

CONTINGENT FEE AGREEMENT JACOBS LAW OFFICES

Law Office of Mitchell D. Jacobs

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LAWYER-CLIENT FEE AGREEMENT

The Law Offices of Mitchell D. Jacobs, by and through Mitchell D. Jacobs ("Lawyer"), will provide legal services to _____ ("Client"), on the terms set forth below. This agreement is required by Supreme Court Rule 4-1.5(c).

1. **CONDITIONS.** This Agreement will not take effect, and Lawyer will have no obligation to provide legal services, until Client returns a signed copy of this Agreement and pays the initial deposit, if any, called for under paragraph 8.

2. **SCOPE OF SERVICES.** Client is hiring Lawyer to represent Client in the matter of Client's claims against those persons or entities to whom it provided services or merchandise and possibly others as future investigation may indicate, arising out of its normal business activities, as the client may from time to time refer to Lawyer.

Lawyer will represent Client until a settlement or judgment is obtained by way of negotiations or arbitration or trial. Lawyer will oppose any motion for a new trial or any other post-trial motions filed by an opposing party, or will make any appropriate post-trial motions on Client's behalf. Lawyer will not represent Client on any counter-claim, cross-claim, appeal without such additional compensation as may be agreed upon in a separate Agreement.

3. **CLIENT.** Lawyer is representing the Client only in this matter. It is understood by Client and any third party that may be assisting Client financially, emotionally or otherwise, in this matter, that lawyer's duty is to act in the best interest of the Client and Lawyer cannot share information about Client's case with anyone other than Client without Client's express permission.

4. **RESPONSIBILITIES OF THE PARTIES.** Lawyer will provide those legal services reasonably required to represent Client in prosecuting the claims described in paragraph 2. Client agrees to appear, at all legal proceedings (including depositions and hearings including but not limited to trial) when Lawyer deems it necessary. Client further agrees to generally cooperate fully with Lawyer in all matters related to the preparation and presentation of Client's claims (including but not limited to interrogation, written discovery, trial preparation, client interviews). Further, while it is impossible to predict the course of a representation, it may be important for Lawyer to contact Client immediately, or upon short notice, to confer with Client regarding the status of Client's case. An inability to do so may result in Client's case being prejudiced and detrimentally affect the outcome of the case. Accordingly, Client agrees to keep Lawyer informed of Client's current address, telephone number and whereabouts. If Client leaves town, for example, to travel on business or vacation, Client agrees to notify Lawyer before leaving, of the expected duration of the trip, and how Client may be contacted in the meantime.

5. **LEGAL FEES.** Lawyer will only be compensated for legal services rendered if a recovery is obtained for Client. If no recovery is obtained, Client will be obligated to pay only for costs and expenses, as described in paragraph 7.

The fee to be paid will be a percentage of the "gross recovery," depending on the stages at which settlement or judgment is reached. The term "gross recovery" means the total of all amounts received by settlement, arbitration award or judgment, including any award of lawyer's fees. The fee will be calculated before the deduction of any costs and expenses as set forth in paragraph 7, and the costs

and expenses will remain the responsibility of Client to be paid from the portion of any amounts received by Client after deduction of the fee.

Upon conclusion of the matter, Lawyer will provide Client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to Client and the method by which the remittance was calculated.

Lawyer's fee shall be calculated as follows:

(i) If the matter is resolved before filing a lawsuit or formal initiation of proceedings, then Lawyer's fee will be one-third (1/3) of the gross recovery;

(ii) If the matter is resolved prior to ninety (90) days before the date initially set for the trial or arbitration of the matter then Lawyer's fee will be one-third (1/3) of the gross recovery; and

(iii) If the matter is resolved after the times set forth in (i) and (ii), above, then Lawyer's fee will be one third (1/3) of the gross recovery.

In the event of Lawyer's discharge or withdrawal for cause as provided in paragraph 12, Client agrees that, upon payment of the settlement, arbitration award or judgment in Client's favor in this matter, Lawyer shall be entitled to be paid by Client a reasonable fee for the legal services provided. The amount to be paid shall be reasonable after considering the extent to which lawyer's services have contributed to the result obtained. Such fee shall be determined by considering the following factors: the time spent by Lawyer at his regular hourly rate, or the percentage stated above of one-third (1/3), depending on the application of this section 5, of the last rejected offer, whichever amount is greater.

