

## **CDC Eviction Moratorium Lawsuit: Client Information Sheet Contingency Fee Agreement**

Dear Client:

Thank you for asking Dorsey & Whitney LLP (“Dorsey”), together with John McDermott, PLLC, to represent and advise You in this matter.

The terms “Client,” “You,” and “Your” mean and refer only to the specific individual or entity identified and set forth on the final page of this letter as the “Client.” By means of this engagement, Dorsey will be representing only You and will not be representing any of Your parents, subsidiaries, affiliated entities, shareholders, partners, directors, officers, agents, or employees.

Because clear and timely communication is important for serving clients well, we want to begin by stating mutual understandings about services and charges. Please read this carefully and contact us with any questions You might have.

Dorsey’s engagement on Your behalf will not begin until we have verified that we do not have any potential conflict representing You in this matter or that any potential conflict has been waived. Dorsey will notify You once we have accepted the engagement. In the event that Dorsey cannot represent You in this matter, You may be able to be represented solely by John McDermott, PLLC, subject to a separate engagement letter.

**Services.** We will make certain specified claims for compensation on behalf of You and other plaintiffs against the United States Government in connection with the federal eviction moratorium (the “Litigation”). It is mutually understood that the services provided by Dorsey in connection with this matter on Your behalf are solely for Your benefit. At the same time, as described in greater detail below, we have agreed to represent other plaintiffs in this matter. Those clients are defined in separate engagement agreements.

Our services include necessary investigation, evaluation, negotiation, and trial of the case. Our services also include any appeals or other appellate proceedings that occur before trial. Services for any appeal after trial are not included in this agreement.

**Fees.** If we do not recover money for You on Your claims, there is no fee. If we do recover money for You, by settlement or trial, our fee is 20% of the amount recovered. One tenth of our fee will then be shared with co-counsel, John McDermott PLLC. The 20% is calculated on the basis of the total recovery, before any litigation and other expenses are deducted from the recovery, and before any offsets.

If we agree to represent You in an appeal after trial, an additional fee, in a reasonable amount to be determined mutually, will be required.

**Disbursements and Services Charges.** Your claims may require out-of-pocket expenses, such as court filing fees, costs for depositions, and expert witness fees. It is also anticipated that a third-party legal support company such as Epiq Systems will assist us in the administration of this case, the costs for which will also be considered out-of-pocket expenses. We will advance payment of such expenses, but You agree to repay us for Your share of all such expenses. These obligations to repay advances and to pay our charges apply regardless of outcome. You will repay us when and as invoiced to You, with payment due within thirty days.

You are required to provide an initial cost deposit of \$1,000, which will be held in trust by John McDermott PLLC or an administrator at his direction and used toward general litigation expenses. You will be provided wiring instructions for this deposit. You agree that the cost deposit and other amounts paid for costs may be deposited with Epiq Systems or another third party case administrator.

Additional costs may be assessed. All costs will be shared equally among all clients represented in the Litigation. At the conclusion of the lawsuit, Your share of any unspent funds will be returned to You.

**Acknowledgement Regarding Limited Claims Asserted.** Our services include making certain specified claims in the Litigation on behalf of a number of plaintiffs. It is anticipated that these claims will specifically include alleging that the federal eviction moratorium constituted or effected an uncompensated physical taking or illegal exaction. It is understood that the objective of this lawsuit is to pursue these specified claims. The claims asserted in the lawsuit will not include a regulatory taking claim, which is another claim that could be asserted. There are also other claims that potentially could be asserted generally or on behalf of particular plaintiffs that will not be asserted in the Litigation.

Our representation does not extend to other claims, allegations, legal theories, or legal arguments that You may have against the United States Government or any other party relating to the federal eviction

moratorium. Other potential claims, allegations, legal theories, or legal arguments that You may have relating to the federal eviction moratorium may be considered waived or abandoned if You participate in this lawsuit and such claims are not asserted in this lawsuit. In other words, You may be legally precluded from asserting such claims separately or in the future. You are encouraged to consult with other counsel before agreeing to the terms of this representation. By Your execution of this agreement, we understand that You have consulted with other counsel, or at least had the opportunity to do so, before agreeing to the terms of this representation.

**Discretion and Cooperation.** You agree that we have full and complete discretion to manage the litigation, subject only to applicable requirements of legal ethics. You authorize us to enter into settlement negotiations on Your behalf, but we will not settle or compromise Your claims without Your approval or, in the case of an aggregate or lump sum settlement, the approval of a majority of the jointly represented clients as explained further below.

You agree to provide full and complete cooperation with us with respect to any matters that require Your attention, including by responding promptly to inquiries and cooperating with respect to discovery issues. You will also provide us with the name and contact information of one person to serve as the primary contact for this case. You will provide us timely notice of any changes in Your contact information or other matters that may impact the litigation.

**Joint Representation.** We intend to jointly represent multiple clients as plaintiffs in this matter. A list will be available for Your review upon request.

In order for us to jointly represent clients, we need to obtain each client's consent to potential conflicts of interest. We are precluded from representing multiple clients in a single matter where the clients have potentially adverse interests unless we reasonably believe we can adequately represent the interests of each client and each client consents to the joint representation in writing after consultation and disclosure of the material facts regarding the implications of the effect of such representation on the exercise of our professional judgment.

The most significant possible detrimental effects of joint representation include: (1) no attorney-client privilege may exist as between the jointly-represented clients; (2) if a dispute arises between the clients, we may be required to testify under oath regarding the representation of the clients; (3) if a dispute arises among or between the clients, we may be required to withdraw and not represent any of the clients; (4) we will have an obligation to withdraw if we come to believe we can no longer fairly and adequately represent each of the clients under the then-existing circumstances; and (5) although joint representation of multiple clients can be convenient and economic, hiring new counsel at a later time can require significant expense and duplicative work.

