

**Opioid Litigation
SAAG Contract**

**State of Michigan
Department of Attorney General**

DANA NESSEL, Attorney General of the State of Michigan (Attorney General), and the Department of Attorney General (the Department) retain and appoint the firms of The Sam Bernstein Law Firm, as well as Levin, Papantonio, Thomas, Mitchell, Rafferty & Proctor, P.A., and Baron & Budd, P.C. (the Firms), to provide legal services through the appointment of the following individuals as Special Assistant Attorneys General (SAAGs):

Mark Bernstein
The Sam Bernstein Law Firm
31731 Northwestern Highway
Suite 333
Farmington Hills, MI 48334

Peter Mougey
Levin, Papantonio, Thomas, Mitchell, Rafferty & Proctor, P.A.
316 South Baylen Street
Suite 600
Pensacola, FL 32591

Russell Budd
Baron & Budd, P.C.
3102 Oak Lawn Avenue
Suite 1100
Dallas, TX 75219

The legal services provided to the State of Michigan will be pursuant to the following terms and conditions in this Contract:

1. PARTIES/PURPOSE

1.1 Parties. The parties to this Contract are the Department of Attorney General and the Firms. Mark Bernstein, Peter Mougey, and Russell Budd have authority to execute this Contract on behalf of their respective Firms. No other attorney may engage in the practice of law on behalf of the State of Michigan under this Contract without the Department's prior approval, a Contract amendment, and a SAAG appointment from the Attorney General, unless listed in Attachment A.

1.2 Purpose. The Department and the firms agree that the SAAGs will provide legal services to the State of Michigan, as well as to the Attorney General in her official capacity, in connection with the investigation of, preparation for, settlement of and/or actual litigation arising from the alleged improper, unlawful, fraudulent or wrongful practices of opioid manufacturers, distributors and pharmacies and/or their officers, directors, affiliates, predecessors or other related entities ("Scope of Representation"). The SAAGs are to represent the State of Michigan only in connection with the Scope of Representation and all case resolutions are to be approved in advance by the Department.

1.3 Work Product. The Firms and SAAGs understand that all work product is subject to review by the Department. The Department reserves the right to deny payment for any work product deemed unacceptable. Delivery of such a deficient work product may also result in Contract termination under paragraph 9 of this Contract.

2. TERM OF CONTRACT

The initial term of this Contract is September 20, 2019 through September 30, 2021. This Contract may be extended at the option of the Department upon thirty (30) calendar days written notice.

3. COMPENSATION AND COST REIMBURSEMENT

3.1 Compensation and the repayment of costs and disbursements shall be contingent upon a successful recovery of funds being obtained from Defendant(s) in the litigation pursued under the terms of this Contract (whether through settlement or final non-appealable judgment).

3.2 If no recovery is made, the State owes nothing for costs incurred by Firms or SAAGs and is not obligated to reimburse the Firms or SAAGs for any costs or fees.

3.3 If a recovery is obtained, the fees, costs will be calculated pursuant to the attached Fee and Cost Agreement (Attachment B to this contract.) The SAAGs are required to submit a monthly statement to the Department of Attorney General setting forth in detail any potentially reimbursable costs incurred with respect to this appointment, together with a running total of costs accumulated since the execution of this Contract.

4. REPRESENTATIONS

4.1 Qualifications. The SAAGs, by signing this Contract, attest that they are qualified to perform the services specified in this Contract and agree to faithfully and diligently perform the services consistent with the standard of legal practice in the community.

4.2 Conflict of Interest. Prior to entering into this Contract, the SAAGs and the Firms must identify and disclose to the Department any matter in which the SAAGs or any member of the Firms are involved in which is adverse to the State of Michigan. The SAAGs represent that they have conducted a conflicts check prior to entering into this Contract. The SAAGs will maintain appropriate conflict screening measures where any conflict appears to exist. The aforementioned SAAGs and their respective firms agree to not undertake representation of a client if the representation of that client is or will be adverse to the State of Michigan, unless the SAAGs obtain prior written approval to do so from the Department.

The Department has been advised that the SAAGs represent certain municipalities within the State of Michigan and nationwide with regard to opioids and does not consider that representation itself to be adverse to the State of Michigan.

With respect to potential conflicts of interest, other lawyers in the SAAGs' firm must be advised of the SAAGs' representation of the State of Michigan, and that the Firms have agreed not to accept, without prior written approval from the Department, any employment from other interests adverse to the State of Michigan. SAAGs and their respective firms must carefully monitor any significant change in the assignments or clients of the firm in order to avoid any situation which might affect its ability to effectively render legal services to the State of Michigan.