If a settlement is reached or an award is obtained regarding the Client's matter, then the Client hereby grants the Lawyer the authority and power to apply any portion of the proceeds of the Client's settlement or award towards the Attorney's fees and costs as agreed to herein and to execute and endorse Client's name to checks on the Client's behalf for same.

6. NEGOTIABILITY OF FEES. The rates set forth above are not set by law, but are negotiable between a lawyer and client.

7. COSTS AND LITIGATION EXPENSES. Lawyer will incur various costs and expenses in performing legal services under this Agreement. Client agrees to pay for all costs and expenses paid or owed by Client in connection with this matter, or which have been advanced by Lawyer on Client's behalf and which have not been previously paid or reimbursed to Lawyer. Costs and expenses commonly include court fees, jury fees, service of process charges, court and deposition reporters' fees, photocopying and reproduction costs, notary fees, long distance telephone charges, messenger and other delivery fees, postage, deposition costs, travel costs including parking, mileage, transportation, meals and hotel costs, investigation expenses, consultant, expert witness, professional mediator, arbitrator and/or special master fees and other similar items. Except for the items listed below, costs and expenses will be charged at our cost.

In-office photocopying fifteen cents (\$.15)/page

Facsimile charges no additional charge

Mileage thirty-seven cents (\$.37)/mile

Other: long distance and rejis charges as incurred.

Client understands that, as set forth in paragraph 8, below, a deposit (advanced fee) for costs may be required before the expenditure is made by Lawyer.

To aid in the preparation or presentation of Client's case, it may become necessary to hire expert witnesses, consultants or investigators. Lawyer will select, in consultation with client, any expert witnesses, consultants or investigators to be hired and Client will be informed of persons chosen and their charges.

Client authorizes Lawyer to incur all reasonable costs and to hire any investigators, consultants or expert witnesses reasonably necessary in Lawyer's judgment unless one or both of the clauses below are initialed by Lawyer.

Lawyer shall obtain Client's consent before incurring any costs in excess of Five Hundred Dollars (\$500.00).

Lawyer shall obtain Client's consent before retaining outside investigators, consultants, or expert witnesses.

If an award of fees and/or costs is sought on Client's behalf in this action, Client understands that the amount which the court may order as fees and/or costs is the amount the court believes the party is entitled to recover, and does not determine what fees and/or costs Lawyer is entitled to charge its clients or that only the fees and/or costs which were allowed were reasonable. Client agrees that, whether or not lawyer's fees or costs are awarded by the court in Client's case, Client will remain responsible for the payment, in full, of all lawyer's fees and costs in accordance with this Agreement.

Additionally, Client understands that if Client's case proceeds to court action or arbitration, Client may be required to pay fees and/or costs to other parties in the action. Any such award will be entirely the responsibility of Client.

8. DEPOSIT (ADVANCED FEE). Client agrees to pay Lawyer an initial deposit (advanced fee) for costs of \$150 per associate circuit case and \$250 per each circuit court case referred, to be returned with this signed Agreement. Lawyer will hold this initial deposit (advanced fee) in a trust account. Client hereby authorizes Lawyer to use that deposit (advanced fee) to pay the costs and other expenses incurred under this Agreement.

When Client's deposit (advanced fee) is exhausted, or in the opinion of Lawyer will likely be exhausted within ninety (90) days, Lawyer reserves the right to demand further deposits (advanced fees). Once a trial or arbitration date is set, Lawyer will require Client to pay all sums then owing, and to deposit (advanced fee) the costs Lawyer estimates will be incurred in preparing for and completing the trial or arbitration, as well as the jury fees, court costs, or arbitration fees likely to be assessed. Those sums may exceed the deposit (advanced fee).

Client agrees to pay all deposits (advanced fees) required under this Agreement within thirty (30) days of Lawyer's demand. Any deposit (advanced fee) that is unused at the conclusion of Lawyer's services will be refunded.

9. BILLING STATEMENTS. Lawyer may send Client periodic billing statements for costs and expenses incurred in connection with this matter. Each statement is to be paid in full within thirty (30) days after the date of such statement.

