore be less dramatic.

When analyzing a firm, do your research. Go to www.MartindaleHubbell.com, www.law.com or other websites to find out as much as you can about a firm's makeup. See if the firm has its own website and talk to friends and colleagues to learn about the firm or about comparable firms. Look at salary surveys and data to find out what comparable firms are paying in that geographical area. The Career Development Office has salary information or go to www.nalp.org for national salary survey statistics.

If your research does not help explain the following, be prepared to ask some questions at the interview.

Your knowledge of the firm's billing methods will help you negotiate your salary:

Fixed Fee: The firm charges a set amount for a type of service regardless of the hours spent on the project. This type of billing is most often used by firms representing insurance companies, by criminal defense contractors who obtain a fee per case (regardless of whether the case settles or goes to trial) and by attorneys handling routine matters such as simple real estate closings or preparing wills. You will want to know the percentage of fixed fee matters and the percentage of those that settle versus those that go to trial. (e.g., if a large number of cases go to trial, there is a smaller profit margin per case – more work hours per fee.)

Billable Hours: The firm charges a set rate per hour. Hourly rates vary and will depend upon the task being performed and by whom; it may also vary from client to client. Rates for partners are highest, followed by associates of differing levels and then legal assistants or paralegals. Detailed time sheets are kept by the person performing the work. You want to know the different billable rates, whether those rates vary by type of client, the number of billable hours expected of you and how much pro-bono work is suggested or required.

Contingent Fee: Fee is contingent upon the firm winning or settling the case. The fee agreement stipulates a certain percentage of the total gross award or settlement. Expenses and disbursements usually are paid first. Sometimes, the percentage can be a sliding scale. For example, the attorney may collect 33% of the total if a case is settled before it is filed, 40% after filing up to 10 days before trial, and 45% if the case is won at trial. In some jurisdictions there are guidelines or restrictions as to the percentage of the total an attorney may collect as a fee on certain types of cases. Nearly all personal injury and other tort cases are contingent fee cases. You will want to know the percentage of the firms' work that is based on contingent fees. You want to know how many cases settle versus the number that go to trial and the types of settlements and verdicts the firm gets. Will you be getting a flat salary or a salary plus a percentage of each settlement or award brought in? What about a percentage of a fee from a case

you brought to the firm? Some firms work out different salary/fee arrangements for different attorneys.

For any firm, you will want to ask the prospective employer about how and when salary increases and/or bonuses are assessed and given.

Look at a firm's finances.

Prior to negotiations, you will want to try to analyze a firm's finances and overhead. A firm of any size must pay rent, utilities, salaries, payroll taxes, insurance and benefits office equipment and maintenance and other expenses. Talk to other attorneys and ask bar associations as well as insurance and commercial real estate brokers to get an idea of these costs. Classified ads can tell you how much office space is and salaries of legal secretaries and other support personnel.

Remember, established firms that do a great deal of contingent fee work often keep capital in reserve for months when there may be less money coming in. It may appear that the firm has a lot income, but with the significant monthly overhead and quarterly tax payments due, the monthly gross profit may not be what you think it is.

Being familiar with the type and size of the firm and its billing methods can help make you a much more effective negotiator.

There are numerous possible benefits you may negotiate in addition to your salary.

You will need to ask what benefits are included. For example, will you receive medical insurance? Does the firm pay the full premium or a percentage of it. Does the insurance cover you or you and your dependents? Are there different plans available and will choosing a particular plan affect your contribution, if any, to the premium? These are questions that may apply to other benefits too. Below are some basic benefits you may want to try to add to your compensation package:

1. Medical, dental, disability, life and vision insurance for yourself and dependents.
2. The number of vacation, sick and personal days.
3. Paid or unpaid parental or personal leave.
4. Profit sharing
5. Retirement plan (Again, how much will the employer contribute?)
6. Expense account for entertaining clients, bar memberships and activities, meals when working late
7. Sabbatical policy

8. Continuing education classes, conferences
9. Payment for time studying for bar exam; bar review courses
10. Fitness club or social club memberships
11. Parking fees
12. Payment of or toward student loans

Most small and medium firms do not pay for a lot of the benefits/perks mentioned above, but sometimes a firm that is unable to meet your desired salary will accommodate your need for some extra vacation or CLE, particularly if it seems cost effective.

Once you have done your research, you need to have a plan.

How you actually negotiate your compensation package will depend upon your individual situation, but some general guidelines might help. First, make sure that you walk into the negotiating session with a clear idea of your “high end” opening offer and your bottom line. Don’t expect to get your opening offer, nor should you expect to have to settle for your bottom line. You will probably want something between the two. If you can, get the employer to make the first offer.

If the employer forces you to take the first step, you may say something like:

“From my research, I found that associate at this level in similar-sized firms make within this range” or “I know that firms similar to this one are currently paying between this and that.”

To try to avoid being asked to give a number try to say something like:

“In your firm, what is the range of compensation that you offer someone at this level?”

If you have experience coming into a firm, you might say something like:

“I am now earning between this and that (or a fixed number) and am looking to increase my salary.” (You can say how much more you’d like to earn, if the circumstances feel right.)

Never bid against yourself! If you do make the opening offer, make sure that you get a counter-offer before lowering yours. If you are negotiating compensation that involves a formula (30% of billable hours, or 50% of the contingent fee) make sure the terms are clear. Is the percentage of the gross? How many billable hours?

The key in negotiating your compensation is being prepared. Know yourself. Know the firm. Know the market. If you've done your homework and self-assessment, you can confidently walk into a meeting and negotiate a fair and satisfying compensation package.

