

Miscellaneous Fee Agreement Provisions¹

Instructions: The following provisions are additional terms that are not included in the above fee agreement samples. A lawyer may need or wish to add one or more of these specific terms to the fee agreement depending on the specific circumstances of the case and the nature of the representation and fee agreement.

- Third-Party Payor

Your legal fees are being paid by a third party. Both you and the third party must understand that our ethical duties of confidentiality and communications are owed to you, not to the person paying the fees. All decisions regarding the legal status and strategy of your case shall be discussed only with you unless you give express written permission. Any refund shall be returned to the party who provided the funds. By signing this agreement, you are consenting to a third-party paying your legal fees.

- Earned-on-Receipt Fee

This fee is earned on receipt and will not be billed against on an hourly basis. It will not be deposited into our client trust account, but will be deposited into our general operating account. Even though the fee is earned on receipt, you may nevertheless discharge us at any time and in that event may be entitled to a refund of all or part of the fee based upon the value of the representation.

- True Retainer

You agree to pay a retainer in the amount of \$_____. This retainer serves merely to ensure our availability to represent you and to preclude us from taking adverse representation. This retainer DOES NOT cover any legal services to be provided. Legal fees will be charged separately under the terms of a fee agreement.

- Multiple Lawyers/Law Firms

This matter will be handled by multiple lawyers or law firms. This means that more than one lawyer not in the same firm will be representing you and each lawyer will assume joint responsibility for the representation. The lawyers representing you in this matter are being paid as follows:_____. You understand that all fees in this matter are governed by the terms of this fee agreement. By signing this agreement, you agree to the representation.

¹ These Sample Miscellaneous Fee Agreement Provisions are provided as a resource to the Transitioning into Practice Mentorship Program and has not been approved nor endorsed by the State Bar of Nevada.

- Use of Outside Counsel

We may associate counsel from outside of the firm to assist in your representation. This may involve sharing confidential information and/or additional costs to you. We will obtain your consent to any additional costs or fees in writing prior to using outside counsel.

- Joint Representation (two or more clients)

We are representing both you and _____ in the same or a related matter. At this time, such representation is permitted because there does not appear to be a conflict of interest between the parties. This may change and a conflict may arise at some later point in the representation. We will continue to evaluate the case and the existence of any possible conflicts of interest. Should a conflict arise, we will advise all affected clients and comply with the requirements of Rule of Professional Conduct 1.7, which may include withdrawal.

- Communications

We will make every attempt to return all phone calls within 24 hours. We encourage email communications as well. Non-lawyer staff may be directed to communicate with you, if appropriate. We will not communicate confidential information about the representation to third persons, including your family members, unless you specifically direct us to do so. We will send you copies of all relevant documents and correspondence that we receive in the case so that you can maintain a complete file of the legal matter. All communication with you will be billed for in accordance with the terms of the fee agreement.

[NOTE TO LAWYER: You should update this clause with the specifics of your firm's communications policy.]

- Local Counsel in Pro Hac Vice Matter

Our role in this matter is to serve as local counsel for an out-of-state firm. The out-of-state firm will have principal responsibility for the litigation. While we will attempt to avoid undue expenses caused by having two firms duplicate their efforts, we are required by the ethical rules to exercise a continuing responsibility to conduct a reasonable inquiry to ensure that pleadings and filings are well grounded in fact and law and otherwise meet the applicable standards. Accordingly, although we understand and will seek to accommodate your interest in avoiding duplicate legal fees, our professional obligations compel us to undertake activities and investigations deemed necessary to discharge these obligations.

- Fee Shifting

The matter for which you have retained us is one in which lawyers' fees may be recovered by one party from the other. Regardless whether fees are awarded, you are responsible for all fees owing under the terms of this fee agreement. If appropriate, we will press a claim asking the Court to award your fees incurred in this matter. Please also understand that the other party may attempt to shift their fees to you. Moreover, the provisions under which a Court may shift fees generally leaves that decision to the discretion of the Court to decide whether, and in what amount, to award fees.

- Conflict of Interest

This representation presents a conflict of interest under the Ethical Rules. However, we believe that we will be able to provide competent and diligent representation to each affected client. We have provided a separate writing describing the nature of the conflict and the risks inherent in proceeding with the representation, as well as reasonably available alternatives. By signing that separate writing explaining the conflict, you agree to the continuation of the representation and waive the conflict described therein.

- Disbursements and Disputed Funds

The Ethical Rules place certain limitations upon the disbursement of funds from client trust accounts. If we possess funds in which you and someone else have a claim or interest, we must hold the funds in our trust account until the dispute is resolved. We will promptly disburse, however, any portion of the funds not in dispute. We will not unilaterally assume to arbitrate a dispute between you and a third party and we may have to file an action to have a court resolve the dispute if the parties cannot reach a mutually accepted agreement.

- Property for Services

This representation involves the exchange of your property (or services) for legal services or the securing of a legal fee via lien or encumbrance of your property. The terms of the transaction as well as all elements necessary to comply with the Rules of Professional Conduct (RPC 1.8(a)) are contained in a separate writing attached hereto and signed by you.

- Client Files and File Maintenance

During the time we represent you, we will maintain a file relating to your legal matter. At the conclusion of the representation, we will give your file to you. After we give your file to you, information contained in your file will no longer be available through our firm. Take measures to protect your file. If we are unable to return your file to you at the conclusion of the representation, we will maintain your file for seven years after the representation ends. By signing this fee agreement you agree that your file may be destroyed after that seven-year period ends.

[We maintain records electronically and by use of digital images and do not retain paper copies of documents, unless required by rule or statute. You may obtain paper copies of documents in your file upon request to us, with reasonable notice. By signing this fee agreement, you consent to us maintaining your file electronically.]