Fee Agreements
and
Related Administrative Documents

By:
Massachusetts Law Office Management Assistance Program,
An LCL, Inc. program
Disclaimer:

The Board of Bar Overseers/Office of Bar Counsel DOES NOT provide, approve or recommend fee agreements or related documents, including those available through this package.
**DISCLAIMER**

**LOMAP makes no representation or warranties of any kind, express or implied, concerning compliance with the Rules of Professional Conduct or the adequacy or enforceability of these sample forms. The following template forms should not be taken wholesale, and used “as is” in your practice; instead, these template forms should serve as guides to develop. **

**Fee agreements and related administrative documents should reflect the needs of you, your specific clients and your practice (including consideration for your practice areas). You must exercise your independent legal and business judgment when using these forms.**

**NOTE**

--Unless otherwise indicated, all template forms in this collection are Massachusetts-specific.
FEE AGREEMENTS
and
RELATED ADMINISTRATIVE DOCUMENTS

RULE 1.5, MASSACHUSETTS RULES OF PROFESSIONAL CONDUCT  
MRPC Rule 1.5 & Comments: Fees  

HOURLY FEE AGREEMENTS  
Sample Hourly Retainer Letter  
Sample Client’s Fee Agreement: Litigation  
Sample Client’s Fee Agreement: Transactional  
Sample Client’s Fee Agreement: Possible Litigation to Follow  

CONTINGENT FEE AGREEMENTS  
Sample Contingent Fee Agreement, Form A  
Sample Contingent Fee Agreement, Form B  
(blank)  

ALTERNATIVE FEE AGREEMENTS  
Sample Flat Fee Agreement  

NON-ENGAGEMENT and DISENGAGEMENT LETTERS  
Sample Non-Engagement Letter  
Sample Disengagement Letter  

ALTERNATIVE CLAUSES  
Document Retention Provision  
Internet/Cloud Services Provision  

PRACTICE AREA SPECIFIC  [TO BE COMPLETED]  
Sample Criminal Law Fee Agreement  
Sample Immigration Law Fee Agreement  
Sample Worker’s Compensation Fee Agreement
RULE 1.5

Massachusetts Rules of Professional Conduct
MASSACHUSETTS RULES OF PROFESSIONAL CONDUCT

RULE 1.5 FEES

(a) A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee or collect an unreasonable amount for expenses. The factors to be considered in determining whether a fee is clearly excessive include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) whether the fee is fixed or contingent.

(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. Except for contingent fee arrangements concerning the collection of commercial accounts and of insurance company subrogation claims, a contingent fee agreement shall be in writing and signed in duplicate by both the lawyer and the client within a reasonable time after the making of the agreement. One such copy (and proof that the duplicate copy has been delivered or mailed to the client) shall be retained by the lawyer for a period of seven years after the conclusion of the contingent fee matter. The writing shall state the following:

(1) the name and address of each client;

(2) the name and address of the lawyer or lawyers to be retained;

(3) the nature of the claim, controversy, and other matters with reference to which the services are to be performed;
(4) the contingency upon which compensation will be paid, whether and to what extent the client is to be liable to pay compensation otherwise than from amounts collected for him or her by the lawyer, and if the lawyer is to be paid any fee for the representation that will not be determined on a contingency, the method by which this fee will be determined;

(5) the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer out of amounts collected, and unless the parties otherwise agree in writing, that the lawyer shall be entitled to the greater of (i) the amount of any attorney's fees awarded by the court or included in the settlement or (ii) the amount determined by application of the percentage or other formula to the recovery amount not including such attorney's fees;

(6) the method by which litigation and other expenses are to be calculated and paid or reimbursed, whether expenses are to be paid or reimbursed only from the recovery, and whether such expenses are to be deducted from the recovery before or after the contingent fee is calculated;

(7) if the lawyer intends to pursue such a claim, the client's potential liability for expenses and reasonable attorney's fees if the attorney-client relationship is terminated before the conclusion of the case for any reason, including a statement of the basis on which such expenses and fees will be claimed, and, if applicable, the method by which such expenses and fees will be calculated; and

(8) if the lawyer is the successor to a lawyer whose representation has terminated before the conclusion of the case, whether the client or the successor lawyer is to be responsible for payment of former counsel's attorney's fees and expenses, if any such payment is due.

Upon conclusion of a contingent fee matter for which a writing is required under this paragraph, the lawyer shall provide the client with a written statement explaining the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination. At any time prior to the occurrence of the contingency, the lawyer shall, within twenty days after either 1) the termination of the attorney-client relationship or 2) receipt of a written request from the client when the relationship has not terminated, provide the client with a written itemized statement of services rendered and expenses incurred; except, however, that the lawyer shall not be required to provide the statement if the lawyer informs the client in writing that he or she does not intend to claim entitlement to a fee or expenses in the event the relationship is terminated before the conclusion of the contingent fee matter.

(d) A lawyer shall not enter into an arrangement for, charge, or collect:

(1) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof; or

(2) a contingent fee for representing a defendant in a criminal case.

(e) A division of a fee (including a referral fee) between lawyers who are not in the same firm may be made only if the client is notified before or at the time the client enters into a fee agreement for the
matter that a division of fees will be made and consents to the joint participation in writing and the total fee is reasonable. This limitation does not prohibit payment to a former partner or associate pursuant to a separation or retirement agreement.

(f) (1) The following forms of contingent fee agreement may be used to satisfy the requirements of paragraphs (c) and (e) if they accurately and fully reflect the terms of the engagement.

(2) A lawyer who uses Form A does not need to provide any additional explanation to a client beyond that otherwise required by this rule. The form contingent fee agreement identified as Form B includes two alternative provisions in paragraphs (3) and (7). A lawyer who uses Form B shall show and explain these options to the client, and obtain the client’s informed consent confirmed in writing to each selected option. A client’s initialing next to the selected option meets the “confirmed in writing” requirement.

(3) The authorization of Forms A and B shall not prevent the use of other forms consistent with this rule. A lawyer who uses a form of contingent fee agreement that contains provisions that materially differ from or add to those contained in Forms A or B shall explain those different or added provisions or options to the client and obtain the client’s informed consent confirmed in writing. For purposes of this rule, a fee agreement that omits option (i) in paragraph (3), and, where applicable, option (i) in paragraph (7) of Form B is an agreement that materially differs from the model forms. A fee agreement containing a statement in which the client specifically confirms with his or her signature that the lawyer has explained that there are provisions of the fee agreement, clearly identified by the lawyer, that materially differ from, or add to, those contained in Forms A or B meets the “confirmed in writing” requirement.

(4) The requirements of paragraphs (f)(1) – (3) shall not apply when the client is an organization, including a non-profit or governmental entity.

Comment

Basis or Rate of Fee

[1] When the lawyer has regularly represented a client, they ordinarily will have evolved an understanding concerning the basis or rate of the fee and the expenses for which the client will be responsible. In a new client-lawyer relationship, however, an understanding as to fees and expenses must be promptly established. It is not necessary to recite all the factors that underlie the basis of the fee, but only those that are directly involved in its computation. It is sufficient, for example, to state that the basic rate is an hourly charge or a fixed amount or an estimated amount, or to identify the factors that may be taken into account in finally fixing the fee. When developments occur during the representation that render an earlier estimate substantially inaccurate, a revised estimate should be provided to the client. A written statement concerning the fee reduces the possibility of misunderstanding. Furnishing the client with a simple memorandum or a copy of the lawyer’s customary fee schedule is sufficient if the basis or rate of the fee is set forth.
Rule 1.5(a) departs from Model Rule 1.5(a) by retaining the standard of former DR 2-106(A) that a fee must be illegal or clearly excessive to constitute a violation of paragraph (a) of the rule. However, it does not affect the substantive law that fees must be reasonable to be enforceable against the client.

