

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

Engagement Letter: Contingent Fee

[Date]

[Name and Address]

Dear _____:

It was a pleasure meeting with you on _____ to discuss _____ representation of you regarding your personal injury claim. The purpose of this agreement is to set forth the terms upon which _____ agrees to represent you, in order to establish and maintain a mutual understanding of the goals and respective responsibilities of you, as client, and _____.

Scope of Service

You have retained _____ (_____) to investigate and represent you on your claim for [_____] on or about _____ in the City of _____, County of _____, State of _____. [As we discussed, _____ will not be representing your spouse, _____, in this litigation because of potential attorney/client privilege and conflict of interest concerns. I have advised _____, by letter dated _____, that _____ cannot represent her and that she is responsible for retaining separate counsel to pursue her claim for damages arising out of this same automobile accident.] (Conflict of interest acknowledgment)

Client Cooperation

In order to effectively advocate your interests, you have an affirmative obligation to cooperate with _____ during the pendency of this matter. For example, you will be required to furnish certain documents, information and releases and may be required to attend depositions and court appearances. Consequently, you are expected to provide requested documentation promptly to the appropriate firm representative, whether an attorney, paralegal or secretary. You must also be available to work with _____ attorneys in preparation for depositions, court appearances and to discuss issues as they arise throughout this matter. A client's non-cooperation is grounds for _____ withdrawal.

In return, _____ agrees to keep you informed of the status of this matter and to consult with you when appropriate. Copies of significant correspondence and documents will be sent to you for your review and file. In the event that we are out of the office or otherwise unavailable, please leave a message with my secretary disclosing the nature and urgency of the call. Even if the attorney cannot respond directly, someone will return your call with an appropriate response.

Legal Fees, Costs and Disbursements

As compensation for our services, _____ will be paid in accordance with the attached Contingent Fee Agreement which is incorporated herein by reference.

General Lawsuit Information

In order to demystify the lawsuit process, _____ would like to explain, in some detail, how a lawsuit is handled and what you can expect during the pendency of this action.

A lawsuit is commenced by the service and filing of a Summons and Complaint. The Complaint recites facts upon which the Plaintiff asserts liability against the Defendant, which, in this case, would be for _____. The Defendant then has a limited number of days in which to serve and file an answer which typically denies the claims asserted in the Complaint.

After the lawsuit is commenced, both the Plaintiff(s) and Defendant(s) are afforded a limited period of time called "discovery", during which they investigate the strengths and weaknesses of each other's claims. Written questions called "interrogatories" are frequently exchanged which require written responses about the facts and claims asserted by both parties. Oral depositions are also commonly used as a discovery tool. Parties to the action, as well as witnesses, orally answer questions posed by opposing counsel which are simultaneously recorded by a stenographer. Depositions are very important, because the testimony can later be used at trial to perhaps point out inconsistencies between deposition and trial testimony. Also, depositions are helpful in ascertaining the strength and credibility of the deponent. If interrogatories are sent to us, we will explain the procedure and assist you and any other company employees with answering the questions. If your deposition is taken, we will meet with you prior to the deposition to discuss the process and will also be present at the deposition.

If your case does not settle after discovery is terminated, then a trial will take place, usually before a judge and six-person jury. Prior to trial, we will spend considerable time with you and any other witnesses explaining how a trial is conducted and reviewing everyone's testimony. It is entirely possible that several trial dates will be set, only to be continued because of crowded court calendars. It is very important that you understand the delays that often attend suits; they can stretch on for years, which is why your commitment to and patience with this process is imperative.

Assignment of Firm Personnel

I will be primarily responsible for the supervision of your matter, but you are hiring _____, not me individually. If necessary, I reserve the right to draw upon the talent and expertise of other partners and associates within the firm and to utilize paralegal staff to handle ministerial tasks.

Withdrawal

You have the right to our representation at any time, subject to payment of any outstanding costs and disbursements. Conversely, _____ serves the right to withdraw from representation, subject to the ethical restrictions imposed upon us by the applicable Rules of Professional Responsibility. If _____ chooses to terminate representation, notice will be sent to your last known address.

Binding Agreement

This Agreement, which incorporates the attached Contingent Fee Agreement, represents the entire agreement between _____ and _____. By signing below, you acknowledge that this Agreement has been carefully reviewed and its content understood, and you agree to be bound by all of its terms and conditions. Furthermore, you acknowledge that _____ has made no representation to you regarding the outcome of this action for which _____ has been retained.

If this Agreement reflects your understanding of our relationship, please sign and return the enclosed duplicate copies of both this Engagement Agreement and the attached Contingent Fee Agreement. In conformance with firm policy, we cannot commence work upon your matter until we have received both this executed Agreement and the retainer.

Thank you again for this opportunity to be of service to you.

Sincerely,

[Name]

ARBITRATION

Any controversy or claim arising out of or relating to this Agreement shall be settled by arbitration in the County of _____, State of _____, as follows:

[Insert appropriate jurisdictional requirements regarding a) selection of arbitration; b) arbitration procedure; c) procedural impact of arbitrator’s decision; d) review rights; and e) costs of arbitration.

I have reviewed and agreed to the above terms of engagement of _____.

Date: _____

[Name]