

Legal Services Agreement

The Lexington-Fayette Urban County Government (hereinafter "CLIENT") hereby retains outside counsel, pursuant to the Kentucky Rules of Professional Responsibility, KRS 67A.060, 67.080, 67.083, the Lexington-Fayette Urban County Charter, and *Lawrence County v. Stewart*, 287 Ky. 827, 155 S.W. 2d 446 (1941), on a contingent fee basis, to pursue all civil remedies against those in the chain of distribution of prescription opiates responsible for the opioid epidemic which is plaguing Fayette County (Kentucky), including, but not limited to, filing a claim for public nuisance to abate the damages caused thereby. **Peter J. Mougey, Esq.** of the law firm LEVIN, PAPANTONIO, THOMAS, MITCHELL, RAFFERTY & PROCTOR, PA shall serve as LEAD COUNSEL. CLIENT authorizes lead counsel to employ and/or associate additional counsel (collectively, "Attorneys"), with consent of CLIENT, to assist LEAD COUNSEL in the just prosecution of the case. LEAD COUNSEL shall only employ and/or associate additional counsel upon the condition that such counsel agree to abide by the terms of this contract as if original parties hereto, and to assume and share in all rights, duties, obligations, responsibilities, and liabilities belonging to LEAD COUNSEL hereunder. Client consents to the participation of the following firms providing it is in compliance with and conformity to the Kentucky Rules of Professional Responsibility:

LEVIN, PAPANTONIO, THOMAS, MITCHELL, RAFFERTY & PROCTOR, PA
316 South Baylen Street
Pensacola, Florida

GREENE, KETCHUM, FARRELL, BAILEY & TWEEL, LLP
419 11th Street
Huntington, West Virginia

BARON & BUDD, PC
3102 Oak Lawn Avenue #1100
Dallas, Texas

HILL PETERSON CARPER BEE & DEITZLER PLLC
500 Tracy Way
Charleston, West Virginia

MCHUGH FULLER LAW GROUP
97 Elias Whiddon Rd.
Hattiesburg, Mississippi

Law Office of Lucas Magazine
8606 Government Drive
New Port Richey, Florida

Bowling & Johnson, PLLC
1319 Cumberland Avenue
Middlesboro, Kentucky

Gray & White Law
713 East Market Street
Louisville, Kentucky

1. ATTORNEYS' DUTIES

Attorneys shall comply with all applicable registration and licensing requirements, rules, standards and codes of conduct governing the practice of law and the transaction of business in Kentucky. Attorneys shall immediately notify CLIENT if any disciplinary actions are brought against them or any of their attorneys. Attorneys certify, by entering this contract, that neither they nor their partners, associates, or any other attorney associated with them, is presently disbarred, suspended, proposed for disbarment, or otherwise ineligible or excluded from entering this contract or practicing law in Kentucky.

Attorneys agree to: respond in writing and orally to motions propounded by the Defendants or other entities; appear and argue for CLIENT at motion hearings; consult CLIENT on the necessity of obtaining local counsel; draft discovery to be propounded upon the Defendants and other entities; respond to discovery propounded upon CLIENT; track and inventory documents received by CLIENT in response to discovery requests; take depositions of Defendants' agents, employees or witnesses and other third party witnesses as necessary to the litigation; defend the depositions of the witnesses noticed or subpoenaed by the Defendants, including preparing the aforementioned witnesses for depositions prior to the depositions being taken; identify and retain expert witnesses for testimony at hearings, depositions and trial; assess the strength of legal arguments propounded by the litigants; draft applicable court orders; respond in writing and at hearings regarding any discovery disputes that may arise; prepare needed protective orders; prepare for trial; assist with settlement negotiations in consultation with CLIENT; assist in the appeal of any judgment or verdict rendered in any such action; and perform any other duties or actions required by a Court as part of the litigation or which are necessary to the advancement of the litigation even if such duties are not fully set forth above.

Attorneys shall not file any pleading, issue any legal opinion, or issue a statement in or in relation to any legal action to which CLIENT is a party unless Attorneys have first submitted such pleading, opinion, or statement to CLIENT's designated representative, *infra*, for review, and have received the approval of such representative. Attorneys are not authorized to comment publicly on CLIENT or Urban County matters; provided, however, that nothing herein shall prevent Attorneys from commenting publicly on the opioid crisis in general, or any legal action to which CLIENT is not a party. All media inquiries shall be directed to CLIENT's designated representative.