Paragraph (a) also requires that expenses for which the client will be charged must be reasonable. As such, the standard differs from that for fees, as described in Comment 1A. A lawyer may seek reimbursement for the cost of services performed in-house, such as telephone charges, either by charging a reasonable amount to which the client has agreed in advance or by charging an amount that reasonably reflects the cost incurred by the lawyer.

Rule 1.5(b) states, as the ABA Model Rule does, that the basis or rate of a fee shall be communicated “preferably in writing.” Appropriate caution and ease of proof of compliance with Rule 1.5(b) indicate that the presentation of a fee agreement to the client in writing is desirable.

Contingent fees, like any other fees, are subject to the not-clearly-excessive standard of paragraph (a) of this rule. In determining whether a particular contingent fee is clearly excessive, or whether it is reasonable to charge any form of contingent fee, a lawyer must consider the factors that are relevant under the circumstances. Applicable law may impose limitations on contingent fees, such as a ceiling on the percentage allowable, or may require a lawyer to offer clients an alternative basis for the fee. Applicable law also may apply to situations other than a contingent fee, for example, government regulations regarding fees in certain matters. When there is doubt whether a contingent fee is consistent with the client's best interest, the lawyer should inform the client of alternative bases for the fee and explain their implications.

A lawyer must inform the client at the time representation is undertaken if there is a possibility that a legal fee or other payments will be owed under other circumstances. A lawyer may pursue a quantum meruit recovery or payment for expenses advanced only if the contingent fee agreement so provides.

The "fair value" of the legal services rendered by the attorney before the occurrence of a contingency in a contingent fee case is an equitable determination designed to prevent a client from being unjustly enriched if no fee is paid to the attorney. Because a contingent fee case does not require any certain amount of labor or hours worked to achieve its desired goal, a lodestar method of fee calculation is of limited use in assessing a quantum meruit fee. A quantum meruit award should take into account the benefit actually conferred on the client. Other factors relevant to determining “fair value” in any particular situation may include those set forth in Rule 1.5(a), as well as the circumstances of the discharge or withdrawal, the amount of legal work required to bring the case to conclusion after the discharge or withdrawal, and the contingent fee to which the lawyer would have been entitled upon the occurrence of the contingency. Unless otherwise agreed in writing, the lawyer will ordinarily not be entitled to receive a fee unless the contingency has occurred. Nothing in this Rule is intended to create a presumption that a lawyer is entitled to a quantum meruit award when the representation is terminated before the contingency occurs.

When the attorney-client relationship in a contingent fee case terminates before completion, and the lawyer makes a claim for fees or expenses, the lawyer is required to state in writing the fee claimed
and to enumerate the expenses incurred, providing supporting justification if requested. In circumstances where the lawyer is unable to identify the precise amount of the fee claimed because the matter has not been resolved, the lawyer is required to identify the amount of work performed and the basis employed for calculating the fee due. This statement of claim will help the client and any successor attorney to assess the financial consequences of a change in representation.

[3D] A lawyer who does not intend to make a claim for fees in the event the representation is terminated before the occurrence of the contingency entitling the lawyer to a fee under the terms of a contingent fee agreement would not be required to use paragraph (6) of the model forms of contingent fee agreement specified in Rule 1.5(f)(1) and (2). However, if a lawyer expects to make a claim for fees if the representation is terminated before the occurrence of the contingency, the lawyer must advise the client of his or her intention to retain the option to make a claim by including the substance of paragraph (6) of the model form of contingent fee agreement in the engagement agreement and would be expected to be able to provide records of work performed sufficient to support such a claim.

**Terms of Payment**

[4] A lawyer may require advance payment of a fee, but is obliged to return any unearned portion. See Rule 1.16(d). A lawyer may accept property in payment for services, such as an ownership interest in an enterprise, providing this does not involve acquisition of a proprietary interest in the cause of action or subject matter of the litigation contrary to Rule 1.8(j). However, a fee paid in property instead of money may be subject to the requirements of Rule 1.8(a) because such fees often have the essential qualities of a business transaction with the client.

[5] An agreement may not be made whose terms might induce the lawyer improperly to curtail services for the client or perform them in a way contrary to the client's interest. For example, a lawyer should not enter into an agreement whereby services are to be provided only up to a stated amount when it is foreseeable that more extensive services probably will be required, unless the situation is adequately explained to the client. Otherwise, the client might have to bargain for further assistance in the midst of a proceeding or transaction. However, it is proper to define the extent of services in light of the client's ability to pay. A lawyer should not exploit a fee arrangement based primarily on hourly charges by using wasteful procedures.

**Prohibited Contingent Fees**

[6] Paragraph (d) prohibits a lawyer from charging a contingent fee in a domestic relations matter when payment is contingent upon the securing of a divorce or upon the amount of alimony or support or property settlement to be obtained. This provision does not preclude a contract for a contingent fee for legal representation in connection with the recovery of post-judgment balances due under support, alimony or other financial orders because such contracts do not implicate the same policy concerns.

**Division of Fee**
A division of fee is a single billing to a client covering the fee of two or more lawyers who are not in the same firm. A division of fee facilitates association of more than one lawyer in a matter in which neither alone could serve the client as well, and most often is used when the fee is contingent and the division is between a referring lawyer and a trial specialist. Paragraph (e) permits the lawyers to divide a fee if the client has been informed that a division of fees will be made and consents in writing. A lawyer should only refer a matter to a lawyer whom the referring lawyer reasonably believes is competent to handle the matter. See Rule 1.1.

Paragraph (e), unlike ABA Model Rule 1.5(e), does not require that the division of fees be in proportion to the services performed by each lawyer unless, with a client's written consent, each lawyer assumes joint responsibility for the representation. The Massachusetts rule does not require disclosure of the fee division that the lawyers have agreed to, but if the client requests information on the division of fees, the lawyer is required to disclose the share of each lawyer.

Paragraph (e) does not prohibit or regulate division of fees to be received in the future for work done when lawyers were previously associated in a law firm.

Disputes over Fees

In the event of a fee dispute not otherwise subject to arbitration, the lawyer should conscientiously consider submitting to mediation or an established fee arbitration service. If such procedure is required by law or agreement, the lawyer shall comply with such requirement. Law may prescribe a procedure for determining a lawyer's fee, for example, in representation of an executor or administrator, a class or a person entitled to a reasonable fee as part of the measure of damages. The lawyer entitled to such a fee and a lawyer representing another party concerned with the fee should comply with the prescribed procedure. For purposes of paragraph 1.5(f)(3), a provision requiring that fee disputes be resolved by arbitration is a provision that differs materially from the forms of contingent fee agreement set forth in this rule and is subject to the prerequisite that the lawyer explain the provision and obtain the client's consent, confirmed in writing.

Form of Fee Agreement

Paragraph (f) provides model forms of contingent fee agreements and identifies explanations that a lawyer must provide to a client, except where the client is an organization, including a non-profit or governmental entity.