10. APPROVAL NECESSARY FOR SETTLEMENT. Lawyer will not make any settlement or compromise of any nature of any of Client's claims without Client's prior approval. Client has the absolute right to accept or reject any settlement. Client agrees to seriously consider any settlement offer Lawyer recommends before making a decision to accept or reject such offer. Client agrees not to make any settlement or compromise of any nature of any of Client's claims without prior notice to Lawyer.

11. LIMITATION OF REPRESENTATION. Lawyer represents Client only on the matter described in paragraph 2 – Scope of Services. Lawyer's representation does not include independent or related matters that arise, including, among other things, claims for property damage, workers' compensation disputes with health care providers about the amount owed for services, or claims for reimbursement (subrogation) by any insurance company for benefits paid under an insurance policy.

In the event there is a dispute between Client and a third party regarding any amounts allegedly owed by Client to the third party and there is a colorable claim to a lien on any proceeds in Lawyer's possession by the third party, Lawyer may be obligated by law to deposit those funds with the court (interplead) for resolution of the dispute, if Client and the third party are unable to resolve the dispute amicably after a reasonable period of time.

This agreement does not include defending Client against, or representing Client in any claims that may be asserted against Client as a cross-claim or counter-claim in Client's case. This agreement does not apply to any other legal matters. If any such matters arise later, Lawyer and Client will either negotiate a separate Agreement if Client and Lawyer agree that Lawyer will perform such additional legal work or Client engage separate counsel with respect to cross-claims or counter-claims or additional legal work.

Client may have other possible causes of action arising from the facts and circumstances giving rise to this representation. As Lawyer does not represent Client on these other possible claims, Client should seek independent representation if Client wishes to pursue a remedy. Delay or failure to do so may result in Client being barred by a statute of limitations from being able to recover under these other causes of action.

12. CONFLICT WAIVER. Frequently, Lawyer is introduced to clients by medical providers, or Lawyer also represents medical providers in their collection matters. On occasion, this may cause a conflict of interests between the interests of the Lawyer or his medical provider client in receiving full payment for medical services rendered to the Client, and the Client's interests in keeping as much of his or her settlement or award as is possible. To that end, Client hereby waives any actual or potential conflict of interests that exist between Lawyer and Client's medical providers and further hereby irrevocably instructs Lawyer, as escrow agent, to pay all of Client's medical providers in full from any settlement or award. Despite this waiver of the conflict of interests between Client and his or her medical providers, if Client wishes, Client should seek independent representation regarding any potential or actual conflict of interests.

13. DISCHARGE AND WITHDRAWAL. Client may discharge Lawyer at any time, upon written notice to Lawyer. Lawyer may withdraw from representation of Client (a) with Client's consent, (b) upon court approval, or (c) if no court action has been filed, for good cause and upon reasonable notice to Client. Good cause includes Client's breach of this agreement, refusal to cooperate or to follow Lawyer's advice on a material matter or any fact or circumstance that would render Lawyer's continuing representation unlawful or unethical, or disagreement between Lawyer and Client as to the strategies, procedures, or viability of Client's matter. Notwithstanding Lawyer's withdrawal or Client's notice of discharge, and without regard to the reasons for the withdrawal or discharge, Client will remain obligated to pay Lawyer for all costs incurred prior to the termination. In the event that there is any recovery obtained by Client after conclusion of Lawyer's services, Client remains obligated to pay Lawyer for the reasonable value of all services rendered from the effective date of this Agreement to the date of discharge, which reasonable value shall be measured by considering the following factors: the time spent by Lawyer at his regular hourly rate, or the percentage stated above of one-third (1/3) or forty percent (40%), depending on the application of section 5, of the last rejected offer, whichever amount is greater.

Lawyer will maintain Client's file for one (1) year after this matter is concluded. Client may request copies of items in the file at any time during the representation. Upon conclusion of, or after conclusion of this matter, the Client may request the file be returned upon reasonable notice to the Lawyer. One (1) year after the conclusion of this matter, the file may be destroyed without further notice to Client.