4.3 Services to be Confidential. The SAAGs must keep confidential all services and information, including records, reports, and estimates. The SAAGs must not divulge any information to any person other than to authorized representatives of the Department, except as required by testimony under oath in judicial proceedings, or as otherwise required by law. The SAAGs must take all necessary steps to ensure that no member of their firm divulges any information concerning these services. This includes, but is not limited, to information maintained on the SAAG's computer system.

All files and documents containing confidential information must be filed in separate files maintained in the office of the SAAGs with access restricted to each SAAG and needed clerical personnel. All documents prepared on the SAAGs' computer systems must be maintained in a separate library with access permitted only to each SAAG and needed clerical personnel.

4.4 Assignments and Subcontracting. The SAAGs must not assign or subcontract any of the work or services to be performed under this Contract, including work assigned to other members or employees of the SAAGs' firm, without the prior written approval of the Department. Any member or employee of the SAAGs' firm or outside subcontracted firms who received prior approval from the Department to perform services under this Contract is bound by the terms and conditions of this Contract.

4.5 Facilities and Personnel. The SAAGs have and will continue to have proper facilities and personnel to perform the services and work agreed to be performed.

4.6 Advertisement. The SAAGs, during the term of appointment and thereafter, must not advertise their position as a SAAG to the public. The SAAGs designation may be listed on the SAAG's resume or other professional biographical summary, including resumes or summaries that are furnished to professional societies, associations, or organizations. Any such designation by the SAAGs must first be submitted to and approved by the Department.

4.7 Media Contacts. The SAAGs may not engage in any on or off the record communication (written or spoken) with any member of the media without advance approval and appropriate vetting by the Director of Communications of the Department of Attorney General.

4.8 Records. As set forth in Paragraph 3.3 of this Contract, the SAAGs must submit a monthly statement to the designated representative(s) of the Attorney General, setting forth in detail any potentially reimbursable costs incurred with respect to this appointment, together with a running total of costs accumulated since the execution of this Contract. These invoices shall be considered confidential and not be subject to discovery in the litigation brought under the Scope of Work. The records must be kept in accordance with generally accepted accounting practices and sound business practices. The Department or its designees reserve the right to inspect all records of the SAAGs related to this Contract.

4.9 Non-Discrimination. The SAAGs, in the performance of this Contract, as well as their respective law firms, agree not to discriminate against any employee or applicant for employment, with respect to their hire, tenure, terms, conditions or privileges of employment, or any matter directly or indirectly related to employment, because of race, color, religion, national origin, ancestry, age, sex, height, weight, marital status, physical or mental disability unrelated to the individual's ability to perform the duties of the particular job or position. This covenant is required by the Elliott-Larsen Civil Rights Act, MCL 37.2101 *et seq.*, and the Persons with Disabilities Civil Rights Act, MCL 37.1101 *et seq.*, and any breach of the Act may be regarded as a material breach of the Contract. The SAAG agrees to comply with the provisions of the Federal Civil Rights Act of 1964, 42USC §2000d, in performing the services under this Contract.

4.10 Unfair Labor Practices. The State will not award a contract or subcontract to any employer, or any subcontractor, manufacturer, or supplier of the employer, whose name appears in the current register compiled pursuant to 1980 PA 278, MCL 423.321 *et seq.* The State may void this Contract if after the award of the Contract, the name of the SAAGs or their respective law firms appear in the register.

4.11 Compliance. The SAAGs' activities under this Contract are subject to applicable State and Federal laws and to the Rules of Professional Conduct applicable to members of the Michigan Bar Association. In accordance with MCL 18.1470, DTMB or its designee may audit Contractor to verify compliance with this Contract.

4.12 Independent Contractor. The relationship of the SAAGs to the Department of Attorney General in this Contract is that of an independent contractor. No liability or benefits, such as workers compensation rights or liabilities, insurance rights or liabilities, or any other provisions or liabilities, arising out of or related to a contract for hire or employer/employee relationship, must arise, accrue or be implied to either party or either party's agent, subcontractor, or employee as a result of the performance of this Contract. The SAAGs and their respective law firms will be solely and entirely responsible for their acts and the acts of the SAAG's respective law firms' agents and employees during the performance of this Contract. Notwithstanding the above, the relationship is subject to the requirements of the attorney-client privilege.