Paragrapghs (f)(1) and (f)(2) provide two forms of contingent fee agreement that may be used. Because paragraphs (3) and (7) of Form A do not contain alternative provisions, a lawyer who uses Form A does not need to provide any special explanation to the client. Paragraphs (2), (3), and (7) of Form B differ from Form A. While in most contingency cases, the contingency upon which compensation will be paid is recovery of damages, paragraph (2) of Form B permits lawyers and clients to agree to other lawful contingencies. A lawyer is not required to provide any special explanation when using paragraph (2). Paragraphs (3) and (7) of Form B allow options for the payment of costs and expenses and the payment of reasonable attorney’s fees and expenses to former counsel. To ensure that a client gives
informed consent to the agreed-upon option, a lawyer who uses Form B must retain in the form both options contained in paragraphs (3) and, where applicable, paragraph (7); show and explain these options to the client; and obtain the client’s informed consent confirmed in writing to the selected option.

[12] Paragraph (f)(3) permits the lawyer and client to agree to modifications to Forms A and B, including modifications which are more favorable to the lawyer, to the extent permitted by this rule. However, a lawyer using a modified form of fee agreement must explain to the client any provisions that materially differ from or add to those contained in Forms A and B, and obtain the client’s informed written consent. For purposes of this rule, an agreement that does not contain option (i) in paragraph (3) and, where applicable, option (i) in paragraph (7) of Form B is materially different, and a lawyer must explain those different or added provisions to the client, and obtain the client’s informed written consent.

[13] When attorney’s fees are awarded by a court or included in a settlement, a question arises as to the proper method of calculating a contingent fee. Rule 1.5(c)(5) and paragraph (4) of the form agreements contained in Rule 1.5(f) state the default rule, but the parties may agree on a different basis for such calculation, such as applying the percentage to the total recovery, including attorney’s fees.
Hourly Fee Agreements
SAMPLE RETAINER LETTER

May 13, 2009

Personal & Confidential

Mr. Bad Shape, President
Defective Widgets, Inc.
13 Dire Straits
Salem, MA 01970

Re: Best Widgets v. Defective Widgets
    Essex Superior Court
    Our File No.

Dear Mr. Shape:

I am writing to confirm that you have requested [The Firm] (“the firm”) to protect Defective Widgets, Inc.’s (“Defective Widgets" or "you") interests with respect to the above-referenced matter. We are appreciate your confidence in our firm and are pleased to accept this engagement subject to the terms of this letter. This Retainer Agreement sets forth the terms of our services.

Scope of Services

Except as we may agree otherwise in writing, the firm will be providing services to you in connection with the claims asserted by Best Widgets against Defective Widgets for slander.

Because the engagement is limited to a specific undertaking, the firm's acceptance of this engagement does not involve an undertaking to provide any services to you or any of your interests in any other matter unless specifically requested by you and agreed by the firm. After completion of this matter, changes may occur in pertinent laws or regulations that will have an impact upon your client's future rights and liabilities. Unless you engage us after completion of this matter to provide advice on issues arising from this matter, the firm will have no obligation to provide any advice to you or to your clients with respect to future legal developments.

You may limit or expand the scope of the firm’s engagement from time to time, provided that the firm must agree to any expansion of scope. Except as we may otherwise agree in writing, the terms of this engagement letter apply to all expansions in the scope of engagement and to all additional engagements for you which the firm may undertake.

Hourly Fee Rates

The firm has agreed to represent Defective Widgets at fees of $100 per hour for partners, and at $25 per hour for associates. Paralegal and law clerk services are billed at a rate of $200 per hour.
These rates are subject to periodic adjustment, generally at the beginning of a calendar year, with 30 days notice to you.

Costs and Disbursements

In addition to the fees listed above, you will be responsible for the cost and disbursements which may be incurred in the course of our representation of you. These disbursements include court costs and filing fees, service of process fees, expert fees, transcript costs, long-distance telephone charges, facsimile charges, photocopy costs, travel expenses, computer research costs, overnight and hand-delivery charges, and any other additional charges other than the actual payment of attorneys' fees. Outside vendor bills in excess of $250 will be sent directly to you for payment. You acknowledge that our relationship with vendors will be adversely impacted if you do not pay such vendor bills promptly.

Monthly Statements

The firm will send you monthly statements for services performed and costs advanced, payable within thirty (30) days of the billing date. (If a monthly statement is of a nominal amount, we may hold those charges to a subsequent month.) If you fail to pay the bills for legal services sent to you, the firm will have the right to cease performing services on your behalf until the outstanding bills are made current. Interest will be charged at a rate of eighteen (18%) percent per annum on all late bills.

[ALTERNATIVE LANGUAGE FOR LITIGATION: If you fail to pay the bills for legal services sent to you, the firm has the right, if it has entered its appearance in a case, to file a motion to withdraw from the case, pursuant to applicable rules. If the firm has not entered an appearance before a tribunal, then the firm has the right to cease performing services on your behalf. Interest will be charged at a rate of eighteen (18%) percent per annum on all late bills.]

Retainer

The firm requires a retainer of $10,000 for this engagement. The retainer will ordinarily be held until the end of the engagement and applied against the firm's final invoice for services. Any excess will be refunded to you. The firm may, however, at any time and at its option apply the retainer to any balance that has remained outstanding for more than 60 days. In such event, you agree to replenish the retainer, or furnish a larger retainer, as the firm reasonably believes may be necessary to insure payment of its final invoice.

Termination of Retainer Agreement

If the firm represents you before a tribunal, you agree that we shall have the right to withdraw from representation, by filing a motion with the tribunal, if you do not make payments as required by this Agreement, or if you have misrepresented or failed to disclose material facts, or failed to follow advice after a course of action has been discussed, to the extent permitted by applicable rules and/or the court. In any of these events, you will substitute attorneys at our request.

[Option 2 for Transactional Services: Either of us may terminate the engagement at any time for any reason by providing 60-day written notice, subject on the part of the firm to the requirements of any applicable rules of professional conduct. Unless we agree to render additional services for]
you, the firm’s work for you will terminate 60 days from the date written notice was sent.]  

[Option 3: Add: The matter shall be deemed to be concluded and our representation under this Agreement terminated upon, at the latest, the entry of any final judgment in the trial court.]  

Document Retention  

During the course of the engagement, the firm shall maintain a file on your behalf that will include both documents and electronically stored information ("the file"). The file may include material such as pleadings, transcripts, exhibits, reports, contracts, wills, certificates and other documents as are determined to be reasonably necessary to the representation. The file shall be and remain your property. The firm may also include in the file attorney work product, mental impressions and notes (collectively "work product"). The work product shall be and remain the property of the firm.  

At the termination of the engagement or upon our firm's sending you its final statement. Whichever occurs earlier, the firm will return to you all original documents that you have provided to us. In addition, the firm will make you a copy of all other parts of the file as you want, subject to payment of the costs of copying, allowed by Massachusetts Rules of Professional Conduct, Rule 1.16. If you do not request possession of the file within this time period, the firm will have no further responsibility for the retention and maintenance of the file and may at its option dispose of all or parts of the file without further notice to you.  

Predictability of Results  

The results, and the time required to obtain such results, in a given case will depend on many uncertain factors. Therefore, we are unable to guarantee or even predict with any degree of certainty the result in any matter. That being said, I do, however, look forward to working with you toward a successful resolution of this matter.  

Governing Law  

This Agreement shall be governed and construed in accordance with the Laws of the Commonwealth of Massachusetts and the rules of the Supreme Judicial Court of Massachusetts.  

In the event that you have questions or comments about our bills or services, I request that you advise me thereof promptly. It is our goal that you be fully satisfied with our services as well as the cost thereof.  

