

JOHN W. CONROY, Q.C.*
ONDINE SNOWDON
Associates
KIRK TOUSAW
BIBHAS VAZE*

CONROY & COMPANY
Barristers and Solicitors

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CONTINGENCY FEE AGREEMENT

BETWEEN:

CONROY & COMPANY
Represented by:
JOHN W. CONROY, Q.C.
ONDINE SNOWDON
BIBHAS VAZE
KIRK TOUSAW
and/or AGENT

AND:

RE:

WHEREAS:

A. This is a Contingency Fee Agreement entered into by _____
(hereinafter referred to as the "Client") in relation to _____
(hereinafter referred to as the "Incident").

B. The Client has agreed to engage Conroy & Company and/or its Agent for professional legal assistance in pursuing a claim for damages arising from the Incident.

C. Conroy & Company and/or its Agent has advised the Client that they would, in the absence of a contract for fees, charge on an hourly basis for professional services rendered; and

D. Conroy & Company and/or its Agent has agreed to act on behalf of the Client in the conduct of the action under a Contingency Fee Agreement and upon the terms and conditions herein set forth.

THIS AGREEMENT WITNESSES THAT in consideration of the mutual premises and covenants herein contained, the parties agree as follows:

1. The Client has instructed and engaged Conroy & Company and/or its Agent to provide professional legal services on the client's behalf, the object of which is the recovery of all loss, damage and expense for the Client in respect of the Incident.

2. Conroy & Company and/or its Agent agrees to conduct on behalf of the Client the prosecution of a claim for loss, damages and expenses up to and including a judgment of the Supreme Court of British Columbia, pursuant to the terms and conditions set forth herein (and to consider any appeal thereafter).

3. The Client agrees to pay to Conroy & Company and/or its Agent legal fees for professional services as follows:

- a. twenty-five percent (25%) of the amount of any settlement, excluding costs, if reached three months or more before the date the trial of the action was scheduled to commence; or

- b. thirty-three and one-third percent (33 1/3%) of the amount of any settlement, excluding costs, if reached within three months prior to the trial date or at trial, (hereinafter referred to as "the Percent Fee").

4. The rules of the Law Society of British Columbia provide that, subject to the Supreme Court approving higher remuneration, the maximum compensation to which a lawyer is entitled in a claim for personal injury or wrongful death arising out of the use or operation of a motor vehicle is 33 1/3 percent of the total amount recovered. Fees charged by different lawyers vary.

5. Notwithstanding the foregoing paragraph, pursuant to the rules of the Law Society of British Columbia, the maximum compensation to which a lawyer is entitled in a claim for personal injury or wrongful death not arising out of a motor vehicle accident is 40 percent of the total amount recovered.

6. That it is understood and agreed between the parties hereto that the percentages referred to in paragraph 3 above are based on a percentage of all amounts recovered by settlement or judgment, except costs, which shall be dealt with in accordance with the provisions of section 78 of the **Legal Profession Act**, a copy of which is attached to this contract.

7. The Client also agrees to pay to Conroy & Company and/or its Agent all costs, expenses and charges (hereinafter referred to as "disbursements") and all Goods and Services Tax (hereinafter referred to as "GST") and all Provincial Sales Tax (hereinafter referred to as "PST") as required by Revenue Canada, incurred by Conroy & Company and/or its Agent in the prosecution

of the Client's claim.

8. The legal fees referred to in paragraph 3 above shall be in addition to any disbursements including GST and PST (as set forth in paragraph 10 below) necessarily incurred by the said Conroy & Company and/or its Agent on behalf of the Client, which disbursements and GST and PST shall be paid by the Client at the time of billing regardless of any success or the outcome of claim.

9. All unpaid disbursements and GST and PST incurred by Conroy & Company and/or its Agent or on behalf of the Client concerning the claim shall, after an account has been rendered to the Client, bear interest at the TD Canada Trust prime rate plus one and one-half percent (1½%) per annum on the unpaid monthly balance.

10. All GST and PST shall be in addition to any legal fees and disbursements and shall not form a part of the award or settlement amount for the purpose of arriving at the payment of monies pursuant to the "percent" method as aforesaid for calculating the legal fees.