5. MANAGEMENT OF CASES

5.1 Notifications. The SAAGs must direct all notices, correspondence, inquiries, billing statements, pleadings, and documents mentioned in this Contract to the attention of the Department's Opinions Division. The Division Chief of the Opinions Division is the Contract Manager, unless notice of another designation is received from the Attorney General. The Division Chief may designate an Assistant Attorney General to oversee the day to day administration of the Contract.

For the Department:

DJ Pascoe, Division Chief
Michigan Department of Attorney General
Opinions Division
P.O. Box 30212
Lansing, MI 48909
Tel: 517-335-7215
Fax: 517-335-7644

For the SAAGs:

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3102 Oak Lawn Avenue
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Dallas, TX 75219
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rbudd@baronbudd.com

5.2 The SAAGs must promptly inform the Contract Manager of the following developments as soon as they become known:

- A. Favorable actions or events that enable meeting time schedules and/or goals sooner than anticipated.
- B. Delays or adverse conditions that materially prevent, or may materially prevent, the meeting of the objectives of the services provided. A statement of any remedial action taken or contemplated by the SAAGs must accompany this disclosure.
- C. All major developments that may impact their representation of the State of Michigan in the opioid litigation.

The SAAGs must:

- A. Promptly undertake all efforts, including legal proceedings, as directed by the Attorney General or her designee(s), and must prosecute any case to its conclusion unless directed to the contrary by the Attorney General or her designee(s).
- B. Provide copies of all pleadings filed in any court by the SAAGs, or by the opposing party, to the Attorney General or her designee(s).

5.3 Motions. Before any dispositive motion is filed, the supporting brief

must be submitted to the Attorney General or her designee(s) for review and approval for filing with the court.

5.4 Investigative Support. All claims will be vigorously pursued and prepared for filing. If authorized by the Contract Manager, use of investigative subpoenas must be thorough and aggressive. The Attorney General or her designee(s) may request investigative subpoenas in addition to what the SAAGs have filed.

5.5 Discovery Requests. The SAAGs must consult with Contract Manager and assist in the preparation of answers to requests for discovery. The SAAGs must indicate those requests to which they intend to object.

5.6 Witness and Exhibit Lists. At least ten (10) calendar days before the day a witness list or an exhibit list is due, the Contract Manager must receive a preliminary witness list or exhibit list for review and recommendation of additional names of witnesses or additional exhibits.

5.7 Mediation. Fifteen (15) calendar days before any mediation, the mediation summary must be submitted to the Contract Manager for review and recommendation. Immediately following mediation, the SAAGs must submit a status memorandum indicating the amount of the mediation and a recommendation to accept or reject the mediation.

5.8 Trial Dates. The SAAGs must advise the Contract Manager immediately upon receipt of a trial date.

5.9 Settlements. All settlements are subject to approval by the Department. The SAAGs must immediately communicate any plea/settlement proposal received along with a recommendation to accept, reject, or offer a counter-proposal to any offer received to the Department's Contract Manager. "Settlement" includes, but is not limited to, the voluntary remand of a case to the trial court or by way of stipulation or motion.

5.10 Allocation. The Scope of Representation of the SAAGs does not include the allocation of any settlement funds between or among the State, on one hand, and its municipalities and/or tribes or other entities (third-party payors, hospitals, etc.) on the other. In the event there is a dispute regarding the allocation of settlement funds between the State and any other entity, nothing in this Scope of Representation precludes the SAAGs from representing municipalities in allocation disputes. If such a dispute arises regarding the allocation of settlement funds the Firms, if requested by the State, will identify and provide alternative counsel to represent the State on the allocation issue.

5.11 Experts. The SAAGs must provide advance notice to the Contract Manager prior to the selection of experts or consultants, and the Attorney General

shall have the right to reject proposed experts or consultants. The SAAGs shall cooperate with the Department of Attorney General and make all records and documents relevant to the tasks as described in the Scope of Work available to the Department through the Contract manager or his or her designee in a timely fashion.

5.12 Money. SAAGs must only accept payment by an opposing party under those terms as directed by the Contract Manager.

5.13 File Closing. The SAAGs must advise the Contract Manager, in writing, of the reason for closing a file (e.g., whereabouts unknown, no assets, bankruptcy, payment in full, or settlement).

