

CONTESTED MATTER RETAINER AGREEMENT
READ THIS CAREFULLY.
THIS IS YOUR WRITTEN ENGAGEMENT AGREEMENT
AS REQUIRED BY LAW

Based upon information provided by you, MICHAEL T. & CEIL A. TRISTANO , attorneys at law, through their firm, TRISTANO & TRISTANO, LTD. are quoting the following retainer and estimated costs for a contested action in Cook County Circuit Court, unless otherwise indicated. A retainer is an advance payment of legal fees, which are earned at an hourly rate or on a fixed basis for routine matters as set forth on the reverse side of this agreement. Your final total cost for this action depends on a number of factors including: the cooperation of your spouse and his or her attorney; amount of discovery; times in court, etc. We, like most attorneys, charge for all time we must spend on your case, including all court appearances, depositions, negotiations, office meetings, telephone calls, preparing paperwork, etc. We have no reliable way to determine in advance how much time will be necessary to protect your interests. The hourly rate of Mr. & Mrs. Tristano is \$300 per hour for non-court time, \$350 per hour for court time and \$385 per hour for evidentiary hearing/trial time. The hourly rate of Michael J. Vines is \$225 per hour for non-court time and \$250 per hour for court time and \$285 per hour for evidentiary hearing/trial time. At our option, unless otherwise instructed by you in writing, some of the work may be done by less experienced attorneys and billed at a lower rate. Support staff are \$60-80 per hour for law clerks and \$100-\$160 per hour for legal assistants or paralegals.

Our initial retainers normally range from \$3,500.00 for simpler cases where there are no custody or emergency matters and it is anticipated that disputed issues may be resolved through negotiations, up to \$7,500.00 or more for complicated matters, with \$5,000.00 being our average retainer. Higher retainers are charged when there are extremely complex matters, very large estates or custody matters or violence. The retainer below is normally required to be paid in full before representation is started and to be replenished from time to time as detailed on the following pages . Hourly rates and other charges are subject to prospective change by us with 45 days written notice to you.

We also require advance payment of anticipated costs. Costs are monies which we hold on your behalf and pay out to the court, ourselves or other parties for such things as filing fees, postage, copying costs, service of process, subpoenas, etc. We will account to you for all costs spent on your behalf. Normally, we will NOT pay costs on your behalf until we have the money in our possession.

If the retainer or costs are not earned or used they will be refunded within 30 days of our closing your case.

RETAINER DUE PRIOR TO REPRESENTATION\$5,000.00
COSTS DUE PRIOR TO FILING OF PAPERS\$500.00
TOTAL AMOUNT DUE FOR RETAINER AND COSTS\$5,500.00

We will normally bill you once a month. When the total amount of your legal fees earned exceeds the amount of your retainer or we need additional money for costs we will bill you for the amount owed. The payment of the bill is due within ten days unless other arrangements are made. **DETAILS OF PAYMENT POLICY, REPRESENTATION AND YOUR STATUTORY RIGHTS ARE ON THE FOLLOWING THREE PAGES. PLEASE READ THEM. THIS IS A CONTRACT GIVING YOU SPECIFIC RIGHTS AND IMPOSING SPECIFIC OBLIGATIONS.**

I agree to retain MICHAEL T. & CEIL A. TRISTANO and any law firm they may be associated with, to represent me in a domestic relations action in the Circuit Court of Cook County, IL, and to pay the above retainer and costs and all additional fees and costs if and when they become due.

