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RE: Attached fee agreement

Dear Prospective Client:

We are pleased to greet you as a prospective client of this firm. We thank you sincerely for selecting this law firm for your legal needs.

Attached is our standard **hourly** fee agreement. Please note that it provides for **payment of your bill each month** based on hours spent on your case the previous month, plus costs and expenses. Certain minimum fees apply and certain flat rate fees apply also. Your retainer is generally held until the end of the case as a **security deposit** and is **not** an estimate of **fees** nor is it prepayment of your first month's fee. You will need to pay your bill each month as it comes due.

**WE REALLY APPRECIATE YOUR KEEPING YOUR BILL PAID CURRENT EACH MONTH!**

Please let us know throughout our representation of you how we can serve you better.

If you have any questions or concerns regarding the above, please contact us.

Sincerely,

William H. Kain  
Michael P. Burke  
Stephanie R. Holguin



## FEE AGREEMENT

### 1. LEGAL SERVICES:

By this Agreement, you have hired Kain & Burke, PC, Attorneys at Law, to represent you in the following legal matter:

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We pledge to provide you with quality legal services in all phases of our representation of you. The scope of representation is limited to the matter described above. If you have us do other legal work in the future, we generally try to sign a new fee agreement. However, if for any reason a new fee agreement is not signed before other work is done, this Agreement will apply to any future services as well.

### 2. FEES:

You agree to pay us at the rates shown on the attached Price List for Legal Services (as revised from time to time) for all time spent on your legal services or in any way related thereto. Fees are subject to periodic revision based on a number of factors including costs, experience, and the going rates of attorneys with similar experience and expertise.

All time spent on legal services on your behalf will be recorded in tenths of hours. The total fees billed are based on time recorded and other factors noted below. Some work is billed as flat fees, and for some tasks we bill a minimum amount of time.

Examples of types of tasks to be charged include, but are not limited to, for example: telephone calls, correspondence, reviewing documents, reviewing your case with staff members assigned to your case, drafting and preparing pleadings and other documents, conferences, preparation for court, travel time, and court appearances. Please note that time talking with, or negotiating with the opposing attorney or the opposing party, is still time that we are spending to represent you and is billed to you, not to the opposing party. Similarly, preparing a Motion to Withdraw and other withdrawal documents is also time spent on your case for which you will be billed when we withdraw from your case.

Please note, as provided below, that there are a number of factors considered when billing for legal services. Time is only one of the factors considered appropriate by the Colorado Supreme Court. The bill for your legal services will take into account all of the factors as

approved by the Supreme Court. We also bill some tasks as flat fees, and some others as minimum hourly fees. Please see below.

It is rare that the courts in Colorado will consider awarding attorneys' fees in court. Unless there is a contractual right to attorneys' fees, or a particular statute granting a right to attorneys' fees, the courts of Colorado will generally not consider an award of attorneys' fees. Even if you are allowed to seek attorneys' fees, we still ask you to pay your fees monthly, and if the court at the end of a case allows some of your fees to be reimbursed to you, that fee will be paid directly to you since you will have already paid our firm monthly for all fees. Please be aware that even if the court considers awarding fees, it is rare that such a request is granted, and even rarer that a court will grant you reimbursement of all of your fees by the adverse party.

**3. COSTS AND EXPENSES:**

You are responsible for paying all costs and expenses associated with your legal services. For example, this includes, but is not limited to: Court docket fees, photocopy costs, service of process fees and other witness fees, long distance telephone calls, investigator's fees, expert witness fees, travel costs (mileage, meals, hotel, etc) fees for computerized legal research, supplies and materials associated with your case, and other costs associated with your legal services. **ALL COSTS ARE THE RESPONSIBILITY OF THE CLIENT AND ARE IN ADDITION TO FEES.**

Normally you will be required to **write your own check** to the person submitting the bill for the costs. However, if for some reason we advance the costs on your behalf, you agree to promptly reimburse us.

