

# **ENGAGEMENT TO REPRESENT**

RE: FULLERTON, CALIFORNIA, in civil suit against those legally responsible for the wrongful manufacture and distribution of prescription opiates and damages caused thereby.

1. SCOPE OF EMPLOYMENT: **FULLERTON, CALIFORNIA** (hereinafter “CLIENT”), by and through its City Council, hereby retains the law firms of **ROBINS KAPLAN LLP** AND **ANDREWS & THORNTON, AAL ALC** (the “FIRMS”) pursuant to the California Rules of Professional Conduct on a contingent fee basis, to pursue all civil remedies, against the manufacturers of prescription opiates and those in the chain of distribution of prescription opiates responsible for the opioid epidemic that is plaguing the CLIENT, including but not limited to filing a claim for public nuisance to abate, enjoin, recover and prevent the damages caused thereby. Co-counsel will be bound by the same obligations and covenants as the FIRMS. Any questions or inquiries about the case should be addressed to Sen. Joe Dunn (Ret.), of **ANDREWS & THORNTON**. CLIENT consents to the participation of the following firms if no conflicts exist, including but not limited to conflicts pursuant to the California Rules of Professional Conduct:

**ROBINS KAPLAN LLP**  
2049 Century Park East, Suite 3400  
Los Angeles, CA 90067

**ANDREWS & THORNTON, AAL ALC**  
4701 Von Karman Avenue, Suite 300  
Newport Beach, CA 92660

2. ATTORNEY FEES: In consideration, CLIENT agrees to pay twenty percent (20%) of the total recovery (gross) in favor of the CLIENT as an attorney fee (the “Fee”) whether the claim is resolved by compromise, settlement, or trial and verdict (and appeal). However, if the claim resolves while pending in the National Prescription Opiate Litigation (MDL 2804), the Fee shall be fifteen percent (15%) of the total recovery. Whether filed in State or Federal Court, the Fee shall be subject to a lodestar crosscheck and shall be capped at the lodestar amount as enhanced by a multiplier of four (4). The gross recovery shall be calculated on the amount obtained before the deduction of costs and expenses. CLIENT grants the FIRMS an interest in a fee based on the gross recovery. If a court awards attorney fees, the FIRMS shall receive the greater of the gross recovery-based contingent Fee or the attorney fees awarded. There is no fee if there is no recovery. Attorney fees are calculated from gross award. After attorney fees are deducted, costs are deducted from client share.

The CLIENT acknowledges this Fee is reasonable given the time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the likelihood this employment will preclude other employment by the FIRMS, 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.

This litigation is intended to address a significant problem in the community. The litigation focuses on the manufacturers and wholesale distributors and their role in the diversion of millions of prescription opiates into the illicit market, which has resulted in opioid addiction, abuse, morbidity and mortality. There is no easy solution and no precedent for such an action against this sector of the industry. Many of the facts of the case are locked behind closed doors. The billion-dollar industry denies liability. The litigation will be very expensive, and the litigation expenses will be advanced by the FIRMS with reimbursement contingent upon a successful recovery. The outcome is uncertain, as it is in all civil litigation, with compensation contingent upon a successful recovery. Consequently, there must be a clear understanding between the CLIENT and the FIRMS regarding the definition of a "successful recovery."

Negotiability of Fees: The rates set forth above are not set by law but are negotiable between the FIRMS and CLIENT.

3. REPRESENTATION OF OTHER ENTITIES: CLIENT acknowledges that the FIRMS represent other governmental entities against the same defendants.
4. COSTS AND OTHER EXPENSES: THE FIRMS and/or the other law firms in association with the FIRMS shall advance all necessary litigation expenses necessary to prosecute these claims. Litigation expenses include but are not limited to expenses or charges for court costs, filing fees, depositions, and expert witnesses. CLIENT agrees that the term "expenses" includes but is not limited to retaining and compensating experts, copying and review of voluminous documents, postage, research, computerized document management, conference calls, jury consultants, travel, and costs relating to the depositions of defendants' representatives, witnesses, and agents. If a matter requires experience or expertise uncommon to the FIRMS, outside counsel may be obtained. The FIRMS will be reimbursed FIRMS' reasonable costs associated with the outside assistance. **There is no reimbursement of litigation expenses if there is no recovery. Costs advanced will be payable out of the CLIENT's share of any recovery and will not affect the contingency rate or fees due to the FIRMS.** As this is complex litigation, the FIRMS reserve the right to add any additional counsel, law firms, consultants and experts; however, this will in no way increase the Fee as per the terms of this contract.

<i>Type of Expense</i>	<i>Amount of Charge</i>
Telephone Charges	At Cost
Routine In-house Word Processing	No Charge
In-house Photocopying	15 ¢ a page
Outside Photocopying	At Cost
Computerized Legal Research such as Westlaw or Lexis	At Cost
Computerized Litigation System Costs	At Cost
Postage and Delivery Services	At Cost
Courier service or next day service such as Federal Express	At Cost

Mileage	50¢ per mile or the then prevailing IRS reimbursement rate
Travel, including but not limited to airfare (but not first-class or business class airfare), hotels, automobile rental, taxis and meals (but not meals within 50 miles of the residence address)	At Cost
Experts and Consultants	At Cost
Court Reporters and Transcripts	At Cost
Filing Fees	At Cost
Exhibits and Other Trial Presentation Costs	At Cost

5. FEE SHARING WITH CO-COUNSEL: The division of fees, expenses and labor between the Attorneys will be decided by private agreement between the law firms and subject to approval by the CLIENT. Any division of fees will be governed by the California 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 has given *written* consent after full disclosure of the identity of each lawyer, that the fees will be divided, and that the division of fees will be in proportion to the services to be performed by each lawyer or that each lawyer will assume joint responsibility for the representation; (3) except where court approval of the fee division is required by law, the *written* closing statement in a case involving a contingent fee shall be signed by the CLIENT and each lawyer and shall comply with the terms of the California Rules of Professional Conduct; and (4) the total fee is *not clearly excessive*.
6. ABSOLUTE AND INDEPENDENT AUTHORITY OF CLIENT – The CLIENT at all times shall retain absolute and independent authority to decide the disposition of the case and personally oversee and maintain ultimate control of the litigation, including trial or settlement.
7. COMMUNICATIONS WITH CLIENT:  
Upon conclusion of this matter, FIRMS 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. 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 required in Rule 2-200(A)(1) and (A)(2) of the California Rules of Professional Conduct. The closing statement shall be signed by the CLIENT and each attorney among whom the fee is being divided.
8. REVIEW AND UNDERSTANDING OF THIS AGREEMENT: CLIENT acknowledges review and understanding of this agreement, having read its contents in its entirety, and CLIENT understands and agrees with all of its provisions. CLIENT acknowledges that the FIRMS

and their employees or agents have made no promise or guarantee regarding the successful determination of CLIENT's claim or causes of action or regarding the amount of recovery or the type of relief, if any, which CLIENT may obtain therefrom. The Attorneys and this Agreement 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.

SIGNED, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_, **CALIFORNIA**

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Mayor, City of Fullerton

Accepted:

ROBINS KAPLAN LLP  
2049 Century Park East, Suite 3400  
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4701 Von Karman Avenue, Suite 300  
Newport Beach, CA 92660

By \_\_\_\_\_

*Anne Andrews*  
*Lead Counsel*

\_\_\_\_\_  
Date