Professional standards limit a lawyer's ability to represent a client if the representation of that client will be directly adverse to another client or if the representation of that client may be materially limited by the lawyer's responsibilities to another client. At this time, we are not aware of any conflict of interest that would preclude us from jointly representing each of the joint clients. We understand that the jointly represented clients are also not aware of any such conflict. We also understand that the jointly represented clients have consulted with other counsel, or at least had the opportunity to do so, before agreeing to the terms of this joint representation.

We will keep information we obtain in this representation confidential, except as necessary for the representation and except that we would make such information available to all jointly represented clients. The clients should understand that, although confidential communications in this joint representation will be protected from others by the attorney-client privilege, that privilege will not apply between the jointly represented clients.

All of the jointly represented clients understand and agree that our joint representation in this matter may terminate eventually for one or more reasons. However, the clients' obligation to preserve joint confidences shall remain in full force and effect notwithstanding any termination of this agreement, with respect to any and all confidential information or materials disclosed to a client and/or developed during the time when this agreement was in effect.

Other Representations. We request that a signed copy of this letter be returned to indicate agreement that while Dorsey is representing Client, (1) Dorsey may represent other clients who may be adverse to Client in unrelated matters; and (2) Dorsey may represent other parties who may be adverse to Client in this matter in unrelated matters. These agreements are made on the following understandings. First, Dorsey will not use confidential client information against a client. Second, Dorsey will not represent a party adverse to a client on a subject matter substantially related to the subject matter of Dorsey's representation of that client. Third, while Dorsey represents a client Dorsey will not undertake litigation in which the client is a directly adverse party. Fourth, Dorsey lawyer(s) personally involved in representing a client will not personally be involved in representing parties adverse to that client, without the client's specific consent.

Aggregate or Lump Sum Settlement Offer. As a condition of having Dorsey represent You on a contingency basis and paying legal fees only if there is a recovery, You agree that in the event the Government makes an aggregate or lump sum settlement offer to resolve all of the claims for the clients jointly represented by Dorsey, You will abide and be bound by the decision of a majority of the jointly represented clients as to whether to accept the settlement offer. You understand that by agreeing to this provision, You are potentially giving up Your right to reject a settlement offer if it is accepted by a majority of the jointly represented clients. You are encouraged to consult independent counsel before agreeing to this provision.

Allocation of an Aggregate or Lump Sum Settlement. If an aggregate or lump sum settlement is accepted by a majority of the jointly represented clients, the recovery, after deducting attorney fees and costs, will be allocated pro rata between the jointly represented clients based upon the amount of lost rental income incurred due to the moratorium. If there are disputes between the jointly represented parties about pro rata allocation based upon lost rental income that cannot be resolved among the jointly represented clients, You agree to submit the dispute to an independent arbitrator chosen by Dorsey and to be bound by the arbitrator's allocation decision. The arbitrator will be compensated from the proceeds available for distribution to the jointly represented clients. You are encouraged to consult independent counsel before agree to this provision.

Final Statement and Client File. When a recovery is made on Your claim or when Dorsey's services are complete, Dorsey will provide for You a written statement stating the outcome and, if there is a recovery, showing the amount due You and the other jointly represented clients.

Completing Our Services. Dorsey intends and expects to complete its services to Your satisfaction. However, Dorsey will withdraw from representation upon Your request. Dorsey may also withdraw in the manner and for the reasons provided by judicial and professional rules. At the conclusion of representation, a client may have on request a copy of any client files or papers to which the client is entitled, for which we may charge a reasonable fee for the cost of gathering and/or producing electronic documents.

File Retention and Destruction. Dorsey's policy is to deliver to clients, upon request, during or promptly following the completion of a particular matter, all original documents and materials the client has provided to us, and all materials prepared as a part of the representation that are necessary for the client to have. Extra copies of documents or other duplicative materials are likely to be discarded when the file is closed. Dorsey retains the remaining file for ten years, but does not provide additional notice of its destruction.

Litigation Hold. As in any litigation, an adversary (in this case, the Government) may have the right to discover information relevant to the dispute. For this reason, it is important that You take immediate steps to preserve all documents, things, and electronically stored information that may relate to the matter. Electronically stored information includes, among other things, emails, electronic files, information contained on servers, databases, thumb drives and other portable storage devices, telephone logs, contact information, internet files, personal digital assistants and similar devices, and network access information. Preserving this information may necessitate action to suspend automatic or regular purging or deletion of data to avoid erasing potentially-relevant emails, voicemail messages, backup tapes, etc. Rules of procedure may require prompt disclosure of relevant electronically stored information. You

should begin to identify all potential sources of electronically stored information relevant to this matter immediately. Doing so now will facilitate the discovery process and may help preserve claims of privilege, avoid inadvertent disclosure of privileged data, and identify sources of information which would be too costly or burdensome to disclose. Delay in assessing the sources of electronically stored information, and any failure to preserve relevant evidence, may expose You to sanctions under the rules of procedure, which could include preclusion of helpful evidence, default, and monetary penalties.

If You wish Dorsey and John McDermott PLLC to provide legal services on Your claims, based on the understandings stated above, please sign this letter. Please keep the original for Your file and return a copy of the signed letter to our attention. We will notify You once we are ready to begin work on Your behalf or if there are any issues with our potential engagement. We greatly appreciate the opportunity to be of service. If there are any questions about our services, or the fee and billing arrangements, please contact us.

Electronic Signature

Date

SAMPLE