**4. RETAINER AND BILLING:**

Your retainer in this matter is agreed to be \$\_\_\_\_\_. This must be deposited **prior** to our beginning legal services. Your check will be cashed and held in a special Attorney Trust Account. Additional retainer will be required if case is litigated. Typical retainers will be at least (see below for more detail on retainers):

<b>District</b> Court, civil litigation, criminal litigation, or family law/divorces, <b>large</b> cases. . . . .	\$25,000.00 to \$50,000.00
<b>District</b> Court, civil litigation, criminal litigation, or family law/divorces/custody/ /visitation/contempt, <b>small</b> cases. . . . .	\$7,500.00 to \$15,000.00
<b>County</b> Court, civil litigation or criminal litigation. . . . .	\$2,500.00 to \$7,500.00
Probate. . . . .	\$5,000.00 to \$10,000.00
Other. . . . .	\$5,000.00 to \$10,000.00
Business and other transactional (non-court matters). . . . .	\$2,500.00 to \$5,000.00

The retainer will be kept in our Coltaf Trust Account until the completion of legal services, subject to payment of fees and costs as outlined below. Funds deposited in a Coltaf Trust Account **do not draw interest** payable to either you or us. The retainer is a security deposit and is **not an estimate of fees** and costs.

Each month you will receive an itemized bill for fees and costs. You agree to pay your bill each month in full upon receipt of the billing statement.

**If your bill is not received at our office within 10 days after the date of the bill, services may be discontinued,** (but if we provide further services or continue working on your case or legal matter, you are still responsible for paying for any work done by us or other time spent on your behalf). Please call our bookkeeper if there is any problem in this regard.

At the conclusion, if you have paid all fees and costs, then your retainer will be returned to you when services are completed or terminated as provided below. However, the retainer will not be returned until the court has approved our withdrawal (in those cases which involve an Entry of Appearance before the court), and until we are **sure that no additional attorney or staff time will be taken** with the case or legal matter. We have the right to charge for all time spent as a result of taking on your case even after termination and even after approval of withdrawal by the court; if additional work is required to protect your legal interests, or if any other time is required of us for any reason, we will charge for that time. Additionally, we usually **need at least 60 days** following completion of services and receipt of an Order of Withdrawal (if there is a court case pending) to process any request for refund. Often there is unanticipated work required even after the client thinks the case is over. For that reason, it is best not to insist that we return your retainer too quickly.

Time billed to you includes time spent speaking to opposing counsel, the opposing party, negotiating possible settlements even if such settlement is not accepted, and any other time spent as a result of taking your legal matter or case. You authorize us to take such steps and spend such time as we, in our sole discretion, deem to be the best and most prudent manner of handling your legal matter.

Any unpaid fees and costs will be deducted from the retainer before it is returned. We have the right to insist on an additional retainer before continuing services if, in our discretion, we feel a larger retainer should be in trust to secure payment of fees. This often occurs before additional work of a substantial nature such as a trial, for example. See the attached Price List for Legal Services for more detail on this aspect of the retainer. The attached Price List (and any future modifications of the law office's price list) is a part of this Agreement.

When a matter is set for trial, payment for the estimated fees and costs for trial and estimated preparation time is payable to our Coltaf Trust Account no later than 180 days in advance as additional retainer.

The retainer can be applied to unpaid fees and costs at our discretion. Sometimes this is done near the end of a case when the amount of expected work remaining does not necessitate, in our opinion, a large retainer as security deposit. You agree to at all times keep the amount of the retainer in trust which in the attorney's judgment is reasonably necessary to assure the payment of anticipated fees.

**5. INTEREST AND COLLECTION COSTS:**

If for any reason your bill is not paid as agreed to in this Agreement, then interest will be charged on any outstanding balance at the rate of 2% per month compounded monthly. If it becomes necessary to take legal steps to collect your fee, you agree to pay costs of collection in addition to reasonable attorneys' fees for our efforts and our staff's efforts or that of an attorney and his/her staff hired on our behalf to collect the fee. You also agree to pay any fees and costs charged by any collection agency. An attorneys' lien exists on any documents in our file, and on any funds under our control, to secure payment of fees and costs and on any sums due you or on deposit with us, with a court, or in trust.

**6. WE ARE NOT A LENDER:**

Our law firm is not in the business of lending money. We are not a bank or lender, and we are not set up to process loan applications or otherwise lend money. We rely on you, and our other clients, to pay your bill with us each month so that we can meet payroll and pay the other expenses of providing quality legal services to you and to our other clients. When clients are not able to pay their bill each month, that makes it difficult for us to continue to provide legal services because we cannot meet the expenses of providing those services.