6. INDEMNIFICATION

The SAAGs agree to hold harmless the State of Michigan, its elected officials, officers, agencies, boards, and employees against and from any and all liabilities, damages, penalties, claims, costs, and charges (including, without limitation, fees and costs of attorneys, expert witnesses and other consultants) which may be imposed upon, incurred by, or asserted against the State of Michigan for either of the following reasons:

- A. Any malpractice, negligent or tortious act or omission attributable, in whole or in part, to the SAAGs or any of their employees, consultants, subcontractors, assigns, agents, or any entities associated, affiliated, or subsidiary to the SAAGs now existing, or later created, their agents and employees for whose acts any of them might be liable.
- B. The SAAG's failure to perform their obligations either expressed or implied by this Contract.

7. INSURANCE

7.1 Errors and Omissions. The SAAGs or their respective law firm must maintain professional liability insurance sufficient in amount to provide coverage for any errors or omissions arising out of the performance of any of the professional services rendered pursuant to this Contract.

7.2 Certificates of Insurance. Certificates evidencing the purchase of insurance must be furnished to the Department's Contract Manager, upon request. All certificates are to be prepared and submitted by the insurance provider and must contain a provision indicating that the coverage(s) afforded under the policies will not be cancelled, materially changed, or not renewed without thirty (30) calendar days prior written notice, except for ten (10) calendar days for non-payment of premium, and any such notice of cancellation, material change, or non-renewal must be promptly forwarded to the Department upon receipt.

7.3 Additional Insurance. If, during the term of this Contract changed conditions should, in the judgment of the Department, render inadequate the insurance limits the SAAGs will furnish, on demand, proof of additional coverage as may be required. All insurance required under this Contract must be acquired at the expense of the SAAGs or their respective law firms, under valid and enforceable policies, issued by insurers of recognized responsibility. The Department reserves the right to reject as unacceptable any insurer.

8. APPEALS

The SAAGs agree that no appeal of any order(s) of the Michigan Court of Claims, any Michigan Circuit Court, the Michigan Court of Appeals, or any United States District Court will be taken to the Michigan Court of Appeals, the Michigan Supreme Court, or any United States Circuit Court of Appeals, without prior written approval of the Michigan Solicitor General, Department of Attorney General. Further, the SAAGs agree that no petition for certiorari will be filed in the United States Supreme Court without prior written permission of the Michigan Solicitor General, Department of Attorney General.

9. TERMINATION OF CONTRACT AND APPOINTMENT

9.1 SAAG Termination. The SAAGs may terminate this Contract upon sixty (60) calendar day's prior written notice (Notice of Termination). Upon delivery of such notice, the SAAGs must continue all work and services until otherwise directed by the Attorney General or her designee. The SAAGs will be paid only as set forth in the fee arrangement specified under the Fee and Cost Agreement for legal services rendered prior to termination. Payment will be made upon the conclusion of any litigation field and only upon an award or settlement in favor of the State.

9.2 Attorney General Termination. The Department may terminate this Contract and SAAGs appointment, at any time and without cause, by issuing a Notice of Termination to the SAAGs.

9.3 Termination Process and Work Product. Upon receipt of a Notice of Termination, and except as otherwise directed by the Attorney General or her designee, the SAAGs must:

- A. stop work under the Contract on the date and to the extent specified in the Notice of Termination;
- B. incur no costs beyond the date specified by the Department;
- C. on the date the termination is effective, submit to the Contract Manager all records, reports, documents, and pleadings (to include electronic files) as the Department specifies and carry out such

directives as the Department may issue concerning the safeguarding and disposition of files and property; and

- D. submit within thirty (30) calendar days a closing memorandum and final billing.

Upon termination of this Contract, all finished or unfinished original (or copies when originals are unavailable) documents, briefs, files, notes, or other materials (the "Work Product") prepared by the SAAGs under this Contract, must become the exclusive property of the Department, free from any claims on the part of the SAAGs except as herein specifically provided. The Work Product must promptly be delivered to the Attorney General or her designee. The SAAGs acknowledge that any intentional failure or delay on its part to deliver the Work Product to the Department will cause irreparable injury to the State of Michigan not adequately compensable in damages and for which the State of Michigan has no adequate remedy at law. The SAAGs accordingly agree that the Department may, in such event, seek injunctive relief in a court of competent jurisdiction. The Department must have full and unrestricted use of the Work Product for the purpose of completing the services. In addition, each party will assist the other party in the orderly termination of the Contract.

The rights and remedies of either party provided by the Contract are in addition to any other rights and remedies provided by law or equity.

10. GENERAL PROVISIONS

10.1 Governing Law and Jurisdiction. This Contract is subject to and will be constructed according to the laws of the State of Michigan, and no action must be commenced against the Department or the Attorney General, her designee, agents or employees for any matter whatsoever arising out of this Contract, in any courts other than the Michigan Court of Claims.