14. CONCLUSION OF SERVICES. When Lawyer's services conclude, all previously approved cost and expenses will immediately become due and payable. Lawyer is authorized to use any funds held in Lawyer's trust account as a deposit against costs to apply to such unpaid costs and expenses. After Lawyer's services conclude, upon request, Client's file and property will be delivered to Client; or to Client's Lawyer whether or not Client has paid any fees and/or costs owed to Lawyer. Client understands that to the limited extent Lawyer has paid out of pocket expenses for items, which have not yet been reimbursed by Client, Lawyer may be reimbursed for that particular expense before releasing that item.

15. LIENS AND ENFORCEMENT. *Client hereby grants Lawyer a lien on any and all claims or causes of action that are the subject of Lawyer's representation under this Agreement. Lawyer's lien will be for any sums owing to Lawyer for any unpaid costs, or lawyers' fees, at the conclusion of Lawyer's services. The lien will attach to any recovery Client may obtain, whether by arbitration award, judgment, settlement or otherwise. In the event that Lawyer is not paid completely for the fees due or costs expended as part of his representation of the Client, then and in that event, as part of any resolution, Client shall pay the Lawyer for his time spent in resolving said dispute, through arbitration or otherwise, as additional attorney's fees.*

16. RESOLUTION OF A FEE DISPUTE

If a dispute concerning fees or expenses should occur during or at the conclusion of this matter, if the Lawyer and Client are not able to resolve the dispute, the parties agree to use the services offered by the Fee Dispute Resolution Program in their jurisdiction provided by The Bar Association of Metropolitan St. Louis. The services provided by the Fee Dispute Resolution Program are offered at no cost to the Lawyer and Client unless either party wishes to be represented by counsel at their own expense. The Lawyer will inform the Client about how to start the proceedings and the differences between mediation and binding arbitration.

If Lawyer and Client agree to binding arbitration, they waive their right to have the fee dispute decided in Court. Binding arbitration does not absolve the Lawyer from liability or limit liability.

By signing below, Client conforms that s/he has read and understands the options that are available should a fee dispute arise, and Lawyer and Client voluntarily agree to participate in the services offered by the Fee Dispute Resolution Program.

17. INTEREST CLAUSE

If a billing statement balance is not paid in full when due, interest will be charged on any unpaid balance that remains past due beginning on the first day it is past due and continuing until paid at the rate of twelve percent (12%) per annum.

18. RECEIPT OF PROCEEDS. *All proceeds of Client's case shall be deposited into Lawyer's trust account for disbursement in accordance with the provisions of this Agreement. No disbursement may be made until the settlement/or recovery check has cleared the bank.*

19. DISCLAIMER OF GUARANTEE. *Nothing in this Agreement and nothing in Lawyer's statements to Client will be construed as a promise or guarantee about the outcome of this matter. Lawyer makes no such promises or guarantees. There can be no assurance that Client will recover any sum or sums in this matter. Lawyer's comments about the outcome of this matter are expressions of opinion only. Client acknowledges that Lawyer has made no promise or guarantees about the outcome.*

20. ENTIRE AGREEMENT. *This Agreement contains the entire agreement of the parties. No other agreement, statement or promise made on or before the effective date of this Agreement will be binding on the parties.*

21. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY. *If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.*

22. MODIFICATION BY SUBSEQUENT AGREEMENT. *This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by both of them or an oral agreement only to the extent that the parties carry it out.*

23. EFFECTIVE DATE. *This Agreement will govern all legal services performed by Lawyer on behalf of Client commencing with the date Lawyer first performed services. The date at the beginning of the*

Agreement is for reference only. Even if this Agreement does not take effect, Client will be obligated to pay Lawyer the reasonable value of any services Lawyer may have performed for Client.

THE PARTIES HAVE READ AND UNDERSTOOD THE FOREGOING TERMS AND AGREE TO THEM AS OF THE DATE LAWYER FIRST PROVIDED SERVICES. IF MORE THAN ONE CLIENT SIGNS BELOW, EACH AGREES TO BE LIABLE, JOINTLY AND SEVERALLY, FOR ALL OBLIGATIONS UNDER THIS AGREEMENT. CLIENT SHALL RECEIVE A FULLY EXECUTED DUPLICATE OF THIS AGREEMENT.

THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION, WHICH MAY BE ENFORCED BY THE PARTIES.

DATED: _____

Client Signature _____

Client Name _____

Address _____

Telephone: _____

DATED: _____

Law Offices of Mitchell D. Jacobs

By: Mitchell D. Jacobs