If for some reason you find it difficult to pay your bill each month, we encourage you to consider borrowing the money to pay for the services from a bank, savings and loan, or other professional lender. We accept MasterCard, Discover, and Visa for your convenience if you are unable to come up with the funds in cash to meet this obligation. This Fee Agreement provides for an interest rate of 2% per month if your obligation is not paid in a timely fashion, or if other arrangements for paying your bill are not made. You are encouraged, if you need to borrow money for your retainer or for your monthly fees, to borrow that money elsewhere at lower interest rates. If you have a particular problem in paying, we hope you will talk to us about it as sometimes we can come up with a solution together.

**7. IF YOU HAVE A DISAGREEMENT WITH YOUR BILL:**

If you have a disagreement with your bill, you should call that to our attention within 7 days of receipt of your bill. If we do not hear from you within 7 days, then we will presume that you agree with your bill and have no dispute with it. Please do not continue services with our firm month after month if you dispute the bill without talking to us about it. If you do not call any dispute regarding your bill to our attention within the 7 days as above described, it will be conclusively presumed that you agree with the bill and consider it reasonable and properly incurred, and you will be waiving any right to dispute the bill later. It is agreed that checks marked "paid in full" or the like, or accompanied by a note or letter claiming a full accord and satisfaction, will not discharge the rest of a disputed bill; only a separate written agreement signed by both parties will accomplish that.

**8. TERMINATION:**

You have the right to terminate our employment at any time for any reason by giving us written notice that you no longer desire our services. Such termination does not absolve you of responsibility to pay your bill for all time spent on your case, or in any way related to our representation of you, even for time reasonably incurred after we receive such notice.

We have the right to terminate our services to you at any time for any reason by giving you written notice that we no longer desire to represent you. Such termination does not absolve you of responsibility to pay your bill for all time spent on your case, or in any way related to our representation of you, even for time after you receive such notice. Any notice to you at your last known address shall be sufficient to satisfy our obligation to notify you pursuant to this paragraph or any other obligation to notify you pursuant to this Agreement or pursuant to any other notice obligation. You agree to notify us of any change of address or phone number.

If our employment is terminated, whether by us or by you, and if we have entered our appearance before a court or tribunal, you hereby agree and consent to our withdrawal from the case; and authorize us to file the pre-signed Consent to Withdraw. Any time spent by us or our staff will be charged to your account even after termination. For example, time spent on obtaining a Withdrawal Order from the court, time speaking to you or others regarding your case, time spent copying documents, etc. is billable to you, and you agree to pay for such time.

If for any reason you feel at the time of withdrawal that our withdrawal will cause you any difficulty, such as inability to adequately prepare yourself for trial or to locate replacement counsel, please call that to our attention immediately upon notice of our intent to withdraw.

It is agreed that our file contains our records of the work that we have done for you. We are entitled to keep our file, and you are entitled to a copy of that file if you are willing to pay the reasonable copy costs. However, if you need a copy of your file to protect your rights, to pursue a legal matter or case, or otherwise to pursue a claim, and are financially unable to pay for a copy of your file to be made for you, please talk to us about that so that other arrangements can be made.

**9. CREDIT CHECK:**

Since you are not paying for all services in advance, this Agreement in part involves a credit application by you, whereby you are asking us to trust you to pay monthly billings in the future. As such, we may need to evaluate your creditworthiness. You therefore **consent to a credit check** or credit checks from time to time so that we may be better able to evaluate your ability to pay for present and future services. You also agree to cooperate in obtaining a credit report for us at any time we may request you to do so.

**10. FILE DESTRUCTION**

Our current policy is to store case files for approximately 10 years. The file will be destroyed pursuant to Colorado law, and only if, in the attorney's best judgment, the documents contained in the file are outdated or no longer of consequence, or are otherwise available as pleadings in the court file. A client who does not waive notice will be notified by mail at the last known address, or at the current address available from the phone book, or other convenient source, of your right to pick up the file. If the file is not claimed by the client, the shredding will occur within 30 days of the date of the letter. A copy of our file destruction policy is available to review upon request.

