

## HOURLY, POTENTIAL CONFLICT OF INTEREST

[Date]

[Name and Address of Client]

Dear \_\_\_\_\_:

I enjoyed meeting with you on \_\_\_\_\_ to discuss your representation by this firm. This letter will confirm our agreement and if after reviewing it, you have no further questions about the terms of my representation, please sign the extra copy enclosed and return it to my office in the postage-paid envelope enclosed for your convenience. Our work will begin when we receive the signed copy of this letter [and required deposit].

I will undertake the following work on your behalf: [set forth the scope of the representation]. [My work will not include {set forth specific matters excluded from the representation if appropriate}].

You will receive an itemized monthly statement of fees and expenses associated with our services. [Payment is due upon receipt.] [The fees and expenses will be deducted from your deposit, and we will advise you from time to time if an additional amount is needed to maintain a sufficient deposit to cover anticipated fees and expenses.] My rate per hour for work is \$\_\_\_\_. Often, from time-to-time, other members of the firm as well as our staff may engage in work on this matter, and their rates are as follows: partners, \$\_\_\_\_ per hour; associate attorneys, \$\_\_\_\_ per hour; legal assistants, \$\_\_\_\_ per hour.

Previously, we discussed orally the potential for a conflict of interest in my [firm's] representation of you [client]. As I explained, a conflict may arise whenever the interests of a current client might affect, or be affected by, the personal, business, financial or professional interests of a lawyer, a professional or business associate or relative of the lawyer, another current client, or a former client. When there are such multiple interests, there is always a possibility for the existence to interfere with the lawyer's ability to serve one set of interests without adversely affecting other interests. Whenever such interests become conflicting, it is necessary for the lawyer to withdraw from all attorney-client relationships affected by such conflict, and it is then necessary for each person to hire a new lawyer.

With respect to [describe representation and subject matter], there exists the possibility for the following interests of the following persons to become conflicting: [describe all reasonably foreseeable interests that each client and former client might, in the course of after-the-fact dissatisfaction, claim to have adversely affected the lawyer's judgment or performance, and describe the potential adverse effects on each client].

Despite possibilities for such interests to conflict, you believe one lawyer can adequately represent, advance, or protect each such interest without harming any other such interests. Therefore, you agree that you want me to represent each of you in this matter, and you each refuse to exercise your right to hire a different lawyer and hereby waive the conflicts described.

In addition to the fees set forth above, you will be responsible for expenses incurred in connection with this matter. Such expenses may include, among others, copying, delivery, and telephone charges, fees for professional services, and travel expenses. If the firm makes payment for you, you will need to reimburse us promptly.

[If we have to bring suit against you to collect any balance owed, you agree to pay us an additional amount of \_\_\_% of the balance owed as attorney fees. To secure any balance you owe us, you grant us a security interest in any property that may come into our possession in the course of our representation and any claim or cause of action on which we are representing you.]

To achieve the best possible representation of you will need to cooperate with us fully and provide us all the information we need to assist you. I encourage you to keep detailed notes of questions that may arise and of any new information, witnesses, or other important matters that come to your attention. Please call me if something is truly urgent, but otherwise it is best to schedule an appointment to discuss your accumulated questions and concerns. So that we may maintain continuous contact with you throughout the representation, please notify us immediately if there is any change in your address or telephone number.

If at any time you become dissatisfied with our handling of this matter, you should not hesitate to tell me immediately so we can discuss and resolve the problem. It is essential to your representation that we maintain a good relationship throughout. You may terminate our representation at any time. In the event of termination, you will be responsible for payment of any fees earned or expenses incurred. We may terminate this representation only as permitted or required by laws and regulations. Failure to pay [fees or] <sup>1</sup> expenses or make deposits when due will be cause for such termination.

[Optional <sup>2</sup>] In this joint representation, I must and will treat you [both] equally in all regards, including all communications. I will communicate all matters to both of you and will share all communications from each of you with the other.

While the agreement is intended to prevent any confusion of the terms of my representation, should a fee dispute arise you are agreeing pursuant to this paragraph to submit any fee dispute between us to \_\_\_\_ arbitration with [your bar's program name]. You understand that you have the right to use other court forums to address fee disputes but we are both agreeable to compromising those rights to submit to binding arbitration. Any decision made by the arbitration panel whether for you or me will be final and non-appealable. It has the same effect and enforceability as if rendered by a court of law. The arbitration panel would hear us in [locality] and would be composed of those individuals, two attorneys and one layman. The [local bar organization] selects the panel

from among a list of volunteers who have agreed to here fee disputes. There are no costs associated with the panelists. You can seek additional independent legal counsel on this issue before signing this agreement, if you wish.

We will use our best efforts in representing you in this matter, but you acknowledge that we can give no assurances as to the final outcome.

If the above terms are acceptable, please sign and return one of the enclosed copies of this letter. I look forward to working with you.

Sincerely yours,

[Name of Firm]

By \_\_\_\_\_  
[Name of Attorney]

I understand and accept the terms of this Agreement.

\_\_\_\_\_  
[Name of Client]

\_\_\_\_\_  
Date of Acceptance

\_\_\_\_\_

<sup>1</sup> Do not use this phrase if this is a contingent fee agreement.

<sup>2</sup> Use if joint representation.

NOTE: This material is intended as only an example, which you may use in developing your own form. It is not considered legal advice and as always, you will need to do your own research to make your own conclusions with regard to the laws and ethical opinions of your jurisdiction. In no event will ISBA Mutual Insurance Company be liable for any direct, indirect, or consequential damages resulting from the use of this material.