

**Copy of Prof. Serv. Contract - DO NOT PROCESS**

Vendor No. 100228875  
 Contact  
 Your reference  
  
 MIKE MOORE LAW FIRM LLC  
 10 CANEBRAKE BLVD STE 150  
 FLOWOOD MS 39232

Contract No. 4600041909  
 Date 01/24/2018  
  
 Contact Bryant Stanfield  
 Telephone 501-539-0969  
 Fax 501-682-8084  
  
 Our ref. PSC  
 Incoterms FOB  
**DESTINATION**

**Send Invoice To:**

**Ship To:**

ARKANSAS ATTORNEY GENERAL  
 LOGISTICS GROUP  
 323 CENTER ST STE 300  
 LITTLE ROCK AR 72201

Valid from: 01/24/2018  
 Valid to: 03/31/2023

Target value 25,000.01 USD  
 Contingency fee contract

Item	Material/Description	Target Qty	UM	Unit Price	Amount
0001	10090101 PRO SERVICE,ATTORNEY	25,000.01	Lump Sum	1.00	\$ 25,000.01
Estimated Net Value					<b>25,000.01</b>

**GENERAL CONDITIONS AND INSTRUCTIONS TO VENDOR:**

All purchasing rules and regulations defined by the State of Arkansas apply to this document.

**RETENTION AGREEMENT  
FOR  
Opioid Manufacturers Litigation**

This Retention Agreement (hereinafter this "**Retention Agreement**") is entered into by and between the Arkansas Attorney General (the "**Attorney General**") and Hagens Berman Sobol Shapiro LLP; Davidson Bowie, PLLC; McGowan Hood & Felder, LLC; The Mike Moore Law Firm; and Dover Dixon Horne PLLC. (the "**Outside Counsel**") effective as of January 24, 2018.

**RECITALS**

WHEREAS, opioid abuse has become prevalent in the State of Arkansas where 66 of 75 counties have overall opioid prescribing rates higher than the national average and where enough opioids are now being sold for every man, woman and child in Arkansas to take 80 pills each over the course of a year; and

WHEREAS, the impact of opioid abuse on Arkansans is disproportionately high as compared to other states; and

WHEREAS, the Attorney General, pursuant to Act 851 of 2015, Ark. Code Ann. §§ 25-16-714 and 25-16-715, is empowered to appoint Outside Counsel to represent the State; and

WHEREAS, the Attorney General has determined that the retention of Outside Counsel is both cost-effective and in the public interest; and

WHEREAS, the purpose of this Retention Agreement is to set forth the terms for the appointment and retention of Outside Counsel; and

WHEREAS, the Attorney General desires to engage Outside Counsel to provide legal representation to the State of Arkansas and its various state agencies, boards, departments, commissions, colleges, universities and retirement systems (all collectively, the "**Client**") harmed by prescription opioid manufacturers ("**Opioid Manufacturer**"), with such representation including all preparation for, settlement of, and/or actual litigation arising from alleged improper business or trade practices or actions or statements or omissions or other wrongful conduct or inaction of some or all Opioid Manufacturers and/or their officers, directors, affiliates, predecessors, or other related entities (hereinafter collectively referred to as the "**Litigation**").

NOW THEREFORE, in consideration for the mutual promises and covenants set forth herein and for other valuable consideration, the Attorney General and Outside Counsel (each individually, a "**Party**", and collectively the "**Parties**") hereby agree as follows:

**Article I  
TERM**

The appointment of Outside Counsel and this Retention Agreement shall cover all past, present, and future legal services by Outside Counsel in connection with these matters and shall terminate on March 31, 2023, unless earlier terminated by the Attorney General (the "**Termination Date**"). If the Litigation is not completed by March 31, 2023, then the Attorney General may re-appoint Outside Counsel on the same terms and conditions for an additional term to be determined at that time, to begin April 1, 2023. No services rendered by Outside Counsel after the Termination Date shall be authorized or payable without an additional written agreement from the Attorney General.

## **Article II SERVICES**

### **Section 1. Scope of Appointment**

Outside Counsel shall provide counsel, advice, and consultation in a manner consistent with accepted standards of practice in the legal profession. In view of the personal nature of the services to be rendered under this appointment, the Attorney General shall be the sole judge of the adequacy of those services.

A. The Attorney General shall have final authority over all aspects of the Litigation. Moreover, the Attorney General has the unfettered right to appoint one or more designated assistants (the "**Designated Assistant(s)**") to oversee the Litigation which appointment the Attorney General may modify at will. For the purposes of the Litigation, until further notice is given, the Designated Assistant(s) shall include Cory Cox, Chief of Staff; Julie Benafield, Chief Deputy Attorney General; Chuck Harder, Deputy Attorney General of the Attorney General's Public Protection Department; and Shawn Johnson, Senior Assistant Attorney General, Consumer Protection Division. In the event that no Designated Assistant(s) is named, all references herein to the Designated Assistant(s) shall be deemed to refer to the Attorney General.

B. Outside Counsel shall provide counsel to the Client, subject to the approval of the Attorney General, for the purposes of seeking injunctive relief, monetary relief, and other relief against all entities in the Litigation for any and all alleged violations of law.

C. The Attorney General may provide attorneys and other staff members to guide and assist Outside Counsel with the Litigation. The identity and responsibilities of such personnel so assigned shall be determined solely by the Attorney General.