AGREED TO BY CLIENT

___/___/___
Dated

AGREED TO BY FIRM

___/___/___
Dated

- I. **OBJECTIVES OF REPRESENTATION** - The client acknowledges that the purpose of hiring *TRISTANO & TRISTANO, LTD.* is to pursue the client's parental and financial interests in a contested domestic relations action in the most expedient, cost effective manner; while minimizing emotional distress and protecting minors from harm and securing maximum support and parental involvement. In this document we, our, us etc., firm and the Tristanos refers to *TRISTANO & TRISTANO, LTD.*; while "client, you or your etc." refers to the Client .
- II. **NO REPRESENTATIONS MADE** - The client states no representations or promises have been made by the Tristanos, or any other member of their firm as to the ultimate outcome of any action other than their professional opinion based upon the information furnished by the client prior to being retained. Nor have the Tristanos represented they are assured of securing payment of the client's fees from any other party; although the right to request fees from the opposing party may be exercised on behalf of the client or attorneys. The client has been informed an attorney's opinion is based upon many as yet unknown variables beyond the attorney's control including: the demeanor of witnesses; the judge hearing the case; the availability of evidence; and future changes in the law.
- III. **TIME FRAME INVOLVED** - The client acknowledges that he or she has been informed that the Circuit Court of Cook County is subject to a tremendous backlog of cases especially in the domestic relations division; necessitating a wait of 6 months to 2 years or longer before a case may receive a full hearing. While the attorneys will use their best efforts to expedite this action they must operate in a system where delays are often unavoidable; therefore no exact time frame for any matter can be guaranteed.
- IV. **DISCOVERY** - The client understands that he or she has the right to discovery - the use of the court's powers to determine the full income, financial position, custodial fitness and any other matters relating to the divorce and the opposing party. This is normally done via depositions; subpoenas; written questions to the other side. Realistically the amount of discovery that is done has to be limited at some point. The costs of litigation are continually weighed. And based upon our professional opinion we may not exercise every form of discovery available. If you think that there is something more to be found please tell us. Many forms of discovery have legal time limits, therefore prompt payment of anticipated costs is essential. While most cases settle and it is natural to want to avoid spending money until absolutely necessary, delay in fully pursuing your rights may make adequate discovery impossible.
- V. **DISCONTINUE REPRESENTATION** - Either party to this agreement has an absolute right to discontinue representation (unless otherwise prohibited by law) upon written notification to the other. The client acknowledges being informed that a failure to timely honor fee and cost agreements shall result in the Tristanos asking the court for permission to discontinue their representation of the client.
- VI. **FIXED CHARGES AND MINIMUM BILLING UNITS** - Clients are billed by the tenth of an hour for attorney and certain support staff time. Partial units are rounded off to the next highest tenth. Due to the cost of recording and documenting time charges (for which you are not separately charged) the minimum unit that is billed is .2 of an hour. Any transmittal of documents by staff by mail incurs a minimum charge of \$6.00 per mailing, with no charge for up to 10 copies. **However we will send your documents to you by email for free - no charge - zip.** So sign a consent for email transmission and save time and money. There is no charge for routine (less than 25-50 items) photo copying. Large photo copying is sent out and charged to client If you were not previously our client, there is a one time \$100.00 charge for administrative expenses to open your file; enter data on our system and set up accounts.
- VII. **PAYMENT PLANS** - In order to allow clients to budget the costs of their litigation *TRISTANO & TRISTANO, LTD.* may offer written payment plans. The type of payment plan offered is a business decision and will be based upon your prior credit history, income, assets and other relevant factors.
- VIII. **MAINTAINING RETAINER MINIMUM AND ADDITIONAL TRIAL RETAINER OR COSTS** - While only a very small percentage of cases actually go to trial; in the event that this matter requires preparation for a

contested trial; the client shall pay an additional retainer in an amount reasonably contemplated by the Tristanos to cover fees and costs of trial unless other arrangements are made in writing. Said trial retainer shall be separate and distinct from any payment plan entered into before trial and failure to make timely arrangements for the same shall be grounds for cessation of representation. In addition, unless otherwise agreed in writing the client shall maintain a minimum credit balance to be used for legal fees in his or her client fund of \$2000.00; failure to maintain that balance in your client's fund account for a period over 10 days after notification shall be grounds for cessation of representation.

IX. FEE DISPUTES TO BE PROMPTLY STATED - When you receive our bill, if the client has any question regarding any charge in the bill, he or she shall notify the attorneys in writing. Absent written objection to the bill within 30 days, charges will be deemed by both parties to be correct and not subject to further dispute. This is to assure you tell us when information is fresh and to avoid misunderstandings.

X. DOCUMENT RETENTION - We will retain your case file on the premises for at least 90 days after we close your case but will store it no more than two years after we close your case. After 2 years you agree we may destroy all or what portions of the file we deem fit. **Under no circumstances will you give us originals of any documents, unless you receive a detailed receipt for the same.** We are happy to make copies of anything. While originals may be needed for trial, all of our work can be done with copies and **you will receive copies of all documents received or generated in your case.** That means both of us will have a complete file for safety. We will return all receipted originals upon written request, while we have your file. We both agree that digital copies of your file will be considered the same as paper or other copies.

XI. THIRD PARTY ORDERS - In many cases the only way to assure you receive payments of pension rights (via a Qualified Domestic Relations Order etc.), profit sharing, proceeds from the sale of real estate, etc. is to file orders against the pension fund, credit union etc. and/or liens or mortgages on property. Any matter including third party matters, appeals, etc. arising after the divorce is final are new matters and required we be specifically retained anew in writing to undertake the same. **If you desire to finalize your divorce - and instruct us to do so before all third party orders (such as a Qualified Domestic Relations Order) are approved and entered - you could lose all rights to your spouse's pension or suffer other loses. Knowing this you agree to release us from any and all liability that may result from not entering such orders simultaneously with your divorce and assume all the risk yourself if you so instruct.**

XII. SCHEDULING - In order to litigate your case properly we need your cooperation. We understand that your time is valuable - it is often hard to determine until the very last minute if a client's presence is necessary in court. We must know where to contact you and be kept abreast of any change in address or phone number. Try as we may... you'll probably make one or two wasted trips to court. As a consequence of the over crowded court system an attorney can often find that her or his schedule is disrupted. Call our office just before you must leave to come in to see if there is a delay.