**11. OTHER:**

This Agreement shall be interpreted under the laws of the State of Colorado. It is enforceable in either the County or District Court of Mesa County, Colorado, and we both agree to the venue and jurisdiction of said courts regardless of where service of process may occur. However, either party may submit a dispute under this Agreement to binding arbitration through the American Arbitration Association or any other arbitrator mutually agreeable, and any decision rendered shall become a judgment enforceable in court. If either party elects arbitration, it is agreed that the court must decline jurisdiction and submit the matter to arbitration. The right to submit the matter to arbitration includes any and all types of disputes that may occur between the attorney and the client, including, without limitation, those involving fees, costs, billing, claims of professional negligence, malpractice, and breach of ethical or fiduciary duties, as well as any other claims or disputes filed by either party to this Agreement against the other party to this Agreement. We both waive the right to trial by jury on any disputes between us.

The entire agreement is contained in this writing signed by both of us and may be modified only by written agreement signed by both of us. The attached Price List for Legal Services (as modified from time to time) is incorporated herein as part of this Agreement.

We reserve the right to engage associate counsel to assist in your case or legal matter if and when we, in our sole discretion, deem it advisable and in your best interest. You agree to pay for such services of associate counsel pursuant to the terms of this Agreement. You agree to pay for the services of any other experts we deem necessary to hire to assist in your case or legal matter.

We consider each staff member fully competent to handle your legal affairs. From time to time different attorneys, paralegals, and legal secretaries within our firm may work on your legal matter or case; and by signing this Agreement you agree to this procedure. It is not always possible or prudent for the first attorney to whom you speak to handle every aspect of your legal matter.

The file which is opened regarding you and your case remains the property of Kain & Burke, PC. A copy of the file can be made for you upon reasonable advance notice and upon payment of a reasonable copy fee so long as your bill with this firm is current. The cost of making copies of any original documents that you want back is also your responsibility. In the rare circumstance that you cannot afford the copy cost, for example if you are unemployed, and not having the file might cause you to lose a case or otherwise be unable to successfully defend yourself in court, or otherwise adequately pursue your legal rights in court or otherwise, please let us know so that other arrangements concerning copies of the file can be discussed.

## **12. ATTORNEYS' LIENS:**

Pursuant to Colorado Law, attorneys are entitled to file an attorneys' lien for unpaid fees. Attorneys' liens can be foreclosed, a judgment rendered, and the judgment filed as a lien against real estate. Under some circumstances, Notices of Attorneys' Liens can be filed prior to the judgment and then the judgment lien can be filed with the Clerk and Recorder encumbering real estate after it is reduced to a judgment through foreclosure of the attorneys' lien. If you have an unpaid balance of your bill, and adequate arrangements are not made for payment of the bill, an attorneys' lien can be filed and foreclosed and a lien enforced against your property. By signing below, you agree, first, that you will not allow your bill to become delinquent, and second, that if your bill does become delinquent, you consent to the enforcement and payment of your bill through the filing and foreclosure of an attorneys' lien, as well as through any other lawful method of enforcement. If the lien has not been foreclosed or satisfied prior to sale of the liened property, the lien must be satisfied at closing of the sale. The arbitration clause described above applies upon demand of either party.



**13. ALTERNATIVE DISPUTE RESOLUTION:**

If you have hired this law firm for the purpose of dispute resolution, you have several alternatives. An action can be filed in court to enforce your rights, or you can be defended in court if a suit has been filed against you. You also have the right to consider the possibility of alternative dispute resolution. Alternative dispute resolution generally is understood to mean either mediation or binding arbitration. Mediation is nonbinding, but is an attempt by a trained mediator to assist you and the opposing party in reaching a resolution of your case without going to court. If you are interested in mediation, you should bring that to our attention so that we can attempt to schedule the matter for mediation. Mediation is often required by the court before trial. Sometimes mediation is done with attorneys present for both parties to a dispute. Other times, it is customary for the parties to attend mediation without attorneys present.

Binding arbitration is a different process from mediation. In binding arbitration the parties agree to allow an arbitrator to decide the case instead of a court. An arbitration is often much quicker and less time consuming than the court system. It is often less expensive because less time is involved. Additionally, binding arbitration is final in that normally appeals are not allowed. It may be to your benefit to arbitrate the dispute, but in some situations you might decide that you want to go to court rather than to arbitration. If you are interested in considering arbitration, you should discuss this with the attorney.

**14. ADDITIONAL PROVISIONS:**

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**15. CONSENT TO WITHDRAW:**

A Consent to Withdraw is executed along with this Agreement. The attorney is authorized to file this at any time that he and the firm withdraw from the case.

