

## APPELLATE ATTORNEY/CLIENT HOURLY LEGAL FEE AGREEMENT

1. This Agreement is between the person whose signature appears below as Client (herein referred to as "Client") and person whose signature appears below as Attorney.

2. All billing for any services performed will be on an hourly basis. We do not take cases for a flat fee. The amount of the retainer requested by the attorney shall in no way be considered an estimation of total fees.

3. The Attorney is retained as counsel on the following:

**APPEAL** of Ruling(s) in Cause No. \_\_\_\_\_

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Representation is concluded upon the certification to the trial court of the decision/opinion of the Indiana Court of Appeals or, if a Petition to Transfer is filed with the Indiana Supreme Court, the certification to the trial court of a decision/opinion of the Indiana Supreme Court disposing of the Petition for Transfer, or the withdrawal of Attorney, whichever occurs first.

4. The Client understands that each case is different and that his/her particular case may take more or less time than other cases with similar facts or problems, depending on the issues which need to be resolved, the complexity of the case, the tactics of the opposing party or their attorney. The Client understands that the results of any lawsuit are unpredictable and any statements made by counsel are strictly an opinion based upon counsel's experience and are not a guarantee of the outcome of the case or of the total fees required to conclude the case.

5. The cost of filing fees, photocopying and long distance telephone calls will be advanced by the attorney and billed to the client. Other costs such as depositions, transcription costs, transportation, accommodations, appraisals, expert witness fees, and other major expenses not specifically attorney fees will be paid in advance by the Client to be held in the Attorney's escrow account until due if requested by the Attorney. The Attorney will receive the prior approval of the client before incurring major expenses. In the event that the Attorney does advance such costs, the Client shall reimburse the Attorney within 10 days of receipt of an invoice including such charges.

6. Each month you may authorize payment of your monthly bill using Visa, Mastercard, Discover or American Express. We **will not** charge your credit card without your **authorization**.

7. The Attorney agrees to take action to insure the decisions of the Client are made after the Client has been informed of all relevant considerations, such as explanation of laws pertinent to the Client's problem, available courses of action and attendant consequences. The Client agrees to fully inform and disclose to the Attorney any facts, circumstances, economic information or other information which may be relevant or necessary to proceed on the Client's

behalf and to keep the Attorney informed of the Client's current home address, place of employment and telephone number. The Client agrees to contact the Attorney whenever any questions arise, to provide the Attorney with written summaries of facts or questions as requested by the Attorney or deemed appropriate by the Client.

8. Our office owes a duty of confidentiality to the client. There are obvious privacy issues when we communicate with the client by cellular phone or e-mail. If you do not advise me to the contrary by your initials at the line provided below, I will assume you have no objections to communication between us in that fashion. \_\_\_\_\_

9. Attorney agrees to send Client a copy of pertinent written materials concerning the Client's case and to make all reasonable efforts to answer the Client's inquiries promptly.

10. The Client agrees to contact the Attorney as any questions or concerns may arise and to fully cooperate with the Attorney by promptly responding to the Attorney's inquiries, to keep the Attorney fully informed of any developments as they may occur, and fully informed as to any changes in information which has previously been given to the Attorney.

11. The Client agrees to pay for services rendered as follows:

Attorney Hourly Rate: \$ \_\_\_\_\_

Associate Hourly Rate: \$ \_\_\_\_\_

Paralegal Hourly Rate: \$ \_\_\_\_\_

Retainer To Be Paid: \$ \_\_\_\_\_

Consultation Fee Paid: \$ \_\_\_\_\_

The Client understands that the Attorney will not represent the Client or enter an Appearance in any pending matter on behalf of the Client or file any pleadings with the Court until the retainer is paid. In the event the Client directs the Attorney to take certain actions in anticipation of being retained and the Attorney is not retained, or if the Client decides not to pursue the action, then the Client will be billed for any services rendered to that point. Any unearned retainer will be returned to the Client at the conclusion of the representation. If and when the initial retainer becomes exhausted or is insufficient to cover anticipated costs associated with upcoming events such as depositions, mediation, or trial, Client may be required to submit subsequent retainers, in the same or higher amount as the initial retainer. Client's failure to submit such additional retainer(s) when requested will constitute a material breach of this agreement and Attorney shall be permitted to withdraw as legal counsel for Client.

Paralegal fees are billed for those services which do not constitute legal work requiring a license to practice law, but which may normally be performed by the Attorney: such as review of financial documents, preparation of exhibits, drafting letters and meeting with the Client or

witnesses to obtain information and notifying the Client of Court dates or other information at the direction of the Attorney.