STATEMENT OF CLIENT'S RIGHTS AND RESPONSIBILITIES

(1) **WRITTEN ENGAGEMENT AGREEMENT.** The written engagement agreement, prepared by the counsel, shall clearly address the objectives of representation and detail the fee arrangement, including all material terms. If fees are to be based on criteria apart from, or in addition to, hourly rates, such criteria (e.g., unique time demands and/or utilization of unique expertise) shall be delineated. The client shall receive a copy of the written engagement agreement and any additional clarification requests and is advised not to sign any such agreement which the client finds to be unsatisfactory or does not understand.

(2) **REPRESENTATION.** Representation will commence upon the signing of the written engagement agreement. The counsel will provide competent representation, which requires legal knowledge, skill,

thoroughness and preparation to handle those matters set forth in the written engagement agreement. Once employed, the counsel will act with reasonable diligence and promptness, as well as use his best efforts on behalf of the client, but he cannot guarantee results. The counsel will abide by the client's decision concerning the objectives of representation, including whether or not to accept an offer of settlement, and will endeavor to explain any matter to the extent reasonably necessary to permit the client to make informed decisions regarding representation. During the course of representation and afterwards, the counsel may not use or reveal a client's confidence or secrets, except as required or permitted by law.

(3) COMMUNICATION. The counsel will keep the client reasonably informed about the status of representation and will promptly respond to reasonable requests for information, including any reasonable request for an estimate respecting future costs of the representation or an appropriate portion of it. The client shall be truthful in all discussions with the counsel and provide all information or documentation required to enable the counsel to provide competent representation. During representation, the client is entitled to receive all pleadings and substantive documents prepared on behalf of the client and every document received from any other counsel of record. At the end of the representation and on written request from the client, the counsel will return to the client all original documents and exhibits. In the event that the counsel withdraws from representation, or is discharged by the client, the counsel will turn over to the substituting counsel (or, if no substitutions, to the client) all original documents and exhibits together with complete copies of all pleadings and discovery with thirty (30) days of the counsel's withdrawal or discharge.

(4) ETHICAL CONDUCT. The counsel cannot be required to engage in conduct which is illegal, unethical, or fraudulent. In matters involving minor children, the counsel may refuse to engage in conduct which, in the counsel's professional judgment, would be contrary to the best interest of the client's minor child or children. A counsel who cannot ethically abide by his client's directions shall be allowed to withdraw from representation.

(5) FEES. The counsel's fee for services may not be contingent upon the securing of a dissolution of marriage, upon obtaining custody, or be based upon the amount of maintenance, child support, or property settlement received, except as specifically permitted under Supreme Court rules. The counsel may not require a non-refundable retainer fee, but must remit back any overpayment at the end of the representation. The counsel may enter into a consensual security arrangement with the client whereby assets of the client are pledged to secure payment of legal fees or costs, but only if the counsel first obtains approval of the Court. The counsel will prepare and provide the client with an itemized billing statement detailing hourly rates (and/or other criteria), time spent, tasks performed, and costs incurred on a regular basis, at least quarterly. The client should review each billing statement promptly and address any objection or error in a timely manner. The client will not be billed for time spent to explain or correct a billing statement. If an appropriately detailed written estimate is submitted to a client as to future costs for a counsel's representation or a portion of the contemplated services (i.e., relative to specific steps recommended by the counsel in the estimate) and, without objection from the client, the counsel then performs the contemplated services, all such services are presumptively reasonable and necessary, as well as to be deemed pursuant to the client's direction. In an appropriate case, the client may pursue contribution to his or her fees and costs from the other party.

(6) DISPUTES. The counsel-client relationship is regulated by the Illinois Rules of Professional Conduct (Article VIII of the Illinois Supreme Court Rules), and any dispute shall be reviewed under the terms of such Rules."

Agreed: _____(client)

Agreed: _____(attorney)

Tristano & Tristano, Ltd.
ATTORNEYS AT LAW
8200 W. 95TH STREET
HICKORY HILLS, IL 60457
708 233-4400

Additional terms which are incorporated into this agreement and initialed by both partes.

* _____

Agreed: _____(client) Dated: ___/___/201__

Agreed: _____(attorney) Dated: ___/___/201__