10.2 No Waiver. A party's failure to insist on the strict performance of this Contract does not constitute waiver of any breach of the Contract.

10.3 Additional SAAGs. It is understood that during the term of this Contract, the Department may contract with other SAAGs providing the same or similar services.

10.4 Other Debts. The SAAGs agrees that they are not, and will not become, in arrears on any contract, debt, or other obligation to the State of Michigan, including taxes.

10.5 Invalidity. If any provision of this Contract or its application to any persons or circumstances to any extent is judicially determined to be invalid or unenforceable, the remainder of this Contract will not be affected, and each

provision of the Contract will be valid and enforceable to the fullest extent permitted by law.

10.6 Headings. Contract section headings are for convenience only and must not be used to interpret the scope or intent of this Contract.

10.7 Entire Agreement. This Contract represents the entire agreement between the parties and supersedes all proposals or other prior agreements, oral or written, and all other communications between the parties.

10.8 Amendment. No Contract amendment will be effective and binding upon the parties unless it expressly makes reference to this Contract, is in writing, and is signed by duly authorized representatives of all parties and all the requisite State approvals are obtained.

10.9 Issuing Office. This Contract is issued by the Department, and is the only state office authorized to change the terms and conditions of this Contract.

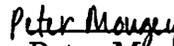
10.10 Counterparts. This Contract may be signed in counterparts, each of which has the force of an original, and all of which constitute one document.

Dated: 09/26/19



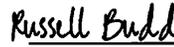
Mark Bernstein

Dated: 09/26/19



Peter Moughey

Dated: 09/26/19



Russell Budd

Dated: 10/05/19



Dana Nessel, Attorney General
or her Designee
Michigan Department of Attorney
General

Certificate Of Completion

Envelope Id: 0ECA45E9E1EE4D02BF29A062A06E7AE6

Subject: Please DocuSign: Michigan Opioid SAAG Contract - Draft 9.24.19.docx

Source Envelope:

Document Pages: 11

Certificate Pages: 2

AutoNav: Enabled

Envelope Stamping: Enabled

Time Zone: (UTC-05:00) Indiana (East)

Signatures: 3

Initials: 0

Status: Completed

Envelope Originator:

Pamela Burko

31731 Northwestern Highway
Suite 333

Farmington Hills, MI 48334

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IP Address: 209.202.228.170

Record Tracking

Status: Original

9/26/2019 9:08:43 AM

Holder: Pamela Burko

pburko@sambornstein.com

Location: DocuSign

Signer Events

Mark Bernstein

mbernstein@sambornstein.com

President

Security Level: Email, Account Authentication
(Optional)

Signature



Signature Adoption: Drawn on Device

Using IP Address: 209.202.228.162

Signed using mobile

Timestamp

Sent: 9/26/2019 9:16:32 AM

Viewed: 9/26/2019 9:19:44 AM

Signed: 9/26/2019 9:20:16 AM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Peter Mougey

pmougey@levinlaw.com

Security Level: Email, Account Authentication
(Optional)



Signature Adoption: Pre-selected Style

Using IP Address: 35.135.130.98

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Signed: 9/26/2019 2:53:23 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

Russell Budd

rbudd@baronbudd.com

Security Level: Email, Account Authentication
(Optional)



Signature Adoption: Pre-selected Style

Using IP Address: 64.47.216.34

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Viewed: 9/26/2019 7:18:03 PM

Signed: 9/26/2019 7:18:16 PM

Electronic Record and Signature Disclosure:
Not Offered via DocuSign

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

Envelope Sent

Hashed/Encrypted

9/26/2019 9:16:32 AM

Certified Delivered

Security Checked

9/26/2019 7:18:03 PM

Signing Complete

Security Checked

9/26/2019 7:18:16 PM

Completed

Security Checked

9/26/2019 7:18:16 PM

Payment Events

Status

Timestamps

Attachment A

Authorized Special Assistant Attorneys General

1. Mark Bernstein

**The Sam Bernstein Law Firm
31731 Northwestern Highway
Suite 333
Farmington Hills, MI 48334**

- 2. Peter Mougey**
- 3. Troy Rafferty**
- 4. Brandon Bogle**
- 5. Jeff Gaddy**
- 6. Page Poerschke**
- 7. Laura Dunning**

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316 South Baylen Street
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Pensacola, FL 32591**

- 8. Russell Budd**
- 9. Jennifer Connolly**
- 10. Burton Leblanc**
- 11. Mark Pifko**
- 12. Catherine Dorsey**

**Baron & Budd, P.C.
3102 Oak Lawn Avenue
Suite 1100
Dallas, TX 75219**

ATTACHMENT B

FEE AND COST AGREEMENT

Dana Nessel, the Attorney General of the State of Michigan (Attorney General), the Department of Attorney General (the Department) and the law firms of The Sam Bernstein Law Firm, as well as Levin, Papantonio, Thomas, Mitchell, Rafferty & Proctor, P.A., and Baron & Budd, P.C. (the Firms) agree to the following Fee and Cost Agreement pursuant to the terms of the accompanying Legal Services Contract.