If this letter correctly sets forth your understanding of our agreement, and any questions you might have concerning the same have been answered to your satisfaction, please sign and return the original of this letter and maintain a copy for your own records.  

[Option: Also request that retainer, if applicable, be remitted with signed original.]  

We look forward to working with you and appreciate the opportunity to be of service.
Very truly yours,

[Attorney]

Accepted and Agreed to:
DEFECTIVE WIDGETS, INC.

By: ______________________________
Mr. Bad Shape

Date: _____________________________
CLIENT’S FEE AGREEMENT
(Litigation)

I, xxxxxxxxxxxxxxxx, of xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx, (the "Client"), hereby agrees to retain the law firm of _____________________-Massachusetts, (the "Firm"), in connection with xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx.

1. The Client hereby agrees to reimburse the Firm for all costs and disbursements incurred by it and to pay for all legal services performed on the Client's behalf at the hourly rates set forth herein below.¹ This Agreement is not contingent upon the outcome of the above-referenced litigation.

2. a. The Firm hereby acknowledges receipt of Five Thousand Dollars ($5,000.00) as an initial retainer deposit in this matter, and, in consideration of the payment thereof, agrees to provide legal services in connection therewith. In the event that the sum of money being held as a retainer falls below the amount of Two Thousand Five Hundred Dollars ($2,500.00), the Firm will notify the Client and the Client shall, on each occasion, as requested, replenish all amounts necessary to bring the Client’s retainer account balance to Five Thousand Dollars ($5,000.00). The Client shall complete, execute and return to the Firm, along with this Fee Agreement, IRS Form W-9, a copy of which is attached hereto.

b. In the event that the matter proceeds beyond the initial response or the scope of the initial engagement changes, the retainer shall then be increased to the amount of Ten Thousand Dollars ($10,000.00). In the event that the new retainer falls below the amount of Five Thousand Dollars ($5,000.00), the client shall, on each occasion, as requested, replenish all amounts necessary to bring the Client’s retainer account balance to Ten Thousand Dollars ($10,000.00).

c. In the event that a determination is made by any party, the Client, or the Firm, that the matter is likely to proceed to a trial or hearing, the retainer shall then be increased to the amount of Twenty Thousand Dollars ($20,000.00). In the event that the new retainer falls below the amount of Ten Thousand Dollars ($10,000.00), the client shall, on each occasion, as requested, replenish all amounts necessary to bring the Client’s retainer account balance to Twenty Thousand Dollars ($20,000.00).

d. In the event that the money being held as a retainer is insufficient to satisfy any of the Firm’s invoices, the Client shall promptly pay such invoices in full, and replenish the retainer. The Client understands that no precise estimate of legal fees can be given. The total amount of attorneys’ fees, costs, and disbursements may be substantially more, or less, than the retainers. The Firm's present estimate to complete this representation is not known.

In addition, in the event that the Firm, in its sole discretion, determines that the money being held as a retainer or the estimate of legal fees to be incurred in the matter is insufficient to satisfy

¹These rates are subject to the Firm’s annual increases as of each January 1, beginning with [insert date].
any of the Firm’s prior or future anticipated invoices, the Client shall provide a financial statement or other evidence of available assets by which to secure the payment of future legal fees and Client shall execute instruments, such as a promissory note, revolving credit agreement and/or a mortgage or other security, to guarantee and secure the payment of legal fees. The Firm will inform the Client of its determination to seek security and present the client with the forms to be signed and that Client will have the opportunity in the ten (10) days after being informed to seek advice from independent counsel prior to the execution of such instrument(s) and the provision of such security. The Client shall have the ten (10) days from the presentation by the Firm of such forms to be signed. The failure of the Client to execute such instruments within the ten (10) day period, will permit the Firm, after notice to the Client, to terminate the representation of the Client, as allowed by any applicable rules or laws.

3. It is agreed by and between the Client and the Firm that the retainer paid herein by the Client shall be applied against legal services actually performed, and disbursements made, by the Firm for the Client, which services shall be charged at the following current hourly rates:

Primary lawyer(s)

Other lawyers
  Partners
  Associates

Paralegals

4. It is understood and agreed by and between the Client and the Firm that the bills/invoices rendered, including a final bill, shall, in addition to the time expended, take into account the following factors described by the Supreme Judicial Court as to the reasonableness of fees for legal services:

- the time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal services properly;
- the likelihood, if apparent to the Client, that the acceptance of the particular employment, will preclude other employment by the lawyer;
- the fee customarily charged in the locality for similar legal services;
- the amount involved and the results obtained;
- the time limitations imposed by the Client or by the circumstances;

These rates are subject to the Firm’s annual increases as of each January 1, beginning with [insert date].
the nature and length of the professional relationship with the Client;

the experience, reputation and ability of the lawyer or lawyers performing the services; and,

whether the fee is fixed or contingent.

Invoices will be submitted to the Client from time to time (generally monthly) and the outstanding sum of time charges and disbursements of the Firm will be deducted from the retainer. All interim billings shall be due and payable upon receipt unless otherwise stated. Failure to pay interim billings promptly, to make the payments as set forth herein or to promptly replenish the retainers, will entitle the Firm, after notice to the Client, to apply to the Court for leave to withdraw from representing you, subject to the requirements of any applicable Rules of Professional Conduct or rules of the Court. The Client agrees that the final bill submitted by the Firm for legal fees and costs will be due and payable at the conclusion of the matter or at the termination of the Attorney-Client relationship, as allowed by any applicable rules or laws.

5. The Client agrees to assume and pay for all out-of-pocket disbursements incurred in connection with this matter (e.g., filing fees, witness fees, travel and mileage costs, sheriff’s and constable's fees, expenses of depositions, including transcript costs, investigative expenses, expert witness fees, outside consultant fees, charges for photocopies, including any outside photocopying, postage, Federal Express, courier, file retrieval, Lexis-Nexis and/or any other computer research, and other incidental expenses); and the Firm agrees to obtain Client’s prior approval, excepting costs associated with deposition transcripts, before incurring any specific disbursement expected to be in excess of Five Hundred Dollars ($500.00). In the event that the Firm determines that it is appropriate to consult with and/or retain an expert witness or consultant, the Firm will notify the Client and obtain the Client’s consent to consult with or retain such expert witness and/or consultant for the benefit of the Client. In such an event, the Client agrees to pay for all costs and fees associated with the retention of such expert and/or consultant.

6. In the event that, upon either the completion of the within matter, or, the termination of the Firm's representation of the Client, the total cost of the legal services performed and disbursements made by the Firm shall be less than the amount of any retainers paid by the Client, the balance shall be refunded to the Client by the Firm.

7. It is understood and agreed that the hourly time charge for legal services includes, but is not limited to, the following: Appearances (including travel time to and from Court, or other administrative, juridical or investigative entity, department or body); conferences, whether with the Client, opposing counsel, lawyers within the Firm or potential witnesses; telephone calls; correspondence; legal research and writing, depositions, drafting and filing legal documents; reading and reviewing of file materials and preparation for any hearings and trial. Telephone calls and correspondence shall be billed at either actual time or a minimum of one-tenth (1/10) of one hour.

8. In some cases the Court awards counsel fees to one party and orders the other party to
pay the amount awarded; such awards are solely in the discretion of the Court and cannot be relied on with certainty. Also, in some cases, if there is a settlement agreed to by any of the parties thereby avoiding a contested trial, the settlement contract may provide that one of the parties will contribute an agreed amount towards the other party's legal expenses. In the initial stages of a case it is impossible to predict whether either of the above situations will materialize and therefore no representation is made in this Agreement that any contribution by the other party will be obtained towards the Client's legal expenses. In the event, however, that any such contributions are obtained for the benefit of the Client, the amount in question will be credited against the Firm's final bill to the Client.