12. The Client will be billed for any time spent on the case as it is accrued including but not limited to telephone calls, e-mail communications, office visits, court time, drafting and reviewing pleadings or correspondence and travel time. Time will be calculated to the nearest one-tenth (1/10) hour, with two-tenths (2/10) hour minimum per activity. Retainer fees will be credited against the hourly rate. All costs and expenses are chargeable to the Client. In some domestic relations cases, including appeals, the trial court may order one party to pay the other party's appellate attorney fees, or a portion of them. If the opposing party in Client's case is ordered to pay all or a portion of Client's attorney's fees, then any amount actually paid by the opposing party will be credited to the Client's outstanding account balance. The award of Attorney's fees is totally up to the Court and will be credited to the Client's account only if paid by the opposing party. Actions against the opposing party to collect fee awards may result in additional fees and costs being incurred by the Client.

The Client is responsible for payment of all fees and costs within thirty (30) days of invoice. In the event it is not possible for the Client to pay any billing in full then adequate regular payment arrangements must be made. **ANY UNPAID BALANCE DUE IN EXCESS OF NINETY (90) DAYS SHALL ACCRUE INTEREST AT THE RATE OF TWELVE PERCENT (12%) PER ANNUM.** Failure to pay Attorney's fees will result in the Attorney's withdrawal of representation. All unpaid fees and expenses are due within thirty (30) days of the conclusion of your case by settlement or by trial or termination of Attorney services by Client or by Attorney. In the event Client fails to pay the final bill within forty-five (45) days, Attorney will have the right to obtain a lien for unpaid fees and expenses and exercise all legal remedies available to Attorney in collection of any unpaid portion of Client's bill. The Client agrees to pay the costs and additional reasonable Attorney's fees in the event collection action is necessary to collect any unpaid fees. The Client consents to the Jurisdiction of Marion County, Indiana in the event a collection process is necessary.

13. The Client may terminate this Agreement with or without cause upon written notice to the Attorney. The Attorney shall return that portion of the Client's file which has not already been sent to them during representation promptly upon the Client's termination of the Attorney's representation. The Attorney shall be allowed a reasonable time to review the file and to make copies of any documents which are necessary to retain for the Attorney's records. The attorney will keep their notes. If copies are required they will be at the client's expense. Attorney may terminate this Agreement for reasons permitted under the applicable code of professional responsibility.

14. Representation by the Attorney is concluded when the applicable appeals court (Indiana Court of Appeals or Indiana Supreme Court) certifies its decision/opinion to the trial court, or when the Attorney withdraws from representation per the preceding paragraph.

15. At the conclusion of Attorney's representation, Client's file will be closed and maintained for a period of five (5) years. Client may request that he or she be given possession

of the file prior to the expiration of that time period. Should client so request, the file will be transferred to client after the Attorney has had a reasonable time to review the file and to make copies at the client's expense of any documents which are necessary to retain for the Attorney's records. If client has not requested possession of the file at the end of five (5) years, the file will be destroyed.

16. **NO ADVICE IS GIVEN ON TAX CONSEQUENCES.** Client agrees to seek such advice elsewhere and to hold Attorney harmless therefore. Federal and State tax laws and regulations are continually changing such that it is sometimes necessary to hire a tax professional such as a Certified Public Accountant or tax lawyer to review any agreements or orders of the court for potential tax consequences.

17. Client agrees to read and retain all documents given to the client by the Attorney. The Client further agrees to take action indicated by such documents and to communicate with the Attorney if there are any questions. This Agreement may only be modified in writing signed by both Client and Attorney.

18. The above terms are subject to change due to the longevity of some legal proceedings. In the event the Attorney raises the above billing rates or other terms of this Agreement, the Client will be notified at least 30 days in advance of the change by a message contained in the Client's monthly billing statement. Upon notification of the increased billing rates or other terms, the Client may exercise any option available under this contract.

**THIS IS A BINDING LEGAL DOCUMENT. MAKE SURE YOU UNDERSTAND IT AND AGREE TO THE TERMS OF THIS AGREEMENT BEFORE SIGNING IT. IF YOU WISH TO CONSULT WITH ANOTHER ATTORNEY OF YOUR CHOOSING REGARDING THIS AGREEMENT, PLEASE DO SO BEFORE SIGNING THIS AGREEMENT.**

\_\_\_\_\_  
Client's Signature

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State and Zip

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Attorney at Law  
AVERY & CHEERVA LLP  
Indiana Bar Center  
230 East Ohio Street, 6th Floor  
Indianapolis, IN 46204  
(317) 637-7575

Dated: \_\_\_\_\_