

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: Contingency Fee Agreement for Legal Services – With Referral Fee

I, the undersigned client, do hereby retain and employ [name of firm] (the “Firm”) as my lawyers to represent me [describe case or matter – see options provided below]

Option 1: ***[concerning injuries I received arising from an accident that occurred on***

___/___/___

at _____]

Option 2: ***[in a claim for the death of _____***

arising out of incidents that occurred _____]

Option 3: ***[in a claim against _____ regarding***

_____]

As compensation for the services rendered by ***[name of firm]***, I agree to pay ***[name of firm]*** ***[describe contingency fee – see options provided below]***.

Option 1: ***[% of whatever may be recovered from said claim whether through settlement, trial, arbitration, or mediation.]***

Option 2: ***the following contingency fee based on whatever proceeds are recovered:***

_____ % if settled without suit being filed;

_____ % in the event suit is filed;

_____ % in the event a second trial or an appeal becomes necessary.]

Option 3: ***[_____ % of the first \$ _____;***

_____ % of the next \$ _____;

_____ % of any amount of proceeds recovered over \$ _____.¹

I understand and agree that the firm of _____ ***[name of referring lawyer or firm]*** will receive a fee of ***[_____]*** for referring this matter to ***[name of your firm]***. This fee shall be paid from the total agreed contingent fee identified in the foregoing paragraph and shall not impact the client’s share of the amount recovered. ***[Name of referring lawyer or firm]*** agrees to assume the same legal responsibility for the performance of the services in question as would a partner of ***[name of your firm]***.²

I understand and agree that the court may review contingent fee agreements for fairness, and that, in special circumstances where a lawyer performs extraordinary services involving more than usual participation in time and effort, lawyers may apply to the court for approval of additional compensation.

I further agree that the expenses and other costs associated with this matter will be deducted from the sum recovered **after the lawyer fee is deducted**. Such expenses may include but are not limited to items such as costs of investigation, subpoena fees, court fees, expenses for consultants, experts and other witnesses, deposition costs, postage, photocopy fees and travel costs. Other costs may include required reimbursement of others pursuant to valid liens.

In the event no recovery is made, I understand and agree that I will still be responsible for the payment of such expenses but will not be responsible for the payment of any lawyer fees. At the time the **[case/matter]** is closed, **[name of firm]** will provide me with an accounting of the disbursements made in my **[case/matter]**.

[Optional retainer fee provision:

We require that you pay a security retainer of [enter dollar amount] before we will commence any work on your behalf. We will place the security retainer in our client trust account and the retainer funds shall remain the property of the client until applied to our expenses. Charges will be made against the retainer as out-of-pocket expenses are incurred on the file until such time as the retainer is exhausted. The retainer must be received by [insert date].³

I acknowledge that the Firm has suggested that I should keep a copy of all of the documents related to my claim in a file folder that the Firm has provided to you. After the matter is closed, I may obtain copies of my file by paying the Firm's standard photocopying charges and a minimum fee to compensate the Firm for the time necessary to duplicate the file.⁴

I agree that the Firm has made no promises or guarantees regarding the outcome of my claim. I understand that the firm will investigate my claim and if, after such investigation, the claim does not appear to them to have merit, the Firm shall have the right to cancel this agreement and shall have the right to withdraw from any lawsuit by giving me notice by regular mail.

I understand that, due to storage constraints, portions of the file may be destroyed upon the conclusion of the engagement.

[Notice pursuant to Personal Injury Representation Agreement Act]⁵

I acknowledge that I received and read a copy of this agreement on this ____ day of _____, 20__, and understand its provisions.⁶

Client Signature

Print Name

ACCEPTED BY: _____

[Name of Receiving Firm]
ACCEPTED BY: _____
[Name of Referring Firm]

Sincerely,

¹ Note Regarding Medical Malpractice Claims: Pursuant to Illinois law (735 ILCS 5/2-1114), the total contingent fee for plaintiff's lawyers in all medical malpractice actions shall not exceed 33 1/3% of all sums recovered.

² See [Illinois Rules of Professional Conduct Rule 1.5](#) regarding referral fees.

³ If you use the suggested retainer language, calendar the retainer due date. If the retainer is not received by that date, send a nonengagement letter. This will avoid a situation in which the potential client forgets or ignores the retainer request but still believes that a lawyer-client relationship exists.

⁴ For a more detailed discussion on file retention issues, see [File Documentation, Management and Retention](#).

⁵ **NOTICE OF PERSONAL INJURY REPRESENTATION AGREEMENT ACT**

The law in Illinois (815 ILCS 640/1) regarding Personal Injury Agreements provides:

"Any person who makes an agreement with any other person to represent him in his claim for settlement of a personal injury claim within 5 days after the occurrence which gives rise to the claim may, within a 10-day period after the occurrence, elect to avoid the agreement by notifying the other person in writing of the election by registered or certified mail, return receipt requested."

"The person undertaking the representation of the injured party by such agreement must, at the time of the agreement, furnish the party with whom the agreement is made a copy of the agreement and the address to which the notice may be sent and a copy of this Act, and obtain written acknowledgment of receipt of such from the party represented. If he fails to do so, the 10-day period provided for in this Act does not commence to run until the agreement, address and a copy of this Act are furnished."

⁶ Calendar a follow-up date after sending the letter. If a signed copy of the letter is not received from the client by that date, send another letter. If that is not answered, send a [Non-Engagement Letter](#). This will avoid any misunderstanding as to whether you are representing the client.

DISCLAIMER: This sample form is designed to reduce the likelihood of being sued for legal malpractice. It is not intended to be, nor should it be considered legal advice. It is not the intent of this form to suggest or establish practices standards or standards of care applicable to a lawyer's performance in any given situation. Rather, the sole purpose of this sample form is to assist lawyers insured by ISBA Mutual in avoiding legal malpractice claims, including meritless and frivolous claims. To that end, the intention is to advise lawyers insured by ISBA Mutual to conduct their practices in a manner that is well above the accepted norm and standards of care established by substantive legal malpractice law. The recommendations contained in these materials are not necessarily appropriate for every lawyer or law firm and do not represent a complete analysis of each topic.