9. If the Client and Firm are unable to resolve their differences on the question of any fee, and/or expenses, they hereby agree to make a good faith effort at resolving their disputes. If the dispute cannot be resolved, the Client and Firm agree to place the matter before the Fee Arbitration Board of the Massachusetts Bar Association and agree to be bound by the decision.

10. If the Firm is discharged by the Client prior to the conclusion of this representation, the Firm is entitled to be then compensated for the value of the services rendered to the Client under this Agreement up to the time of discharge, and for its reasonable expenses and disbursements.

11. The Firm and the Client state that the Firm has made no promise or guarantee as to the successful resolution or eventual outcome of this matter, and that this Agreement is not based upon any such promises or anticipated results.

THIS IS A LEGALLY BINDING CONTRACT. ASK TO HAVE EACH TERM YOU DO NOT UNDERSTAND FULLY EXPLAINED TO YOU SO THAT YOU UNDERSTAND THE AGREEMENT YOU ARE MAKING.

12. The Client has read this Agreement carefully and understands the terms hereof.

SIGNED IN DUPLICATE

_______________________________________________  __________________________________
Date                                                                                         xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx

By:                                                                                           _______________________________
CLIENT’S FEE AGREEMENT

_____________________________________, of ___________________________ (the "Client"), hereby agree to retain the law firm of ___________________________ Massachusetts (the "Firm"), in connection with _____________________________________________________________________________.

1. The Client hereby agrees to reimburse the Firm for all costs and disbursements incurred by it and to pay for all legal services performed on the Client's behalf at the hourly rates set forth herein below. This Agreement is not contingent upon the outcome of the above-referenced matter.

2. a. The Firm hereby acknowledges receipt of Five Thousand Dollars ($5,000.00) as an initial retainer deposit in this matter and, in consideration of the payment thereof, agrees to provide legal services in connection therewith. In the event that the sum of money being held as a retainer falls below the amount of Two Thousand Five Hundred Dollars ($2,500.00), the Firm will notify the Client and the Client shall, on each occasion, as requested, replenish all amounts necessary (“refresher”) to bring the Client’s retainer account balance to Five Thousand Dollars ($5,000.00). The Client shall complete, execute and return to the Firm, along with this Fee Agreement, IRS Form W-9, a copy of which is attached hereto.

   b. In the event that the scope of the engagement anticipated by the Firm at the inception of the attorney-client relationship increases or changes in any way, or should the Client fail to keep the appropriate retainer balance, the Firm reserves the right, upon thirty (30) days notice to the Client, to increase the base amount of the retainer and any refresher.

   c. In the event that the money being held as a retainer is insufficient to satisfy any of the Firm’s invoices, the Client shall promptly pay such invoices in full, and replenish the full retainer. The total amount of attorneys’ fees, costs, and disbursements may be substantially more, or less, than the retainers. The Firm's present estimate to complete this representation is not known. The Client understands that no precise estimate of legal fees can be given.

3. It is agreed by and between the Client and the Firm that the retainer paid herein by the Client shall be applied against legal services actually performed, and disbursements made, by the Firm for the Client, which services shall be charged at the following current hourly rates:

   Primary lawyers

   Other lawyers
   Partners

---

1 These rates are subject to the Firm’s annual increases as of each January 1, beginning with [insert date].

2 These rates are subject to the Firm’s annual increases as of each January 1, beginning with [insert date].
4. It is understood and agreed by and between the Client and the Firm that the bills/invoices rendered, including a final bill, shall, in addition to the time expended, take into account the following factors described by the Supreme Judicial Court as to the reasonableness of fees for legal services:

- the time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal services properly;
- the likelihood, if apparent to the Client, that the acceptance of the particular employment, will preclude other employment by the lawyer;
- the fee customarily charged in the locality for similar legal services;
- the amount involved and the results obtained;
- the time limitations imposed by the Client or by the circumstances;
- the nature and length of the professional relationship with the Client;
- the experience, reputation and ability of the lawyer or lawyers performing the services; and,
- whether the fee is fixed or contingent.

Invoices will be submitted to the Client from time to time (generally monthly) and the outstanding sum of time charges and disbursements of the Firm will be deducted from the retainer. All interim billings shall be due and payable upon receipt unless otherwise stated. Failure to pay interim billings promptly, to make the payments as set forth herein or to promptly replenish the retainers, will entitle the Firm, after notice to the Client, to apply to the Court for leave to withdraw from representing you, subject to the requirements of any applicable Rules of Professional Conduct or rules of the Court. The Client agrees that the final bill submitted by the Firm for legal fees and costs will be due and payable at the conclusion of the matter or at the termination of the Attorney-Client relationship, as allowed by any applicable rules or laws.

5. The Client agrees to assume and pay for all out-of-pocket disbursements incurred in connection with this matter (e.g., filing fees, travel and mileage costs, investigative expenses, expert fees, outside consultant fees, charges for photocopies, including any outside photocopying, postage, Federal Express, courier, file retrieval, Lexis-Nexis and/or any other computer research, and other incidental expenses); and the Firm agrees to obtain Client’s prior approval before incurring any specific disbursement expected to be in excess of Five Hundred Dollars ($500.00). In the event that the Firm determines that it is appropriate to consult with and/or retain an expert or consultant, the Firm will notify the Client and obtain the Client’s consent to consult with or retain...
such expert and/or consultant for the benefit of the Client. In such an event, the Client agrees to pay for all costs and fees associated with the retention of such expert and/or consultant.

6. In the event that, upon either the completion of the within matter, or, the termination of the Firm's representation of the Client, the total cost of the legal services performed and disbursements made by the Firm shall be less than the amount of any retainers paid by the Client, the balance shall be refunded to the Client by the Firm.

7. It is understood and agreed that the hourly time charge for legal services includes, but is not limited to, the following: travel time to and from meetings; conferences, whether with the Client, opposing counsel, lawyers within the Firm or potential witnesses; telephone calls; correspondence; legal research and writing, depositions, drafting and filing legal documents; reading and reviewing of file materials and preparation for any meetings or conferences. Telephone calls and correspondence shall be billed at either actual time or a minimum of one-tenth (1/10) of one hour.

8. In addition, in the event that the Firm, in its sole discretion, determines that the money being held as a retainer or the estimate of legal fees to be incurred in the matter is insufficient to satisfy any of the Firm’s prior or future anticipated invoices, the Client shall provide a financial statement or other evidence of available assets by which to secure the payment of future legal fees and Client shall execute instruments, such as a promissory note, revolving credit agreement and/or a mortgage or other security, to guarantee and secure the payment of legal fees. The Firm will inform the Client of its determination to seek security and present the client with the forms to be signed. In such event, the Client shall have the ten (10) days from the presentation by the Firm of such forms to be signed to seek advice from independent counsel prior to the execution of such instrument(s) and the provision of such security. The failure of the Client to execute such instruments within the ten (10) day period will permit the Firm, after notice to the Client, to terminate the representation of the Client, as allowed by any applicable rules or laws.

9. If the Client and Firm are unable to resolve their differences on the question of any fee, and/or expenses, they hereby agree to make a good faith effort at resolving their disputes. If the dispute cannot be resolved, the Client and Firm agree to place the matter before the Fee Arbitration Board of the Massachusetts Bar Association, or some other fee dispute resolution body, and agree to be bound by the decision.