D. Outside Counsel shall coordinate the provision of counsel with the Designated Assistant(s) and other personnel of the Attorney General, and such others as the Attorney General may appoint as outside counsel. All briefs and other material which may be filed with any court shall first be provided electronically to the Attorney General in draft form in a reasonable and timely manner for review and shall be approved by the Attorney General. The Attorney General shall retain veto power over any decisions made by Outside Counsel. Regular status meetings will be held as requested by Outside Counsel or the Attorney General.

E. Outside Counsel shall only communicate with the Client through the Attorney General or the Designated Assistant(s) unless otherwise agreed to by the Attorney General.

F. Outside Counsel shall provide sufficient resources, including attorneys, paralegals and other professional resources, to prosecute the Litigation in accordance with the Arkansas Rules of Professional Conduct and consistent with the requirements of complex litigation.

G. Counsel for any defendant subject to the litigation for which the Attorney General has retained Outside Counsel may contact the Designated Assistant(s) directly without first consulting Outside Counsel.

H. Outside Counsel agrees that if any term of the Retention Agreement is inconsistent with Ark. Code Ann. §§ 25-16-714 and 25-16-715, then the statutes will prevail.

### **Section 2. Assignment and Delegation of Work**

Outside Counsel may assign legal work to those individuals employed by Outside Counsel or the law firm with which Outside Counsel is affiliated. Further, Outside Counsel may only delegate work to other attorneys, legal professionals or firms with the advance written approval of the Attorney General.

In the event that Outside Counsel delegates work to other firms, the compensation of such firms shall be a matter beyond the scope of this Retention Agreement to be negotiated in writing between Outside Counsel and those firms prior to the commencement of any work by such firms, and shall be paid entirely by Outside Counsel. Neither the Client nor the Attorney General shall be liable for any fees, compensation or expenses to be paid to other firms retained by Outside Counsel to serve as co-counsel with Outside Counsel. Outside Counsel agrees to indemnify, defend, and hold harmless the Attorney General and the State of Arkansas against any claim for reimbursement of fees, costs or expenses asserted by any firm retained by Outside Counsel.

All firms to whom Outside Counsel may delegate work under this Section must have qualifications and experience to perform the work requested and shall work under the supervision and control of Outside Counsel. Although delegation may be permitted as provided herein, delegation shall not relieve Outside Counsel of any responsibility or liability for the work performed hereunder.

### **Section 3. Attorney-Client Relationship and Relationship of the Parties**

Outside Counsel shall render services pursuant to this Retention Agreement as an independent contractor. Outside Counsel, shall not be regarded as "in the employment of", or as an employee of, the Attorney General or the Client. An attorney-client relationship shall exist between Outside Counsel, the Attorney General and the Client. Outside Counsel shall follow the direction, guidance, rules and policies of the Attorney General in its performance under this Retention Agreement. In all pleadings, Notices and/or correspondences created pursuant to the work performed here under. Outside Counsel shall indicate that such document is prepared by Outside Counsel in its position as Outside Counsel for the Attorney General.

During the term of this appointment, Outside Counsel shall be engaged by the Attorney General solely on an independent contractor basis, and Outside Counsel shall therefore be responsible for all of Outside Counsel's business expenses, including, but not limited to, employee's wages and salaries, insurance of every type and description, and all business and personal taxes, including income and Social Security taxes and contributions for workers' compensation and unemployment compensation coverage, if any.

## **Article III MANAGEMENT**

### **Section 1. Reporting to the Attorney General**

#### **A. Status and Expense Reports**

The Designated Assistant(s) requires status and/or expense reports, as well as significant case updates from Outside Counsel regarding any aspect of the Litigation. Outside Counsel shall submit monthly status reports and updates to the Designated Assistant(s) and to any others at the direction of the Attorney General, or such more frequent reports and updates as litigation developments may suggest. Outside Counsel shall submit quarterly expense reports to the Designated Assistant(s). Failure to timely provide such reports and updates may result in forfeiture of Outside Counsel's compensation, as documented by Article IV.

At a minimum, significant case updates must include a description of the current status of the Litigation, any significant events that have occurred since the previous update, and a prospective analysis of any significant future events.

Reports shall be sent electronically to the Designated Assistant(s) at the email addresses listed in Section 2, or such other addresses as they may hereafter designate. These email addresses shall not be used for invoices, notices or time-sensitive correspondence that may be required under this Retention Agreement.

## **B. Communication with the Designated Assistant(s)**

Outside Counsel agrees to consult, by telephone or email, with the Designated Assistant(s) as soon as possible on all matters that may be of substantial legal significance, controversial, high profile, or otherwise noteworthy.

Outside Counsel shall give timely written notice to the Designated Assistant(s) of the scheduled date for any of the following, if applicable:

1. Pleadings
2. Discovery Cut-offs
3. Dispositive motions
4. Court decisions and rulings
5. Schedule for hearings, conferences, or other court appearances
6. Trials
7. Settlement negotiation or other alternative dispute resolution efforts
8. Appeal or Notice of an Appeal

Email notices for this Paragraph B shall be at the addresses designated in Paragraph A, above, or such other addresses as may hereafter be designated. Upon the filing of any pleading or the receipt of any communication from a court, Outside Counsel shall timely provide electronic notification and a time-stamped copy of such filing to the Designated Assistant(s).