11. Conroy & Company and/or its Agent will be entitled to all expenses or disbursements unless Conroy & Company and/or its Agent has already been reimbursed by the Client, in which case the monies recovered for expenses or disbursements would be remitted to the Client. Although disbursements incurred in this matter may be recoverable from the Defendant(s), they are the Client's responsibility in any event of the outcome of this matter. The Client hereby authorises the firm to make any disbursements in connection with this matter that they may deem necessary.

12. The Client hereby authorises and appoints Conroy & Company and/or its Agent as his/her agent and lawful attorney to enter into any contract or agreements that Conroy & Company and/or its Agent in its discretion deems necessary for the conduct of the Client's claim and to incur any disbursements that they in their discretion deem necessary for the conduct of claim.

13. The Client hereby authorises Conroy & Company and/or its Agent to negotiate a settlement on the Client's behalf, subject to the Client's final approval and acceptance. Neither party to this contract shall settle the litigation without the other's approval.

14. If a settlement proposal is made by the other side and is recommended by Conroy & Company and/or its Agent, but is not accepted by the Client, then the Client shall pay to Conroy & Company and/or its Agent by way of the "percent" method set out in paragraph 3, based on the higher of the amount offered and not accepted, any subsequent offer that was accepted, or any award by the court after the trial.

15. The Client authorises and instructs Conroy & Company and/or its Agent to apply any judgment, settlement funds, or other monies paid to Conroy & Company In Trust in satisfaction of fees and disbursements incurred by Conroy & Company and/or its Agent owing in accordance with this Agreement. All disbursements either paid in settlement or awarded shall, save as aforesaid, be paid to the Client in reimbursement of disbursements paid by the Client.

16. Conroy & Company and/or its Agent may withdraw their representation of the Client if, in their sole discretion, further pursuit of the action is not warranted or any statement or

representation provided to Conroy & Company and/or its Agent by the Client is knowingly incorrect, and in such event the Client agrees to pay to Conroy & Company legal fees at a rate of:

John Conroy, \$400.00 per hour;

Bibhas Vaze, \$250.00 per hour;

Kirk Tousaw, \$300.00 per hour;

Ondine Snowdon, \$200.00 per hour;

Agent, \$200.00 per hour;

to the date of withdrawal, and costs and disbursements incurred by Conroy & Company and/or its Agent.

17. If the Client decides to terminate this Contingency Fee Agreement and appoint new counsel, or if the Client decides to act as own counsel, the Client agrees to pay to Conroy & Company and/or its Agent for professional services rendered to the date of such termination such sum as may be agreed to by the parties, or failing agreement, the sum which is the product of the number of hours spent, multiplied by the hourly rate for the lawyer's hours and multiplied by the rate of \$150.00 per hour for the Agent's hours, plus costs and disbursements incurred by Conroy & Company and/or its Agent as aforesaid;

18. The Client will not owe anything to Conroy & Company and/or its Agent for services rendered in the event there is no recovery (except in the case of termination as in paragraph 17 above), save and except for the disbursements and the GST and PST incurred by Conroy & Company and/or its Agent on behalf of the Client, together with GST and PST and interest as specified in paragraph 9 herein;

19. The Client agrees to abide by and comply with all the terms and conditions herein, and without limiting the generality of the foregoing, to pay all monies, fees, accounts, interest, disbursements, GST and PST upon the same becoming due. Further, in the event that the Client receives any monies, benefits or consideration of any nature or kind whatsoever on, for, or in respect of the action either directly or indirectly, he/she shall pay, account to, or secure Conroy & Company and/or its Agent for all monies and/or benefits as aforementioned, and, in particular, the Percent Fee and disbursements.

20. The Client hereby grants to, acknowledges and agrees that Conroy & Company and/or its Agent has a solicitor's lien over the Client's file and all documents contained therein until payment in full of all monies owing to Conroy & Company and/or its Agent, as set forth herein.

21. The Client agrees that, all other provisions notwithstanding, the disbursements incurred by Conroy & Company and/or its Agent on behalf of the Client, together with GST and PST, and together with interest as specified in paragraph 9 herein, shall be a first charge on any and all monies recovered or recoverable, and, as such, said sum of disbursements plus GST and PST and interest shall be paid first from any monies recovered or recoverable.