10. If the Firm is discharged by the Client prior to the conclusion of this representation, the Firm is entitled to be then compensated for the fair value of the services rendered to the Client up to the time of discharge, and for its reasonable expenses and disbursements.

11. The Firm and the Client state that the Firm has made no promise or guarantee as to the successful resolution or eventual outcome of this matter, and that this Agreement is not based upon any such promises or anticipated results.

THIS IS A LEGALLY BINDING CONTRACT. ASK TO HAVE EACH TERM YOU DO NOT UNDERSTAND FULLY EXPLAINED TO YOU SO THAT YOU UNDERSTAND THE AGREEMENT YOU ARE MAKING.
12. The Client has read this Agreement carefully and understands the terms hereof.

SIGNED IN DUPLICATE

Date

By:

__________________________
ENGAGEMENT WITH POSSIBLE LITIGATION TO FOLLOW

CLIENT’S FEE AGREEMENT

I, __________________________ (the "Client"), hereby agree to retain the law firm of __________________________, Massachusetts (the "Firm") in connection with _______________________________________.

1. Client hereby agrees to reimburse the Firm for all costs and disbursements incurred by it and to pay for all legal services performed on Client's behalf at the hourly rates set forth herein below. This Agreement is not contingent upon the outcome of the above-referenced litigation.

   The Firm hereby acknowledges receipt of Ten Thousand Dollars ($10,000.00) as an initial retainer deposit for initial consultation and related services in regard to this matter, and, in consideration of the payment thereof, agrees to provide legal services in connection therewith. In the event that the sum of money being held as a retainer falls below the amount of Five Thousand Dollars ($5,000.00), the Firm will notify Client and Client will pay, on each occasion, as requested, additional retainers in the amount of Five Thousand Dollars ($5,000.00). In the event that the money being held as a retainer is insufficient to satisfy any of the Firm’s invoices, Client shall promptly pay such invoices in full, and replenish the retainer. Client understands that no precise estimate of legal fees can be given. The total amount of attorneys’ fees, costs, and disbursements may be substantially more, or less, than this initial retainer. The Firm's present estimate to complete this representation is not known. The Client shall complete, execute and return to the Firm, along with this Fee Agreement, IRS Form W-9, a copy of which is attached hereto.

2. It is agreed by and between Client and the Firm that if it becomes apparent to the Firm that the matter will proceed to trial, then, upon that determination or conclusion by the Firm, the retainer shall be increased to Twenty Thousand Dollars ($20,000.00), and shall be paid immediately upon request. After this increase of retainer, if the amount of money being held as a retainer falls below Ten Thousand Dollars ($10,000.00), the Firm will notify Client and Client will pay, on each occasion requested, additional retainers in the amount of Ten Thousand Dollars ($10,000.00).

3. It is not intended that this Agreement cover any appeal that may be filed following a trial by any party.

5. In addition, in the event that the Firm, in its sole discretion, determines that the money being held as a retainer or the estimate of legal fees to be incurred in the matter is insufficient to satisfy any of the Firm’s prior or future anticipated invoices, Client shall provide a financial statement or other evidence of available assets by which to secure the payment of future legal fees and Client shall execute instruments, such as a promissory note, revolving credit agreement and/or a mortgage or other security instruments, to guarantee and secure the payment of legal fees. The Firm will inform Client of its determination to seek security and present Client with the forms to be signed and that Client will have the opportunity in the ten (10) days after being so informed to seek advice from independent counsel prior to the execution of such instrument(s) and the provision of such security. Client shall have the ten (10) days from the presentation by the Firm
of such forms to be signed. The failure of Client to execute such instruments within the ten (10) day period, will permit the Firm, after notice to Client, to terminate representation of Client, as allowed by any applicable rules or laws.

6. It is agreed by and between Client and the Firm that the retainer paid herein by Client shall be applied against legal services actually performed, and disbursements made, by the Firm for Client, which services shall be charged at the following current hourly rates:

(a) Primary lawyer

(b) Other lawyers
   Partners
   Associates

(c) Paralegals

(These rates are subject to the Firm's annual increases as of each January 1, beginning with January 1, 2008.)

7. It is understood and agreed by and between Client and the Firm that the bills/invoices rendered, including a final bill, shall, in addition to the time expended, take into account the following factors described by the Supreme Judicial Court as to the reasonableness of fees for legal services:

(a) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal services properly;

(b) the likelihood, if apparent to Client, that the acceptance of the particular employment, will preclude other employment by the lawyer;

(c) the fee customarily charged in the locality for similar legal services;

(d) the amount involved and the results obtained;

(e) the time limitations imposed by Client or by the circumstances;

(f) the nature and length of the professional relationship with Client;

(g) the experience, reputation and ability of the lawyer or lawyers performing the services; and,

(h) whether the fee is fixed or contingent.

Invoices will be submitted to Client from time to time (generally monthly) and the outstanding sum of time charges and disbursements of the Firm will be deducted from the retainer.
All interim billings shall be due and payable upon receipt unless otherwise stated. Failure to pay interim billings promptly or to make the payments as set forth herein will permit the Firm, after notice to Client, to terminate the representation of Client, subject to applicable rules of Court and any applicable Rules of Professional Conduct. Client agrees that the final bill submitted by the Firm for legal fees and costs will be due and payable at the conclusion of the matter or at the termination of the Attorney - Client relationship.

8. Client agrees to assume and pay for all out-of-pocket disbursements incurred in connection with this matter (e.g., filing fees, witness fees, travel and mileage costs, sheriff's and constable's fees, expenses of depositions, including transcript costs, investigative expenses, expert witness fees, outside consultant fees, charges for photocopies, including any outside photocopying, postage, Federal Express, courier, file retrieval, Lexis-Nexis and/or any other computer research, and other incidental expenses); and the Firm agrees to obtain Client’s prior approval, excepting costs associated with deposition transcripts, before incurring any specific disbursement expected to be in excess of Five Hundred Dollars ($500.00). In the event that the Firm determines that it is appropriate to consult with and/or retain an expert witness or consultant, the Firm will notify Client and obtain Client’s consent to consult with or retain such expert witness and/or consultant for the benefit of Client. In such an event, Client agrees to pay for all costs and fees associated with the retention of such expert and/or consultant.

9. In the event that, upon either the completion of the within matter or the termination of the Firm's representation of Client, the total cost of the legal services performed and disbursements made by the Firm shall be less than the amount of any retainers paid by Client, the balance shall be refunded to Client by the Firm.

10. In some cases the Court awards counsel fees to one party and orders the other party to pay the amount awarded; such awards are solely in the discretion of the Court and cannot be relied on with certainty. Also, in some cases, if there is a settlement agreed to by any of the parties thereby avoiding a contested trial, the settlement contract may provide that one of the parties will contribute an agreed amount towards the other party's legal expenses. In the initial stages of a case it is impossible to predict whether either of the above situations will materialize and therefore no representation is made in this Agreement that any contribution by the other party will be obtained towards Client's legal expenses. In the event, however, that any such contributions are obtained for the benefit of Client, the amount in question will be credited against the Firm's final bill to Client.

11. If the Firm is discharged by Client prior to the conclusion of this representation, the Firm is entitled to be then compensated for the fair value of the services rendered to Client up to the time of discharge, and for its reasonable expenses and disbursements.

12. The Firm and Client state that the Firm has made no promise or guarantee as to the successful resolution or eventual outcome of this matter, and that this Agreement is not based upon any such promises or anticipated results.