## **C. Communication Regarding Case Initiation and Settlement**

The Attorney General in her full discretion shall approve both the initiation of litigation on behalf of the Client and any settlement. Outside Counsel understands and agrees that the initiation of litigation on behalf of the Client and all settlements must receive the prior approval of the Attorney General. Outside Counsel shall confer with a Designated Assistant early and regularly with regard to the prospects of settlement. Decisions regarding settlement of the case shall be reserved exclusively to the discretion of the Attorney General.

Outside Counsel shall timely notify the Designated Assistant(s) of any settlement conferences to allow the Designated Assistant(s) to participate as warranted. Without limitation, Outside Counsel agrees to confer with the Attorney General about the following matters when applicable:

1. Confidentiality provisions in settlement agreements
2. Indemnification provisions
3. Release language
4. Naming of the State as a party

Outside Counsel shall meet with the Designated Assistant(s) when required by the Litigation.

## **D. Communication Regarding Appeals**

It is important that the Attorney General receives early notice of potential or actual appeals, for or against, any of its clients. Therefore, Outside Counsel shall give notice via email, as soon as possible, to the Designated Assistant(s) upon the receipt of a dispositive decision in any court, receipt of a Notice of Appeal, or the existence of any intent of Outside Counsel to appeal a decision arising out of the Litigation.

## **Section 2. Correspondence**

Except as otherwise set forth herein, all required notices and correspondence must be sent by certified or registered U.S. mail, return receipt requested, to the following addresses:

For the Attorney General:

Julie Benafield  
Chief Deputy Attorney General  
323 Center Street, Suite 200  
Little Rock, AR 72201  
(601) 682-2007  
Julie.Benafield@ArkansasAG.gov

Chuck Harder  
Deputy Attorney General  
323 Center Street, Suite 200  
Little Rock, AR 72201  
(601) 682-2007  
Chuck.Harder@ArkansasAG.gov

Shawn Johnson  
Senior Assistant Attorney General  
323 Center Street, Suite 200  
Little Rock, AR 72201  
(601) 682-2007  
Shawn.Johnson@ArkansasAG.gov

For Outside Counsel:

Steve W. Berman  
Hagens Berman Sobol Shapiro LLP  
1918 Eighth Ave., Suite 3300  
Seattle, WA 98101  
(206) 623-7292

John L. Davidson  
Davidson Bowie, PLLC  
2506 Lakeland Drive, Suite 501  
Post Office Box 321405  
Flowood, MS 39232  
(601) 932-0028

James L. Ward  
McGowan Hood & Felder, LLC  
321 Wingo Way, Suite 103  
Mt. Pleasant, SC 29464  
(843) 388-3194

Mike Moore  
Mike Moore Law Firm, LLC  
P.O. Box 321048  
Flowood, MS 39232  
(601) 933-0070

Michael G. Smith  
Dover Dixon Horne PLLC  
425 West Capitol Ave., Suite 3700  
Little Rock, AR 72201  
(501) 375-9151

Addresses may be changed at any time upon written notice to the other Party.

### **Section 3. Confidentiality/Public Records Act**

Outside Counsel agrees to adhere to the Arkansas Freedom of Information Act, Ark. Code Ann. §§ 25-19-101, et seq., and maintain all public records in accordance with state law, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the provision of such attorney services. Outside Counsel shall consult with and obtain the approval of the Attorney General before responding to any public records request. Moreover, Outside Counsel shall not disclose any information obtained in performing its services hereunder in violation of any state or federal law including, but not limited to, the Family Education Rights and Privacy Act ("FERPA") and/or the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") as the same may be amended or modified from time to time. Outside Counsel agrees that the Retention Agreement is subject to disclosure and public inspection under Ark. Code Ann. § 25-16-715.

### **Section 4. Media Statements**

Neither Outside Counsel nor any partner, associate, employee or any other person assisting with the work contemplated by this Retention Agreement shall publish any material, including online publications, or speak to or otherwise communicate with any representative of a television station, radio station, newspaper, magazine, website, or any other media outlet concerning the work outlined or contemplated by this Retention Agreement without first obtaining approval of the Attorney General's Designated Assistant and/or the Attorney General's Director of Communications. This Retention Agreement specifically excludes any right or ability on the part of Outside Counsel to speak on behalf of the Attorney General to any member of the news media. Provided, however, the restrictions in this Section shall not apply to any professional or other publication of (i) the fact that Outside Counsel is representing or has represented a client as to a specific matter (the "Representation") and (ii) the nature of the Representation.

## **Article IV COMPENSATION**

### **Section 1. Fee Schedule**

Outside Counsel shall receive no compensation for any services rendered unless a recovery is awarded through settlement or litigation and collected by, and for the benefit of, the Client. If the Client receives and collects such an award or settlement, Outside Counsel shall be compensated for their services, pursuant to the fee schedule set forth in Ark. Code Ann. § 25-16-714(d) and subject to the limitations set forth in Ark. Code Ann. § 25-16-714(e) and (f). If the Client or the Attorney General obtains relief under a provision authorizing attorney fees and costs, such fees and costs cannot be retained by Outside Counsel beyond the limitations provided by Ark. Code Ann 25-16-714 and will not be considered part of the award on which the fee schedule is determined.

The fee award is contingent upon the amount of the total recovery whether by judgment or settlement for the Client as set forth in Ark. Code Ann. § 25-16-714, which shall govern all compensation for Outside Counsel and all co-counsel (whether delegated to any outside counsel or otherwise affiliated in the case). Interest earned on funds specifically paid and deposited for payment of attorneys' fees and expenses will be paid to Outside Counsel at the time of disbursement of such fees and expenses.