**16. APPEAL AND OTHER POST-TRIAL MATTERS:**

If you have hired us to handle litigation (whether civil, criminal, or family law) please understand that you have not also hired us for appeals, petitions for review, and other post trial matters, unless we specifically agree to accept those duties. We will consider our services as completed, at the conclusion of the trial, and we are not required to file any

post trial motions, petitions or appeals, merely because we were hired to handle a trial. If you wish for us to handle an appeal, petition, post trial motion or other post trial matters, please communicate that to us immediately at the conclusion of the trial since there are strict deadlines for filing appeals and post trial motions, and we will not accept engagement to provide such services unless you give us sufficient notice in writing, and we agree to accept that additional engagement. Absent such additional engagement in writing signed by both parties, you agree that we are released from further responsibility for your case upon completion of the trial. On the other hand, you agree to pay for any such services that our office chooses to provide you.

#### **17. RISKS OF LITIGATION:**

If you have hired our law firm for civil litigation or criminal defense, whether in federal or state court, or before an administrative judge, or other venue, you need to be aware that there are numerous risks to litigation. All risks are yours and you agree to assume those risks yourself when you hire our firm. We cannot list all of the risks here, but some are as follows:

There is no guarantee regarding the outcome of the case. The case will be decided by a judge or jury, and no one has a crystal ball. If we express an opinion regarding the merits of your case, that opinion is not a guarantee. It is merely meant as informal guidance. The judge or jury might disagree. We do not guarantee that our opinion is correct or that it will be agreed to by the judge or jury. It is only an opinion.

If you seek attorneys' fees and costs, there is no guarantee that the Judge will award them, and if the judge does, it is unlikely that he/she will award the full amount requested by you.

If you lose, the opposing party may seek attorneys' fees and costs against you. You could end up not only paying our firm for our attorneys' fees and costs, but the opposing party's as well.

Litigation can be very expensive, and you may spend more on attorney's fees, expert witness fees, investigator fees, witness fees and mileage, deposition fees, and other costs, than the amount in controversy. Filing a suit could draw a counterclaim. Filing a motion could draw a countermotion.

Whether you win or lose, the other party may appeal and the case can be reversed on appeal, and the case might have to be tried a second or even more times. This of course increases the costs.

BY SIGNING BELOW, YOU AGREE TO THE ABOVE AND TO THE ATTACHED PRICE LIST (AS MODIFIED FROM TIME TO TIME) AND STATE THAT **YOU HAVE READ AND UNDERSTAND THIS AGREEMENT**. YOU SHOULD NOT SIGN THIS AGREEMENT IF YOU DO NOT UNDERSTAND IT AND YOU MAY CONSULT INDEPENDENT COUNSEL ABOUT THIS AGREEMENT.

**KAIN & BURKE, PC**

\_\_\_\_\_  
Date

by: \_\_\_\_\_  
Attorney signing on behalf of Kain & Burke, PC

\_\_\_\_\_  
Date

\_\_\_\_\_  
**Client**

\_\_\_\_\_  
Date

\_\_\_\_\_  
**Client**

We cannot represent two sides to a dispute or transaction. If more than one client is signing, you represent that there is no conflict of interest, and if there is a conflict of interest despite your representation, you waive any objection thereto.

**WAIVER:** I understand that Kain & Burke, PC may destroy my file pursuant to Colorado law. I hereby consent for Kain & Burke, PC to destroy my file as permitted by Colorado law without further notice to me.

\_\_\_\_\_  
Date

\_\_\_\_\_  
**Client**

\_\_\_\_\_  
Date

\_\_\_\_\_  
**Client**

**JOINDER AND GUARANTEE AGREEMENT**

FOR AND IN CONSIDERATION of Kain & Burke, PC, Attorneys at Law, performing legal services on behalf of, and extending credit to the above named client by allowing monthly payment of fees and costs instead of paying all fees in advance, I/we join and guarantee to pay the attorneys' fees and costs in full, including any indebtedness now or hereafter owing to the firm of Kain & Burke, PC, arising out of services provided according to the terms of the above Fee Agreement, a copy of which is attached hereto and by this reference incorporated herein. The liability of the undersigned Guarantor(s) shall be full and absolute as though the same were parties to the Fee Agreement.