Attorneys agree to preserve and make available to CLIENT all pertinent records involving the litigation. If the contract is completely or partially terminated, all records relating to the work shall be preserved and made available to CLIENT for a period of at least five (5) years from the date of the final settlement.

2. CONTINGENCY FEE

In consideration, CLIENT agrees to pay thirty percent (30%) of the total recovery (gross) as an attorney fee whether the claims is resolved by compromise, settlement, or trial and verdict

(and appeal). The CLIENT acknowledges, subject to Court approval as referenced below, that this fee is reasonable given the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly, the likelihood this employment will preclude other employment by the lawyer(s), the fee customarily charged in the locality for similar legal services, the anticipated (contingent) litigation expenses and the anticipated results obtained, the experience, reputation, and ability of the lawyer or lawyers performing the services and the fact that the fee is contingent upon a successful recovery. **There is no fee if there is no recovery.** Any Attorneys' fee due under this contract must comply with Kentucky Rule of Professional Conduct 1.5, and the reasonableness of the fee shall be approved by the Court.

This fee applies to any sums, benefits or value obtained on your behalf, whether monetary or non-monetary, including equitable remedies, including abatement, and whether recovered by award, judgment, settlement, bankruptcy proceedings, government-imposed reparations proceedings, regulatory relief/settlement, non-monetary remedial benefit provided by defendants or otherwise, provided, however, that Attorneys' right to payment shall not exceed the net recovery received by CLIENT from the Defendant(s) at the conclusion of the negotiations and/or litigation. Gross recovery is value, at the time of settlement or collection (which confers the greater value), of any sums, benefit or value obtained on your behalf, as set out above. The gross recovery shall be calculated on the amount obtained before the deduction of costs and expenses. CLIENT grants Attorneys an interest in a fee based on the gross recovery. If a court awards attorneys' fees, Attorneys shall receive the "greater of" the gross recovery-based contingent fee or the attorneys' fees awarded. Should CLIENT agree to a settlement that involves no cash payment to CLIENT, Attorneys shall be entitled to reimbursement of all expenses actually and reasonably incurred on behalf of CLIENT, and this amount shall be approved by the Court. The division of fees, expenses and labor between the law firms will be decided by private agreement between the law firms which shall be subject to review by CLIENT, and any division of fees will be governed by the Kentucky Rules of Professional Conduct including: (1) the division of fees is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation and agrees to be available for consultation with the CLIENT; (2) the CLIENT agrees to the arrangement and the agreement is confirmed in writing; and (3) the total fee is *reasonable*. In the event that the contingent fee portion of this agreement is determined to be unenforceable, for any reason or the Attorneys are prevented from representing CLIENT on a contingent fee basis, CLIENT agrees to pay a reasonable fee for the services rendered, and the reasonableness of the fee shall be approved by the Court.

3. LITIGATION EXPENSES

The law firms agree to advance all necessary litigation expenses necessary to prosecute these claims, and the CLIENT shall have no obligation to advance any costs or to make any financial contribution to the lawsuit while the litigation is pending. All such litigation expenses, including the reasonable internal costs of electronically stored information (ESI) and electronic discovery generally or the direct costs incurred from any outside contractor for those services, will be deducted from any recovery after the contingent fee is calculated. All expenses shall be tracked and billed as Attorneys' actual out-of-pocket cost without any mark-up. **There is no reimbursement of litigation expenses if there is no recovery.**

Unless otherwise agreed to by CLIENT, Airfare will be reimbursed at economy fare rates and hotel accommodations will be reimbursed at commercial rates for non-resort facilities.

Should sanctions or costs be awarded against CLIENT as a result of any action on the part of LEAD COUNSEL or any attorneys employed by or associated with LEAD COUNSEL in the litigation undertaken by Attorneys pursuant to this contract, liability for such sanctions or costs shall lie solely with Attorneys, who shall be jointly and severally liable for the full amount due. Attorneys shall pay such amounts immediately upon demand, and agree to indemnify, defend, and hold harmless CLIENT for the full amount of all such sanctions or costs. This provision does not apply to any sanctions or costs that are a result of any action or inaction on the part of CLIENT.