### **Section 2. Payment of Fees**

Neither the Client nor the Attorney General shall be required under this Retention Agreement, or otherwise, to directly compensate Outside Counsel, except as provided in Articles IV and V of this

Retention Agreement. Accordingly, except as provided by the Fee Schedule, Article IV, and for the expenses and costs enumerated in Article V, no other compensation shall be paid to Outside Counsel. Outside Counsel shall pay, out of the fee awarded to it, all attorneys' fees to those law firms whose work in the litigation has been determined by the Attorney General to have benefited the Client through actions other than objections to actions taken by the Client.

## **Article V EXPENSES AND REIMBURSEMENTS**

### **Section 1. Advancement of Expenses and Costs**

Outside Counsel shall advance litigation costs, expenses and disbursements, including expert witness fees and costs, deposition costs, and document production. Neither the Client nor the Attorney General shall advance payment for any services rendered or costs, expenses or disbursements incurred. Outside Counsel's agreement to advance all costs, expenses, and disbursements, as well as its agreement to defer fees while any and all litigation (including appeals) is pending, has been taken into consideration in establishing Outside Counsel's compensation and Fee Schedule.

### **Section 2. Expenses/Format**

Should a recovery be obtained for the benefit of the Client, Outside Counsel shall be reimbursed for certain non-labor expenses and costs only as set forth in Section 4 below. Outside Counsel shall not seek reimbursement of expenses or costs incurred by other attorneys or firms separately retained by Outside Counsel in delegation of its duties. In the event of a recovery with fewer than all of the Opioid Manufacturer Defendants, Outside Counsel shall be reimbursed the portion of non-labor expenses and costs directly-related and/or allocated to such Opioid Manufacturer Defendants.

All expenses should be itemized to include the following information: (1) name of the attorney incurring the expense; (2) a legible copy of a receipt documenting the expense, and (3) a detailed description of the expense. No reimbursement shall be made for "miscellaneous" listings or for expenses missing any of the three requirements listed above.

### **Section 3. Receipts**

All receipts shall be retained for at least four (4) full years following the Termination Date and shall be made available to the Attorney General and the Client upon request or as otherwise set forth herein.

### **Section 4. Maximum Reimbursement**

Unless otherwise expressly approved by the Attorney General in writing prior to invoicing, the following permitted expenses shall be reimbursed only in accordance with Section 2, above, and only as follows:

#### **A. Experts**

Outside Counsel shall be reimbursed for retention of outside experts, including fees and other reasonable costs, only when expressly authorized by the Attorney General. Except as otherwise expressly set forth herein, Outside Counsel shall not be reimbursed for retention of in-house experts or other in-house legal support staff.

#### **B. Travel**

Approval of travel expenses for reimbursement to Outside Counsel is subject to Arkansas Attorney General's Office Travel Regulations as set forth in Appendix A.

### **C. Photocopying/Document Imaging**

In-house photocopying/ document imaging (including faxing, scanning and color copies) shall be reimbursed at the Outside Counsel's actual expense, not to exceed fifteen cents (\$0.15) per copy and is to be itemized on the invoice as "photocopies, document images, faxes, or scanned pages" (number of copies @ rate per copy/image). Reasonable amounts for outside photocopying/ document imaging shall be reimbursed at actual cost if receipts are provided.

### **D. Priority/Overnight Mail**

Charges for priority or overnight mail and courier services shall be reimbursed only if a reasonable basis exists for using the service and only if receipts for the expense are provided. In no event shall Outside Counsel be reimbursed for the cost of sending invoices or status reports to the Attorney General by overnight or priority mail services.

### **E. Secretarial Overtime**

There shall be no reimbursement for secretarial/administrative overtime unless expressly authorized in writing by the Attorney General.

### **F. Other expenses**

Actual costs shall be reimbursed for certain extraordinary expenses including transcripts, deposition costs, witness fees, subpoena service, postage, printing, cab and bus fares, parking, and long-distance telephone calls when itemized with receipts. Routine expenses such as office supplies, word processing or secretarial costs are not reimbursable. Outside Counsel shall obtain the Attorney General's approval before incurring any individual expense exceeding One Thousand and 00/100 Dollars (\$1,000.00), other than airfare as set forth above, as well as any other extraordinary or unusual expenses or significant category of expenses incurred in fulfilling the terms of this Retention Agreement.

## **Article VII OTHER TERMS AND CONDITIONS**

### **Section 1. Equal Opportunity**

In the hiring of employees for the performance of work under this Retention Agreement, Outside Counsel agrees not to discriminate on the basis of race, color, religion, sex, age, national origin, military status, ancestry, disability, sexual orientation or gender identity, characteristics, or expression, against any citizen of the State of Arkansas in the employment of a person qualified and available to perform the work to which this Retention Agreement relates.

Outside Counsel further agrees not to discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Retention Agreement on account of race, color, religion, sex, age, national origin, military status, ancestry, disability, sexual orientation, or gender identity, characteristics or expression.

Ark. Code Ann. § 19-11-104 requires any entity or person that enters into a professional services contract with the State of Arkansas and its agencies to provide a copy of its most current equal opportunity policy to the Arkansas Attorney General's Office. Outside counsel agrees that it will provide this policy in accordance with governing law.