13. Client acknowledges and agrees that he/she/it has been apprised of the possible benefits and the risks and detriments associated with litigation, including, but not limited to the
possibility that the attorneys fees and costs contemplated by this Agreement may exceed the monetary value to or the amount of the claims and/or defenses to be litigated and that, upon execution of this Agreement, Client assumes full responsibility for that risk as a part of entering into this Agreement.


THIS IS A LEGALLY BINDING CONTRACT. ASK TO HAVE EACH TERM YOU DO NOT UNDERSTAND FULLY EXPLAINED TO YOU SO THAT YOU UNDERSTAND THE AGREEMENT YOU ARE MAKING.

15.  Client has read this Agreement carefully and understands the terms hereof.

SIGNED IN DUPLICATE

CLIENT

__________________________ __________________________
Date

[FIRM]

By: ____________________________
Contingent Fee Agreements
From SJC Rule 3:07 - Massachusetts Rules of Professional Conduct Rule 1.5

CONTINGENT FEE AGREEMENT, FORM A

To be Executed in Duplicate

Date:____________________, 20__

The Client _____________________________________________________
(Name) (Street & Number) (City or Town)

retains the Lawyer___________________________________________________
(Name) (Street & Number) (City or Town)

to perform the legal services mentioned in paragraph (1) below. The lawyer agrees to perform
them faithfully and with due diligence.

(1) The claim, controversy, and other matters with reference to which the services are to be
performed are:

(2) The contingency upon which compensation is to be paid is recovery of damages, whether by
settlement, judgment or otherwise.

(3) The lawyer agrees to advance, on behalf of the client, all out-of-pocket costs and expenses.
The client is not to be liable to pay court costs and expenses of litigation, other than from
 amounts collected for the client by the lawyer.

(4) Compensation (including that of any associated counsel) to be paid to the lawyer by the client
on the foregoing contingency shall be the following percentage of the (gross) (net) [indicate
which] amount collected. [Here insert the percentages to be charged in the event of collection.
These may be on a flat rate basis or in a descending or ascending scale in relation to the amount
collected.] The percentage shall be applied to the amount of the recovery not including any
attorney's fees awarded by a court or included in a settlement. The lawyer's compensation shall
be such attorney's fees or the amount determined by the percentage calculation described above,
whichever is greater.

(5) [IF APPLICABLE] The client understands that a portion of the compensation payable to the
lawyer pursuant to paragraph 4 above shall be paid to [Name of Attorney entitled to a share of
compensation] and consents to this division of fees.

(6) [IF APPLICABLE] If the attorney-client relationship is terminated before the conclusion of
the case for any reason, the attorney may seek payment for the work done and expenses
advanced before the termination. Whether the lawyer will receive any payment for the work
done before the termination, and the amount of any payment, will depend on the benefit to the

1 See Rule, attached.
client of the services performed by the lawyer as well as the timing and circumstances of the termination. Such payment shall not exceed the lesser of (i) the fair value of the legal services rendered by the lawyer, or (ii) the contingent fee to which the lawyer would have been entitled upon the occurrence of the contingency. This paragraph does not give the lawyer any rights to payment beyond those conferred by existing law.

(7) [USE IF LAWYER IS SUCCESSOR COUNSEL] The lawyer is responsible for payment of former counsel’s reasonable attorney’s fees and expenses and the cost of resolving any dispute between the client and prior counsel over fees or expenses.

This agreement and its performance are subject to Rule 1.5 of the Rules of Professional Conduct adopted by the Massachusetts Supreme Judicial Court.

WE EACH HAVE READ THE ABOVE AGREEMENT BEFORE SIGNING IT.

<table>
<thead>
<tr>
<th>Witnesses to signatures</th>
<th>Signatures of client and lawyer</th>
</tr>
</thead>
<tbody>
<tr>
<td>(To client)</td>
<td>(Signature of client)</td>
</tr>
<tr>
<td></td>
<td>(Signature of lawyer)</td>
</tr>
<tr>
<td>(To lawyer)</td>
<td></td>
</tr>
</tbody>
</table>

2014 05 13

Sample Fee Agreements Package 36
From SJC Rule 3.07 - Massachusetts Rules of Professional Conduct Rule 1.5

CONTINGENT FEE AGREEMENT, FORM B¹

To be Executed in Duplicate

Date:_______________, 20__

The Client _____________________________________________________
(Name) (Street & Number) (City or Town)
retains the Lawyer___________________________________________________
(Name) (Street & Number) (City or Town)
to perform the legal services mentioned in paragraph (1) below. The lawyer agrees to perform
them faithfully and with due diligence.

(1) The claim, controversy, and other matters with reference to which the services are to be
performed are:

(2) The contingency upon which compensation is to be paid is:

(3) Costs and Expenses. The client should initial next to the option selected.

(i) The lawyer agrees to advance, on behalf of the client, all out-of-pocket costs and expenses.
The client is not to be liable to pay court costs and expenses of litigation, other than from
amounts collected for the client by the lawyer; or

(ii) The client is not to be liable to pay compensation or court costs and expenses of litigation
otherwise than from amounts collected for the client by the lawyer, except as follows:

(4) Compensation (including that of any associated counsel) to be paid to the lawyer by the client
on the foregoing contingency shall be the following percentage of the (gross) (net) [indicate
which] amount collected. [Here insert the percentages to be charged in the event of collection.
These may be on a flat rate basis or in a descending or ascending scale in relation to the amount
collected.] The percentage shall be applied to the amount of the recovery not including any
attorney's fees awarded by a court or included in a settlement. The lawyer's compensation shall
be such attorney's fees or the amount determined by the percentage calculation described above,
whichever is greater. [Modify the last two sentences as appropriate if the parties agree on some
other basis for calculation.]

(5) [IF APPLICABLE] The client understands that a portion of the compensation payable to the
lawyer pursuant to paragraph 4 above shall be paid to [Name of Attorney entitled to a share of
compensation] and consents to this division of fees.

¹ See Rule, attached.
(6) [IF APPLICABLE] If the attorney-client relationship is terminated before the conclusion of the case for any reason, the attorney may seek payment for the work done and expenses advanced before the termination. Whether the lawyer will be entitled to receive any payment for the work done before the termination, and the amount of any payment, will depend on the benefit to the client of the services performed by the lawyer as well as the timing and circumstances of the termination. Such payment shall not exceed the lesser of (i) the fair value of the legal services rendered by the lawyer, or (ii) the contingent fee to which the lawyer would have been entitled upon the occurrence of the contingency. This paragraph does not give the lawyer any rights to payment beyond those conferred by existing law.

(7) [USE IF LAWYER IS SUCCESSOR COUNSEL] Payment of any fees owed to former counsel. The client should initial next to the option selected.

(i) The lawyer is responsible for payment of former counsel’s reasonable attorney’s fees and expenses and the cost of resolving any dispute between the client and prior counsel over fees or expenses; or

(ii) The client is responsible for payment of former counsel’s reasonable attorney’s fees and expenses and the cost of resolving any dispute between the client and prior counsel over fees or expenses.

This agreement and its performance are subject to Rule 1.5 of the Rules of Professional Conduct adopted by the Massachusetts Supreme Judicial Court.

WE EACH HAVE READ THE ABOVE AGREEMENT BEFORE SIGNING IT.