1. The Firms will not receive any compensation from the Department for any services rendered unless the State of Michigan recovers civil penalties, compensatory or punitive damages, and/or attorneys' fees in connection with this Litigation. If the State obtains such a recovery, the Firms will be compensated for its services as follows:
 - a. Those costs necessary for conducting the work within the Scope of Representation, as defined by accompanying Legal Services Contract, shall initially be advanced by the Firms and shall be deducted from any eligible gross or total recovery, if any, before any further distribution is made;
 - b. Of the monies remaining from any recovery after deduction of costs, the Firms shall receive a contingent fee in an amount to be decided by a panel of neutral arbiters. The panel shall consist of three arbiters, one selected by the Attorney General of the State of Michigan, one selected by the Governor of the State of Michigan, and one selected by the Firms. The panel shall determine the fee based on a set of objective standards consistent with the public interest, to be determined upon successful resolution of the case, whether through verdict, settlement, or judgement.
 - c. Under no circumstances shall the State of Michigan or the Department be obligated to pay any attorney's fee or any litigation expenses except from moneys expended by any defendant(s) pursuant to the resolution of the State of Michigan's claims.
2. All settlement or judgment proceeds paid to settle claims by the State of Michigan shall be paid by or on behalf of the defendant(s) as directed by the contract manager for the Department.
3. The Firms shall advance all costs, including but not limited to expert witness fees and costs, deposition costs, travel and costs of document review and production. The Firms' agreement to advance all Litigation costs, as well as its agreement to defer fees while any and all Litigation (including appeals

and enforcement actions) is pending, shall be taken into consideration in determining an appropriate fee as outlined above.

4. The Firms shall be reimbursed for its costs solely from the Litigation's gross recovery as approved by the Attorney General or her designee for certain reasonable costs enumerated below. Proper documentation by receipts or otherwise shall be submitted with all invoices and all documentation shall be retained by the Firms for a least one full year following this Agreement's termination. All costs must be itemized and no reimbursement may be applied for or requested for "miscellaneous" listings. The Attorney General in her sole discretion may decline to reimburse the Firms for improperly documented, unnecessary, or unreasonable costs.
5. The Firms may be reimbursed for its costs solely from the Litigation's gross recovery as approved by the Attorney General for the retention of a bankruptcy attorney, provided the identity, scope of services, and compensation and payment schedule is approved in writing by the Attorney General prior to retention.
5. The Attorney General and the Department will not pay for attorney or paralegal time spent performing clerical tasks, such as filing, indexing, or page numbering.
6. Reimbursable costs.
 - a. Extraordinary costs. Unless prior written approval of the Attorney General or her designee is obtained, the Department shall have no obligation to reimburse the Firms for any extraordinary costs incurred by the Firms, including without limitation, costs for investigative services, computer litigation support services, videotaping of depositions, meals, and services of experts and consultants which exceed \$25,000 per expert or consultant.
 - b. Ordinary costs. Costs, such as the following, incurred by the Firms will be eligible for reimbursement from the Department at actual cost, provided that written substantiation or verification (such as invoices and billings, and the taxpayer identification number of the entity to which payment was made) is submitted by the Firms and the costs are deemed reasonable and necessary by the Department:
 - (1) Depositions and transcripts;
 - (2) Long-distance telephone calls;

- (3) Postage;
- (4) Photo copying;
- (5) Outside messenger service; or
- (6) Outgoing faxes.

7. No State obligation to pay. Notwithstanding any other provision of this Agreement, the Attorney General and Department shall have no duty to pay the Firms, nor any of its attorneys, legal assistants, paralegals, and any other staff, nor any other person performing services on behalf of the Firms, unless the requirements described in this Cost and Fee Agreement are first met to the Attorney General and Department's satisfaction. The Attorney General and Department will not be required to pay for any services it determines to be unreasonable, unnecessary, or duplicative.