### **Section 2. Jurisdiction and Choice of Law**

This Retention Agreement and the rights of the Parties hereunder shall be governed, construed, and interpreted in accordance with the laws of the State of Arkansas. Only Arkansas courts shall have jurisdiction over any action or proceeding concerning the Retention Agreement and/or performance

hereunder. Outside Counsel hereby irrevocably consents to jurisdiction in a court of proper jurisdiction in Pulaski County, Arkansas.

### **Section 3. Indemnification**

Outside Counsel agrees to indemnify and hold the Attorney General and the State of Arkansas harmless and immune from any and all Claims (as hereinafter defined) for injury or damage arising from this Retention Agreement that are attributable to Outside Counsel's own actions or omissions or those of its partners, associates, officers, employees, subcontractors, suppliers, third parties utilized by Outside Counsel, or joint ventures while acting under this Retention Agreement. Claims shall mean any claims made under the Fair Labor Standards Act or under any other federal or state law involving wages, overtime, or employment matters and any claims involving collection activities. Outside Counsel shall bear all costs associated with defending the Attorney General and the State of Arkansas against any such claims.

### **Section 4. Termination**

#### **A. Termination by the Parties**

The Attorney General reserves the right to modify or cancel the appointment and/or terminate this Retention Agreement at any time, in its sole discretion, and without cause or duty of explanation upon written notice to Outside Counsel. Outside Counsel may terminate this appointment and this Retention Agreement upon thirty (30) days' written notice to the Attorney General. If there is pending litigation, termination on the part of Outside Counsel shall not be effective unless Outside Counsel (a) receives approval from Attorney General or (b) obtains leave of court to terminate its representation in the matter.

#### **B. Compensation in the Event of Termination**

In the event this Retention Agreement is terminated by either Party, Outside Counsel will be entitled to reimbursement for all expenses incurred.

If Outside Counsel is terminated for any reason, Outside Counsel also will be entitled to receive a quantum meruit share of any award or settlement in the Litigation. The quantum meruit fee shall be calculated as follows: 10 percent of the award or settlement multiplied by a percentage the numerator of which is the value of Outside Counsel's hourly fees and the denominator of which is the numerator plus the value of the hourly fees incurred by counsel retained subsequent to Outside Counsel's termination. The percentage of work shall be measured by the value of the fees incurred. Strictly by way of example, if the value of the hourly fees incurred by Outside Counsel equaled 50 percent of the value of the total attorney fees incurred in prosecuting this Litigation, Outside Counsel's quantum meruit fee would equal 5 percent of any award or settlement. So under this hypothetical example, if (1) the value of Outside Counsel's fees was \$1 million, (2) Outside Counsel was terminated, (3) another firm incurs \$1 million in fees to obtain a verdict of \$10 million, then Outside Counsel would receive \$.5 million for its fees.

#### **C. Transfer of Work**

If Outside Counsel is removed from any case or matter, Outside Counsel agrees to effectuate a speedy and efficient transfer of the work and to cooperate fully with the Attorney General or Designated Assistant(s). Outside Counsel agrees to protect the Client's interests in any transfer of work. The State of Arkansas may withhold final payment to Outside Counsel if Outside Counsel fails to transfer all files, documents and materials when so requested by the Attorney General.

### **Section 5. Compliance with Rules of Professional Conduct**

Outside Counsel represents and warrants that the attorneys authorized to act in the Litigation on behalf of Outside Counsel are licensed to practice in, and in good standing before the bar of, their home jurisdiction or jurisdictions (each an "**Admission Jurisdiction**"). If, during the appointment as Outside

Counsel, a complaint is issued against Outside Counsel or any attorney providing services pursuant to this Retention Agreement, alleging a violation of the Supreme Court Rules for the Government of the Bar of Arkansas, or the applicable rules governing the state bar in any Admission Jurisdiction, or the Arkansas Rules of Professional Conduct, then Outside Counsel must give timely written notice, with a copy via email, of such complaint to the Attorney General and Designated Assistant. Such notice must include the nature of the allegations set forth in the complaint.

#### **Section 6. Conflicts of Interest and Ethics Compliance**

Outside Counsel represents and warrants that, as of the date of this Retention Agreement, it is not engaged in any matter that is or may be adverse to the Attorney General, the State of Arkansas or any potential Clients. Outside Counsel agrees that if a conflict of interest, potential or otherwise, arises pursuant to Rule 1.7 of the Arkansas Rules of Professional Conduct, then Outside Counsel will give timely written notice to the Designated Assistant. Outside Counsel must request and obtain a written waiver prior to undertaking representation adverse to the State of Arkansas, its agencies, boards, departments, commissions, colleges, universities or retirement systems. Outside Counsel represents, warrants and certifies that it and its partners, associates, employees, and other persons assisting with the legal work contemplated by this Retention Agreement are knowledgeable of and understand the Arkansas Ethics and Conflicts of Interest laws. Outside Counsel further represents, warrants, and certifies that neither Outside Counsel, nor any of its partners, associates, employees or other persons assisting with the legal work contemplated by this Retention Agreement will do any act that is inconsistent with such laws.

#### **Section 7. Insurance**

Outside Counsel shall maintain, or cause to be maintained at no cost or expense to the Attorney General, adequate professional liability insurance in accordance with Arkansas law. Unless otherwise stated, such insurance shall remain in force at all times from the date hereof through the term of this Retention Agreement, with companies authorized to do business in Arkansas with an A.M. Best Rating of at least "A" unless otherwise approved in writing by the Attorney General.