22. If this action proceeds by way of appeal beyond the original trial court, an additional fee for the appeal shall be negotiated.

23. The Client acknowledges that he/she has been advised that he/she may be held personally liable to pay the taxable costs of the Defendant(s), incurred if the action commenced on

the Client's behalf in respect of this matter is unsuccessful.

24. The firm agrees to devote its full professional abilities to the Client's case, and the Client agrees to fully co-operate with the lawyer.

25. Either of the parties hereto may apply to have the reasonableness of this contract reviewed by a District Registrar of the Supreme Court of British Columbia within ninety (90) days after this Agreement has been made or the retainer has been terminated (by either party), pursuant to section 78 of the *Legal Profession Act*, a copy of which is attached to this contract.

26. In the execution of this Agreement, both parties hereto acknowledge that they have read and understood the contents of this document, and that the Client has been advised to obtain independent legal advice.

IF THIS AGREEMENT IS NOT CLEAR OR UNDERSTOOD, PLEASE TAKE SEPARATE ADVICE FROM A SOLICITOR OR OTHER PERSON OF YOUR CHOICE BEFORE SIGNING.

DATED at or near the City of Abbotsford, in the Province of British Columbia, this _____ day of _____, 20____.

Signature

Name:
Conroy & Company and/or its Agent

NOTICE TO CLIENT

Any contract for fees based on a proportion of the amount recovered must be in writing and must expressly provide that you, the client, may apply to have the reasonableness of the contract reviewed by a judge pursuant to section 78 of the *Legal Profession Act*. Section 78 of the *Legal Profession Act* provides as follows:

"78. (1) Notwithstanding any law or usage to the contrary, a member of the society may contract, in writing, with a person as to the remuneration to be paid him for services rendered or to be rendered to the person.

(2) A member may enter into an agreement, to be known as a contingent fee agreement, which provides that a member's remuneration for services to be provided for or on behalf of a client be contingent, in whole or in part, on the successful disposition of the matter in respect of which the services are provided.

(3) The Benchers may make rules respecting the form and content of contingent fee agreements.

(4) A contingent fee agreement shall not include a provision which enables the member to receive and be paid both a fee based on a proportion of the amount recovered and an amount equal to any costs awarded to the client on a party and party or solicitor and client basis by order of a court.

(5) A contingent fee agreement entered into by a member in respect of services that relate to a child custody or access matter is void.

(6) A contingent fee agreement entered into by a member in respect of services that relate to a matrimonial dispute is void unless approved by a judge of the Supreme Court.

(7) Where a contingent fee agreement has been entered into and the member receives or is paid through a settlement, an amount for respect of the proceeding or anticipated proceeding in respect of which the contingent fee agreement was entered into, the costs shall not, for the purpose of determining the amount of fees to which the member is entitled under the agreement, form part of the recovery, but shall

- (a) constitute part of the fees payable to the member, and
- (b) be deducted from the amount that would otherwise be payable under the agreement.

(8) A person who has entered into an agreement with a member for the payment of legal services, including a contingent fee agreement, may, within 90 days after the agreement was made or the retainer between the solicitor and client was terminated, by either party, apply to the registrar to have the agreement reviewed, notwithstanding that the person has made payment to the member under the agreement, and section 71(3) applies.

(9) On an application under subsection (8) the registrar may, where he considers that the contract is unfair or unreasonable under the circumstances existing at the time the contract was entered into, modify or cancel the contract, and where he cancels the contract he

(a) may require the member to prepare a bill for taxation, and

(b) shall tax the costs, fees, charges and disbursements for the services provided as though there were no agreement.

(10) A person or member, as the case may be, may appeal a decision of the registrar on any matter under subsection (9) to the Supreme Court.

(11) A provision in an agreement referred to in subsection (1) or (2) that the member shall not be liable for negligence, or that he shall be relieved from responsibility to which he would otherwise be subject as a member, is void.

(12) Where remuneration has been received or retained by a member in excess of the amount permitted by this section or, in the case of a review by a registrar under subsection (8), in excess of the amount fixed, he shall refund the excess amount to the client on demand.

DATED this ____ day of _____, 20____.

I, _____, of _____, British
Columbia, confirm that I have received and read this Notice.

Signature