4. CLIENT-ATTORNEY COMMUNICATIONS

LEAD COUNSEL shall appoint a contact person to keep the CLIENT reasonably informed about the status of the matter in a manner deemed appropriate by the CLIENT and Kentucky Rule of Professional Conduct 1.4. All such communications shall be directed to CLIENT's authorized agent for the purposes of this contract, which shall be:

Janet M. Graham, Esq.
Commissioner, Department of Law
Lexington-Fayette Urban County Government
200 East Main Street
Lexington, Kentucky 40507
(859) 258-3500

The CLIENT at all times shall retain the authority to decide the disposition of the case and maintain absolute control of the litigation in accordance with Kentucky Rule of Professional Conduct 1.2. The Attorneys shall not enter any settlement agreement without the express, written permission of CLIENT.

5. CLOSING STATEMENT

Upon conclusion of this matter, LEAD COUNSEL shall provide the CLIENT with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination as required by Rule 1.5(c) of the Kentucky Rules of Professional Conduct. The closing statement shall specify the manner in which the compensation was determined under the agreement, any costs and expenses deducted by the lawyer from the judgment or settlement involved, and, if applicable, the actual division of the lawyers' fees with a lawyer not in the same firm, as contemplated by Rule 1.5(e)(2) of the Kentucky Rules of Professional Conduct. CLIENT or its duly authorized representatives shall have access to and the right to examine any books, documents, papers, records, or other evidence reflecting all time charges, compensation and costs billed under this contract. The materials described herein shall be made available for inspection, audit, or reproduction at any reasonable time until the expiration of three (3) years from the date of final payment under this agreement. Except where required by law, Attorneys shall not transmit, or assist in the transmission of, any billing information generated by Attorneys under this contract to any person or organization other than CLIENT without CLIENT's express written permission.

6. INSURANCE

By accepting and executing this contract, below, LEAD COUNSEL affirms that he and his firm possess adequate legal malpractice insurance. LEAD COUNSEL and his firm shall maintain adequate legal malpractice insurance throughout the term of the contract, and shall further require the same of all other attorneys permitted to participate in the prosecution of the case as provided *supra*.

7. CAMPAIGN FINANCE

The Attorneys shall abide by all applicable state and federal campaign finance laws. Attorneys further swear under penalty of perjury, as provided by KRS 523.020, that neither they nor the firms they represent have knowingly violated any provisions of the campaign finance laws of the Commonwealth of Kentucky or the United States of America, and that the execution of this Agreement will not violate any provisions of the campaign finance laws of the Commonwealth of Kentucky or the United States of America.

8. MISCELLANEOUS


Nothing in this Agreement and nothing in the Attorneys' statement to CLIENT may be construed as a promise or guarantee about the outcome of this matter. The Attorneys make no such promises or guarantees. Attorneys' comments about the outcome of this matter are expressions of opinion only and the Attorneys make no guarantee as to the outcome of any litigation, settlement or trial proceedings.

This contract is in the nature of a personal services agreement and Attorneys shall have no power to assign their rights and obligations hereunder without the prior written consent of CLIENT. Any attempt to assign without such prior written consent shall be void.

This contract constitutes the entire agreement between parties. There are no covenants, agreements, promises, terms, provisions, conditions, undertakings, or understandings, oral or written, between the parties other than as set forth herein. If any provision hereof is for any reason unenforceable or inapplicable, the other provisions hereof will remain in full force and effect in the same manner as if such unenforceable or inapplicable provision had never been contained herein. The failure of either party to require performance of any provision of this contract shall in no way affect the right of the parties to enforce such provision, nor shall the waiver of any instance of breach constitute a permanent or continuing waiver of any party hereto to enforce this contract. This contract shall be construed under and in accordance with the laws of the Commonwealth of Kentucky. Any action arising, in whole or in part, from or in connection with this contract, shall be brought in Fayette County, Kentucky. This contract may only be modified by a writing signed by both parties. This Agreement, having been negotiated in good faith between the parties, shall not be construed against one party or the other.

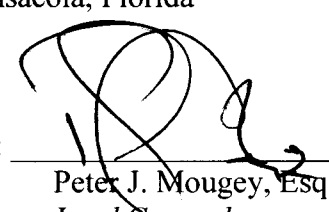
SIGNED, this 3rd day of October, 2017.

LEXINGTON-FAYETTE URBAN
COUNTY GOVERNMENT

By:  _____
Jim Gray, *Mayor*

Accepted:

LEVIN, PAPANTONIO, THOMAS,
MITCHELL, RAFFERTY & PROCTOR, PA
316 South Baylen Street
Pensacola, Florida

By:  _____
Peter J. Mougey, Esq.,
Lead Counsel

2/20/17
Date