Outside Counsel warrants that it will comply with all conditions of each policy to assure that each policy is kept in full force and effect. Any and all insurance claims must be made on a timely basis as required in the conditions of each policy.

#### **Section 8. Compliance with Law**

Outside Counsel agrees to comply with Ark. Code Ann. §§ 25-16-714 and 25-16-715 and all other applicable federal, state and local laws, rules, regulations and ordinances in the conduct of the work hereunder.

#### **Section 9. Miscellaneous**

##### **A. Counterparts**

This Retention Agreement may be executed in one or more counterpart(s), each of which shall be an original and all of which shall constitute one and the same instrument.

##### **B. Severability of Terms and Conditions**

If any provision of this Retention Agreement shall be held invalid, illegal, or unenforceable in any respect, said provision shall be severed. The validity, legality and enforceability of all other provisions of this Retention Agreement shall not in any way be affected or impaired unless such severance would cause this Retention Agreement to fail of its essential purpose.

**C. Waiver of Terms and Conditions**

Failure to enforce or insist on compliance with any of the terms and conditions of this Retention Agreement by the Attorney General shall not constitute a waiver or relinquishment of any such term or condition of the Retention Agreement on the part of the Attorney General but the same shall remain at all times in full force and effect.

**D. Entire Agreement/Integration**

This Retention Agreement constitutes the entire understanding of the Parties. Both Parties agree that there is no other understanding or agreement other than the terms expressly stated herein.

**E. Amendment or Modification**

No amendment or modification of this Retention Agreement shall be effective against either Party unless such amendment or modification is set forth in writing and signed by both Parties.

**F. Headings**

The headings herein are for reference and convenience only. They are not intended and shall not be construed to be a substantive part of this Retention Agreement or in any other way to affect the validity, construction or interpretation of any of the provisions of this Retention Agreement.

The undersigned represent that they are authorized to enter into this Retention Agreement. The undersigned acknowledge they have read and understand all terms set forth herein. By affixing their signatures below, the Parties evidence their intent to be bound hereto.

**ARKANSAS ATTORNEY GENERAL**

By:   
Name: Cory Cox  
Title: Chief of Staff

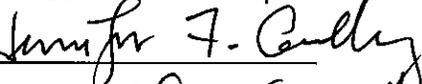
**OUTSIDE COUNSEL  
Davidson Bowie, PLLC**

By:   
Name: John Davidson  
Title: Owner

**OUTSIDE COUNSEL  
Mike Moore Law Firm, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

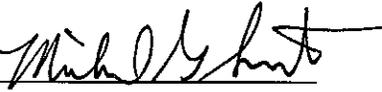
**OUTSIDE COUNSEL**

Hagens Berman Sobol Shapiro LLP  
By:   
Name: Jennifer Conolly  
Title: Partner

**OUTSIDE COUNSEL  
McGowan Hood & Felder, LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**OUTSIDE COUNSEL  
Dover Dixon Horne PLLC**

By:   
Name: Michael Smith  
Title: member

**C. Waiver of Terms and Conditions**

Failure to enforce or insist on compliance with any of the terms and conditions of this Retention Agreement by the Attorney General shall not constitute a waiver or relinquishment of any such term or condition of the Retention Agreement on the part of the Attorney General but the same shall remain at all times in full force and effect.

**D. Entire Agreement/Integration**

This Retention Agreement constitutes the entire understanding of the Parties. Both Parties agree that there is no other understanding or agreement other than the terms expressly stated herein.

**E. Amendment or Modification**

No amendment or modification of this Retention Agreement shall be effective against either Party unless such amendment or modification is set forth in writing and signed by both Parties.

**F. Headings**

The headings herein are for reference and convenience only. They are not intended and shall not be construed to be a substantive part of this Retention Agreement or in any other way to affect the validity, construction or interpretation of any of the provisions of this Retention Agreement.

The undersigned represent that they are authorized to enter into this Retention Agreement. The undersigned acknowledge they have read and understand all terms set forth herein. By affixing their signatures below, the Parties evidence their intent to be bound hereto.

**ARKANSAS ATTORNEY GENERAL**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**OUTSIDE COUNSEL**  
Davidson Bowie, PLLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**OUTSIDE COUNSEL**  
Mike Moore Law Firm, LLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**OUTSIDE COUNSEL**  
Hagens Berman Sobol Shapiro LLP

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**OUTSIDE COUNSEL**  
McGowan Hood & Felder, LLC

By: James L. Ward, Jr.

Name: James L. Ward, Jr.

Title: Attorney

**OUTSIDE COUNSEL**  
Dover Dixon Horne PLLC

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**C. Waiver of Terms and Conditions**

Failure to enforce or insist on compliance with any of the terms and conditions of this Retention Agreement by the Attorney General shall not constitute a waiver or relinquishment of any such term or condition of the Retention Agreement on the part of the Attorney General but the same shall remain at all times in full force and effect.

**D. Entire Agreement/Integration**

This Retention Agreement constitutes the entire understanding of the Parties. Both Parties agree that there is no other understanding or agreement other than the terms expressly stated herein.

**E. Amendment or Modification**

No amendment or modification of this Retention Agreement shall be effective against either Party unless such amendment or modification is set forth in writing and signed by both Parties.

**F. Headings**

The headings herein are for reference and convenience only. They are not intended and shall not be construed to be a substantive part of this Retention Agreement or in any other way to affect the validity, construction or interpretation of any of the provisions of this Retention Agreement.