Witnesses to signatures
(To client)
____________________________________
____________________________________

(To lawyer)
____________________________________
____________________________________

Signatures of client and lawyer

____________________________________
(Signature of client)

____________________________________
(Signature of lawyer)
Alternative Fee Agreements
FLAT FEE AGREEMENT

1. **Anonymous Lawyer, S.C.,** Attorney at Law (hereinafter “Attorney”), is engaged to represent __________________________ (hereinafter "Client"), in a __________________________ matter in _____________ County. Attorney and Client agree that Attorney is retained to perform the following legal service in connection with the matter: [INSERT DESCRIPTION OF SCOPE OF REPRESENTATION].

2. Client agrees to pay a flat fee of $ ________ for this service. That fee, upon payment, becomes the property of the law firm. It will be deposited in Attorney’s business account, rather than the firm’s trust account, and Client hereby specifically agrees that Attorney may do so.

3. Client will be responsible for costs incurred in the representation, such as witness and subpoena fees, process server’s fees, investigator’s fees, mileage for travel, parking, etc., that Attorney expects to incur in this matter and Client agrees to pay $ ________ as an initial advance for costs. Attorney will deposit the cost advance in Attorney’s trust account and disburse as needed to pay costs incurred on behalf of client. Client further agrees to pay, upon demand, any additional costs or disbursements incurred or advanced on Client's behalf.

4. In the event Client fails to pay Attorney’s fees and/or costs and disbursements pursuant to this agreement, Attorney may withdraw as counsel upon written, timely notice to Client, subject to the court’s authorization to withdraw.

5. At the conclusion of the representation, Attorney will provide client with a written accounting of all fees in the matter and a refund of any advanced fees that have not been earned and advanced costs that have not been used. If Attorney’s representation terminates prior to the performance of the agreed-upon service, Attorney will provide client with a written accounting of the fees earned and costs incurred, and a refund of any unearned fees and/or unexpended costs.
6. If Client disputes the amount of fees or refund, if any, of unearned fees, Client must notify Attorney, in writing, of the dispute within 30 days of the date of the final accounting. Client has the right to demand binding fee arbitration through available fee arbitration program to resolve the dispute. The parties agree to be bound by the decision. Client is not required to agree to binding arbitration and may elect any other legal means to settle the dispute. If Client agrees to binding arbitration, Attorney must submit the dispute to binding arbitration within 30 days of receiving timely written notice of the dispute.

7. This agreement does not cover or apply to the filing of, prosecution of, or defense of an appeal, in which case a new representation and fee agreement must be executed.

8. Storage of Files: Due to space limitations, it is our firm policy that files be stored in our storage area for seven (7) years after conclusion of a particular matter. After seven (7) years, the file is ordinarily destroyed. If you should desire a copy of the file, or any part of it, after the conclusion of this matter, it will be your responsibility to make a specific written request for those documents within that seven (7) year period. If no such request is made, the file may be destroyed after seven (7) years in accordance with firm policy.

9. By signing this agreement, I agree that I have had an opportunity to discuss the agreement with Attorney, understand the agreement, and have had an opportunity to ask questions and have received an explanation for any questions that I had.

Dated this _____ day of ______________, 2007, at Hometown, Wisconsin.

ANONYMOUS LAWYER, S.C.

_____________________________
Anonymous Client

_____________________________
Anonymous Lawyer, Attorney-at-Law
Nonengagement and Disengagement Letters
NON-ENGAGEMENT LETTER

(May be sent by certified mail, with a return receipt requested)

DATE

NAME
ADDRESS
CITY, STATE & ZIP

RE: [SUBJECT]

Dear:

The purpose of this letter is to confirm, based on our conversation of [date], that [insert firm name] will not represent you in [describe matter] because [insert reason for declination, if possible and appropriate to state it]. Our decision to decline this case should not be construed as a statement of the merits of your case.

You should be aware that any action in this matter must be filed within the applicable statute of limitations. I strongly recommend that you consult with another lawyer concerning your rights in this matter.

You should immediately confer with another attorney for assistance in order to pursue this matter. The Massachusetts Bar Association Lawyer Referral can assist you in finding a lawyer if you do not have the name of available. They can be contacted by telephone at 866-MASS-LRS or online by clicking “Need a Lawyer?” at www.massbar.org.

This will also confirm that I am not charging you for any legal service or advice, and we have not provided any advice to you [if that is correct]. Finally, all documents which you have provided to us have been returned to you.

Very truly yours,

Enclosures
RE: [Subject]

Dear [Name]:

We wish to take this opportunity to thank you for allowing us to represent you in the [describe] matter. In order to tie up all the loose ends, we will [outline any final matters you will take care of]. In addition, you will need to [outline everything the client is responsible for at this time].

Since this matter is now closed, we suggest that you keep all your copies of information relating to the matter in a safe place where you can easily locate them. We are closing our file, which will be kept for a period of [10 years]. We are returning your original [records, documents] related to your case.

We hope this matter has been concluded to your satisfaction. We would appreciate your filling out the enclosed evaluation questionnaire. The information you provide will help us improve our services.

Thank you for allowing us to represent you in this matter. If we can be of further assistance on this or any other matter, please let us know.

Very truly yours,

[Insert Lawyer's Name]
[Insert Firm's Name]
Alternative Clauses

Upon termination of this engagement, all papers, documents and other materials supplied to us by you in connection with that engagement will be returned to you upon your written request. You may also request copies of all discovery documents, pleadings and other papers filed with or by the court or served by or upon any party. Those papers and documents will be delivered to you upon payment of the cost of copying the requested documents. In addition, you may request and receive copies of documents and other things prepared in the course of litigation, such as lawyers’ notes, internal memoranda, legal and factual research, investigative reports and other work product prepared in the course of the engagement, but only if you have paid for the work performed.

This firm is not a document repository and we reserve the right to destroy or otherwise dispose of documents and other materials in the file within a reasonable time after termination of this engagement. We have no obligation to retain files relating to this engagement beyond a reasonable period of time sufficient to permit you to request documents as set forth above. Under certain circumstances there may be exceptions and we may be required by the law to retain documents, but otherwise, there will be no exception unless we specifically agree in writing to retain and store documents.
FEE AGREEMENT – SPECIAL PROVISION FOR INTERNET/CLOUD SERVICES

We use Internet and cloud based services for storing information and files, sharing information with clients and experts and for ease of access. These internet based services may include, among others, tracking appointments and other calendar events, storing contact information, tracking time, storing files and documents, sharing files with you and other authorized persons or entities and file synchronization services to keep this information up to date.

Whether we store this information in our physical offices or with an internet/cloud based service, we have an obligation to protect confidential information. Specifically, Supreme Court Rule 20:1.6 Confidentiality requires that we not reveal information relating to our representation of you without your informed consent and we are therefore advising you of our intent to use these services in your representation. In addition to this Rule, there are a number of entities that have issued ethics opinions on the use of internet/cloud services by lawyers in representing their clients. These opinions state that using internet/cloud services by lawyers are acceptable so long as the firm takes reasonable steps to prevent the disclosure of confidential information. These steps include reviewing the various policies, procedures and security safeguards that an internet/cloud provider has in place. We follow the recommendations that have been made in one or more of these ethics opinion, but we would be remiss in not stating that no one can provide an absolute guarantee that a disclosure will not happen whether information is stored in our office or on the internet. What we can guarantee is that we will take all reasonable steps to insure that such a disclosure does not occur. We do this by conducting a thorough review of each and every internet/cloud provider that we use. Only after this review and the determination that a disclosure of confidential information is very unlikely are we satisfied that the service complies with our obligations to represent you. We understand though if you are not comfortable with our use of these services in representing you. If you prefer that we do not use these services in your representation, please cross out this provision and initial in the margin.