The Guarantor(s) understand and agree that:

1. Liability for payment of this debt does not create an attorney-client relationship between attorney and Guarantor(s).
2. Execution of the Joinder and Guarantee Agreement does not entitle the Guarantor(s) to control litigation.
3. The Guarantor(s) is not entitled to inspection of attorneys' files or information concerning this case.
4. The attorneys will act and rely on this Agreement of extension of credit and continue to work on behalf of the client.
5. The attorneys have agreed to undertake representation of the client in this matter, in part, based upon the guarantee of the below signed Guarantor(s). Guarantor(s) understands that the obligation of the Guarantor(s) continues throughout the representation of client and that the guarantee of payment of legal fees is for the entire amount of legal fees and costs incurred by the client regarding the court case or other legal matter for which this Fee Agreement and Guarantor Agreement are signed. The Guarantor(s), therefore, understands that he/she cannot revoke this guarantee during the legal services being rendered pursuant to this Agreement without the consent of both the client and of the attorneys as well as the Order of Court to permit the withdrawal of the attorneys.

This Joinder and Guarantee Agreement shall be immediately binding upon the Guarantor(s) and shall continue in full force and effect until the completion of the legal services pursuant to the attached Agreement with the client.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

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**GUARANTOR**

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**GUARANTOR**



## PRICE LIST FOR LEGAL SERVICES

**This is part of your Fee Agreement.**

The fees are subject to periodic revision.

### Hourly fees:

Many but not all of our legal services are charged at hourly rates as follows (but also considering the other factors discussed below):

William H. Kain's out of court rate:	\$225.00 per hour
William H. Kain's <b>in</b> court rate:	\$250.00 per hour
Michael P. Burke's out of court rate:	\$200.00 per hour
Michael P. Burke's <b>in</b> court rate:	\$225.00 per hour
Stephanie R. Holguin's out of court rate:	\$175.00 per hour
Stephanie R. Holguin's <b>in</b> court rate:	\$200.00 per hour
Associate attorney out of court rate:	\$165.00 to \$175.00 per hour
Associate attorney <b>in</b> court rate:	\$200.00 per hour

"In court" includes at a courthouse before a judge, magistrate or referee, and also includes arbitrations, mediations, motor vehicle hearings, or any other hearing.

Certified Legal Assistant/Paralegal time:	\$150.00 per hour
Legal Assistant/Paralegal time:	\$150.00 per hour
Legal Secretary time:	\$100.00 per hour
Secretarial assistant:	\$ 50.00 per hour

### Some minimum charges apply:

A minimum of one hour is charged for all "in court" appearances (as above defined).

A minimum of .2 hour is charged for all phone calls, updating client files per attorney dictation, and filing documents in the client's file.

A minimum of .5 hour is charged for all long distance phone calls, and sufficient additional tenths of an hour are charged to cover the cost of longer long distance phone calls.

A minimum of .5 hour is charged for most office conferences.

A minimum of .5 hour is charged for drafting of most short pleadings. Longer pleadings may take many hours to draft and will be charged accordingly.

A minimum of .5 hour is charged for most letters.

A minimum of \$2,500 per day is charged for trials.  
We charge double for after hours and weekends.

Please remember that not only the attorneys, but the paralegals, legal secretaries, and secretarial assistants may be working on your case and will charge for time spent.

**Other Factors considered:**

The Colorado Supreme Court has ruled that attorneys shall consider the following factors in addition to time, when determining how much to bill. We, therefore, will consider the following factors, and will bill a reasonable fee taking into consideration:

1. The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
2. The likelihood that the acceptance of the particular employment will preclude other employment by the lawyer;
3. The fee customarily charged in the locality for similar services;
4. The amount involved and the results obtained;
5. The time limitations imposed by the client or by the circumstances;
6. The nature and length of the professional relationship with the client;
7. The experience, reputation, and ability of the lawyer or lawyers performing the services;  
and
8. Whether the fee is fixed or contingent.

No attorney can guarantee the results of a case. Please remember that there is no guarantee regarding the results of litigation and that you still owe for the bill for our efforts and time spent regardless of the results. We will present your case competently, but the decision is often made by a judge or jury and is not within our control.