The undersigned represent that they are authorized to enter into this Retention Agreement. The undersigned acknowledge they have read and understand all terms set forth herein. By affixing their signatures below, the Parties evidence their intent to be bound hereto.

**ARKANSAS ATTORNEY GENERAL**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**OUTSIDE COUNSEL  
Davidson Bowie, PLLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**OUTSIDE COUNSEL  
Mike Moore Law Firm, LLC**

By: Mike Moore

Name: Mike Moore

Title: Attorney

**OUTSIDE COUNSEL**

Hagens Berman Sobol Shapiro LLP

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**OUTSIDE COUNSEL  
McGowan Hood & Felder, LLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**OUTSIDE COUNSEL  
Dover Dixon Horne PLLC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPENDIX A

Policy No. 1025	<b>Arkansas Attorney General's Office Travel Regulations</b>
<b>Effective Date:</b> February 13, 2017	
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Employees may be paid travel expenses when required to travel away from their "official station" on State business. "Official station" is the geographic location or "address" where the employee normally reports for duty and/or spends the majority of his/her work time. An employee's residence shall be the city or town in which the individual has an abode or dwelling place. An employee whose resident city is a location other than his/her "official station" shall not be allowed mileage to travel between them except as provided under Special Authorizations.

Travel request forms must be completed and approved before overnight travel arrangements are finalized.

All employee travel reimbursement claims must be completed for payment to the individual traveler. One employee may not include or request on his travel payment the expense of another employee.

**Limits for Meals and Lodging**

**PLEASE NOTE THAT TRAVEL REIMBURSEMENT IS NOT A PER DIEM AND IS TO BE CLAIMED FOR ACTUAL EXPENSES FOR MEALS AND LODGING NOT TO EXCEED THE MAXIMUM ALLOWABLE RATES AS LISTED IN THE FEDERAL TRAVEL DIRECTORY PLUS APPLICABLE SALES TAX.**

The Federal travel rates for meals and lodging can be found on the U.S. General Services Administration's (GSA) website:

<http://www.gsa.gov/portal/content/104877>

The maximum allowance for meals INCLUDES taxes and up to 15% tip. Lodging rates per the Federal Travel Directory EXCLUDE room tax and should be exceeded only by the room tax amount unless special authorization is justified on the Travel Request Form and approved by Administration.

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**ORIGINAL ITEMIZED RECEIPTS ARE REQUIRED FOR ALL REIMBURSEMENTS.**

**Meals**

Reimbursement for meals is allowed only in connection with overnight travel whether in-state or out-of-state. The maximum full day meal allowance (including tax and up to 15% tip) cannot exceed the federal per diem rate depending on the destination location. For partial days, meals charged must be in proportion to the time in travel status and may not exceed the maximum for applicable meal(s) stated in the Federal Travel Directory for the location(s). Original itemized receipts for meals are required for reimbursements. These policies may only be waived with written permission of the Chief Deputy or Chief of Staff.

**INCIDENTALS MUST BE LISTED SEPARATELY AND EXPLAINED ON THE TRAVEL REIMBURSEMENT FORM (TR-1).**

**Partial Days' Meal Allowances**

The traveler is only eligible for 75% of the daily allowance for meals on the first and last day of travel. The daily travel allowance at the destination location shall be used in the calculation of the limit for partial days.

**Lodging**

Reimbursement for lodging is limited to the single room rate. If a room is occupied by more than one person, the single room rate must be noted on the receipt. The maximum daily allowance will be limited to the federal per diem rate depending on the location for both in-state and out-of-state travel. Room taxes are not included in the federal per diem rate and may be claimed for reimbursement.

Lodging costs that exceed rates listed in the Federal Travel Directory by more than room tax may not be paid without justification and Administration approval on the Travel Request Form prior to travel.

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**Transportation**

Travel may be achieved by whichever method serves the requirements of the State most economically and advantageously. Commercial airline tickets should be purchased at least 14 days prior to travel if possible. Airline tickets purchased with less than a 14 day advance shall be explained in writing on the Travel Request Form and approved by the Administration prior to purchase.

Payment or reimbursement for the first bag only will be paid to the traveler. Fees for additional bags must be paid by the traveler and are not eligible for reimbursement without administration approval.

Reimbursement for out-of-state travel will be the lesser of coach class airfare or the established rate of private car mileage based on map mileage (whether paper-based or electronic) when driven. A comparison of airfare vs. driving must be completed prior to travel if driving a private vehicle.

**Reimbursement for Use of Privately-Owned Vehicle**

Private vehicle mileage shall be reimbursed and computed, using map mileage, between the travel site destination and the employee's official station or residence, if leaving directly from the residence, whichever is less. From/to mileage shall be listed on the TR-1. Reimbursement for vicinity miles shall also be listed separately on the TR-1.

When privately-owned motor vehicles are used for travel on official business, the traveler may claim reimbursement at the rate per mile established by the Chief Fiscal Officer of the State in effect during the time the travel occurred. The shortest major highway route will determine the maximum mileage allowed. MapQuest is the source for map mileage used by agency personnel and shall be used exclusively on all mileage claims.

The State will reimburse for official miles driven only. The State assumes no responsibility for any maintenance, insurance, operational costs, accidents, or fines incurred by the operator of the vehicle while on official business for the State.