**Retainers:**

Before work begins, a retainer is placed in a trust account to secure payment of fees. This is not a fee, but is merely a **security deposit**. The retainer is placed in a Coltaf Trust Account, and no interest is paid to either the client or to the attorneys in most situations. At the attorneys' discretion it can be used to pay fees or costs; this typically occurs where the client is delinquent in payment of fees or where the case is completed or nearly completed and the retainer is applied to the last month's bill and any outstanding balance for prior months. When all work is completed and the court has approved the withdrawal of the attorneys, and we are certain that no further work may be needed, any unused retainer is returned to the client. While normally the client pays

## Kain & Burke, PC Fee Agreement

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costs directly, the attorneys may use the retainer to pay costs. You, the client, cannot use your retainer to pay ongoing legal fees. The client should pay the legal fees and costs each month immediately upon receipt of our billing statement and should keep the full retainer on deposit in the trust account. The amount of the retainer is set by the attorneys at the beginning of services to assure payment and to protect the law firm from loss. An additional retainer is required six months in advance of trial to cover the estimated costs of trial and preparation for trial.

Typical **minimum** initial retainers are as follows:

For Appeals:	\$25,000.00 to \$50,000.00
For Custody & other contested cases:	\$15,000.00
For large District Court cases:	\$25,000.00 or more
For small District Court cases:	\$7,500.00 to \$15,000.00
For County Court cases:	\$2,500.00 to \$7,500.00
For DUIs	\$2,500.00 to \$5,000.00
For Municipal Court cases:	\$2,500.00
For Magistrate Court cases*:	\$2,500.00
For <u>noncourt</u> legal matters:	\$2,500.00 or more depending on complexity; or \$7,500.00 or more for very time consuming and complex matters.

\* "Magistrate Court cases" here refers to minor traffic matters. Domestic and civil cases handled by the Magistrate on behalf of the District and County Court necessitate a District or County Court retainer of \$7,500.00 or \$2,500.00 respectively, or \$15,000.00 for custody matters, and in some cases \$25,000.00.

However, if a case is particularly complex, a **larger** retainer may be required either at the beginning of services or later during the case at the attorneys' discretion. If the case is going to trial, the length of trial is estimated and an additional retainer is required in the amount of \$2,500.00 for each day or partial day that the trial is estimated to last, plus an additional sum to cover the estimated costs of preparation for trial. The additional retainer must be placed in trust no later than 180 days before trial. Cases in Federal Court require larger retainers than state cases and usually are in the range of \$15,000.00 or more. Cases outside of Mesa County normally require a retainer twice that charged for in-county work.

### Flat fee matters:

The following are charged as flat fees; (these apply only to the simpler cases; and larger fees may be charged if more than the simplest case is involved) (costs are charged in addition to the fees) (as stated below, the attorneys may charge additional time above the following fees, to check the work of staff members or for consultations for example) and are payable in advance:

Drafting Nontaxable estate plan per person:	\$1,000.00
Drafting Nontaxable estate plan per person with trusts:	\$1,500.00
Drafting Taxable estate plan per person with trusts (A/B):	\$2,500.00
Drafting Life Insurance Trust per person:	\$3,500.00
Drafting Charitable Remainder Trust per person:	\$3,500.00

## Kain & Burke, PC Fee Agreement

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QPRT, CRAT, GRAT	\$3,500.00
Drafting Taxable estate plan with trusts (other):	Hourly
Drafting Pleadings to Probate an Estate	
-if valued under \$100,000.00:	\$1,500.00
-if valued over \$100,000.00:	\$2,500.00
Drafting partnership agreements and leases:	\$1,500.00
Drafting incorporation documents:	\$1,500.00
Drafting LLC:	\$1,500.00
Drafting deeds:	\$200.00
Drafting deed of trust:	\$200.00
Drafting promissory note:	\$200.00
Drafting amortization table:	\$200.00
Drafting IRS ID# application:	\$200.00
Drafting Notice to Quit:	\$200.00
Drafting Eviction Court Pleadings:	\$750.00
Filling in any Bradford Form or other preprinted form:	\$200.00
Drafting Qualified Disclaimer:	\$200.00
Drafting other non-court forms by paralegal or legal secretary:	\$200.00
Drafting real estate contract, residential:	\$1,500.00
Reviewing real estate contract, residential:	\$750.00
Drafting real estate contract, commercial:	\$2,500.00
Reviewing real estate contract, commercial:	\$1,500.00
Attending real estate closing	\$750.00
(preparation is hourly for real estate)	

In addition, all costs are payable by the client. The client is charged hourly for other services beyond the drafting of the above, such as conferences whether in person or on the phone. Also, it should be understood that the above flat fees apply even if a Certified Paralegal or Legal Secretary is doing the work. In that case, the attorney will usually bill at least an hour to check over the work of the Paralegal or Secretary, and charges for the attorneys' time are in addition to the above flat fees.

Some estate plans take substantially longer than the normal or average client's plan and can cost more than the above flat fees.

### **Contingent fee matters:**

Only in exceptional cases are cases taken on a contingent fee basis. These include large personal injury cases for example. Fees are calculated after costs and are 30% of the gross amount collected if settled before suit is filed, 33.33% if after suit is filed, 40% if we take the case to trial, including any settlement reached any time on the first day of a scheduled trial (whether or not the trial has begun), and 50% if we must handle an appeal. A separate Contingent Fee Agreement form is available if you and the attorneys agree to a contingent fee arrangement. Criminal cases, probate cases, divorce and other domestic cases are never taken on a contingency fee basis by this law firm.



**AUTHORIZATION AND DIRECTION FOR REFUND OF RETAINER**

Date: \_\_\_\_\_

Print Client Name: \_\_\_\_\_

Upon completion of legal services I hereby direct that any retainer in this matter **be refunded to:**  
Print name of person or company to receive refund: \_\_\_\_\_

Address of person to receive refund:

\_\_\_\_\_  
\_\_\_\_\_

**Client's signature** authorizing the above transfer:

\_\_\_\_\_

**Client's signature** authorizing third party to pay retainer and/or fees:

\_\_\_\_\_

If someone other than client pays any part of the retainer, or a company check is used, the below signature of person paying the retainer on behalf of this client authorizes the above transfer and agrees to the terms of this Fee Agreement. The person who puts up the retainer shall be treated as either making a gift or a loan to our client. That person putting up the retainer is subject to the provisions regarding use and return of retainers discussed above. Further, the person putting up the retainer is not considered the client under this Fee Agreement, and has no right to control the course of legal representation.

**Signature of person (or company) paying retainer authorizing above transfer:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature of individual putting up retainer

Address of person putting up retainer:

\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

COMPANY NAME:

\_\_\_\_\_  
By: President/General  
Manager/Trustee/Other: \_\_\_\_\_

(indicate your title)  
Address

\_\_\_\_\_  
\_\_\_\_\_

**CREDIT CARD AUTHORIZATION**

- If any of my monthly bills are not paid by check or cash within 30 days of its due date, then I authorize payment of the bill with the following credit card.
- If I call Kain & Burke, PC in order to pay my bill, I hereby authorize payment of the bill with the following credit card.
- I authorize Kain & Burke, PC to use my credit card for the Retainer in the amount of \_\_\_\_\_, which will be placed in the COLTAF TRUST ACCOUNT of Kain & Burke, PC.

Circle one:                      Master Card                      VISA                      Discover

Card number: \_\_\_\_\_

Exact Name as appears  
on card: \_\_\_\_\_

Billing Mailing Address  
for the credit card: \_\_\_\_\_  
\_\_\_\_\_

Expiration date: \_\_\_\_\_

3 digit security number on  
back of card: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Credit card authorization:

\_\_\_\_\_  
**Signature of Client or other person responsible for bill**

For our records and for your protection, please attach photocopy of credit card and of driver's license.

_____ Court, _____ County, Colorado Court Address:	
Kain & Burke, PC William H. Kain, Esq., #8642 Michael P. Burke, Esq. #23948 P.O. Box 1981 Grand Junction, CO 81502 Phone: (970)241-2969 E-mail: <a href="mailto:Bill@Kainlaw.com">Bill@Kainlaw.com</a> FAX: (970)241-3129 <a href="mailto:Michael@kainlaw.com">Michael@kainlaw.com</a>	Case Number:  Division:                      Courtroom:
<b>CONSENT TO WITHDRAW</b>	

I hereby consent to the withdrawal of Kain & Burke, PC, Attorneys at Law, and the individual attorneys thereof, William H. Kain and Michael P. Burke, at such time as they may withdraw from my case for whatever reason, and release the law firm and the attorneys thereof from further responsibility for my case from and after the time of filing of this withdrawal. I request that the Court grant the Motion to Withdraw filed along with this Consent.

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**Client's signature**