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**EXPLANATION WHY STATE VEHICLE WAS NOT DRIVEN MUST BE WRITTEN ON THE TR-1 WHEN REQUESTING REIMBURSEMENT FOR MILEAGE.**

**Miscellaneous Expenses**

Miscellaneous expenses, whether or not directly connected with travel (such as small emergency supplies, etc.), may be allowed with adequate justification when necessary to the performance of official duties. Original itemized receipts are required.

**Items Not Reimbursable**

Expenses for personal entertainment, flowers, valet service, laundry, alcoholic beverages, cleaning, pet care, movies, or other similar services are not reimbursable. Communication expenses shall be allowed only when necessary for the transaction of official business.

Expenses for rental of space, decorations, entertainment, or other arrangements in connection with banquets held solely for the benefit of employees are not reimbursable.

**WRITTEN DETERMINATION OF THE ATTORNEY GENERAL  
PURSUANT TO ARKANSAS CODE SECTIONS 25-16-714(b)(2) & (c)(2)**

Opioid abuse has adversely affected the State of Arkansas and its citizens to a much greater extent than most other states. The Office of Arkansas Attorney General Leslie Rutledge is presently investigating whether the business practices of certain pharmaceutical companies have caused or greatly contributed to the opioid epidemic; whether these companies have profited substantially from the sale and distribution of opioids within the State of Arkansas; whether these companies should change or stop certain business practices; and whether they should take an active financial role in remedying a crisis they created.

To that end, the Attorney General has retained the law firms of Dover Dixon Horne PLLC (“Dover Dixon Horne”); Hagens Berman Sobol Shapiro, LLP (“Hagens Berman”); Mike Moore Law Firm<sup>1</sup>; Davidson Bowie PLLC; and McGowan, Hood, and Felder (collectively “the Firms”) to assist the Attorney General’s Consumer Protection Division in the investigation and possible litigation of claims against the pharmaceutical companies that manufacture opioids. Collectively, the Firms have extensive experience in similar complex litigation on behalf of governmental entities.

Dover Dixon Horne, one of Arkansas’s largest law firms, has a litigation practice with extensive experience in complex litigation in federal and state courts involving pharmaceuticals and other industries. In addition to experience in litigation involving pharmaceuticals, Dover Dixon Horne’s broad range of practice areas will allow the Attorney General to draw upon experienced lawyers with other specialized knowledge and skills.

The Firms – with the exception of Dover Dixon Horne – have been retained as legal counsel by the attorneys general for the States of Louisiana, Mississippi, and Ohio in separate lawsuits against opioid manufacturers. Similarly, Hagens Berman has been hired to assist the Orange County, California District Attorney’s office and the City of Seattle, Washington in lawsuits against opioid manufacturers. These state and local lawsuits allege that major pharmaceutical companies deceived physicians and consumers about the dangers of prescription opioids in order to expand the market for opioids and realize “blockbuster” profits for their stockholders and lucrative bonuses for their executives.

Pursuant to Arkansas Code Section 25-16-714(b)(2), the Attorney General has determined, taking all the factors surrounding this matter together, that hiring the Firms as outside counsel on a contingent fee basis is both cost-effective and in the public interest. Furthermore, pursuant to Section 25-16-714(c)(2), the

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<sup>1</sup> As Attorney General for the State of Mississippi, Mike Moore led the national effort during the 1990’s to address the tobacco health crisis and require that cigarette manufacturers reimburse the states for costs they incurred treating smoking-related illnesses.

Attorney General has concluded that requesting proposals for this matter is neither feasible nor necessary under the relevant circumstances.

Based on the Attorney General's experience with similar litigation, discussions with other states which have initiated or are contemplating the same or similar legal action, and an internal assessment of the significant time and labor that would be required to successfully litigate claims against multiple defendants, the Attorney General believes that –

- exclusive reliance on the Attorney General's Consumer Protection legal staff would cause a substantial diversion of time and labor away from other necessary and important cases;
- the novelty, complexity and difficulty of the question involved and the skills required to perform the legal services in this case are specialized;
- while the Attorney General anticipates that the majority of legal services will be performed within the State of Arkansas, conducting discovery and other matters might require that legal services be performed in other states from time to time; and
- the Firms have the specialized expertise, paralegals, legal support, and other resources required to supplement the Attorney General's legal staff.

In addition to attorney services, significant data resources, both hardware and software, will be required to analyze millions of pages of company books, records, correspondence, emails, and other documents. The Attorney General does not have the data resources necessary to conduct discovery of this magnitude. Moreover, the litigation will be difficult, costly, and require the extensive use of expert witnesses.

The use of outside counsel on a contingency fee basis under the terms of the attached Retention Agreement will provide the Attorney General the legal, data, and expert witness resources that are necessary to supplement the legal staff and existing resources that the Attorney General is able to commit to this litigation. Moreover, the significant costs of litigation will be borne by the Firms, not the Attorney General. That the Firms bear those costs and are entitled to reimbursement only upon a successful outcome allows the Attorney General to focus its financial resources on other important matters.

The specialized expertise, data resources, and legal staff required to perform the legal services in this case and achieve the best result for Arkansans are unique to this litigation. The Attorney General hired the Firms after considering, *inter alia*, the subject matter, discovery issues, expert witness issues, representation of governmental entities in similar matters, and other factors necessary for a successful outcome. The Attorney General is satisfied that the firms identified in the Retention Agreement have the experience, skill level, and knowledge to professionally and appropriately handle this matter in a cost-effective way that comports with the public interest.