

AGREEMENT FOR SPECIAL COUNSEL

This Agreement is entered into by and between the State of Iowa, through the Iowa Department of Justice, Office of the Attorney General ("State" or "Office of the Attorney General"), and the law firms of Morgan & Morgan Complex Litigation Group, Paoli Law Firm, P.C. and Leisher & Landsiedel P.C. (collectively "Special Counsel").

Whereas, the State of Iowa entered into the Master Settlement Agreement (MSA) with Participating Tobacco Product Manufacturers (PMs) to hold such manufacturers accountable for their knowing misrepresentations regarding the harms of smoking and targeting future generations of Iowans as replacement smokers;

Whereas, these PMs have, inter alia, withheld substantial funds due Iowa under the MSA and the Attorney General believes that they have wrongfully done so to the detriment of Iowa;

Whereas Iowa is forced to arbitrate against the PMs to recover the withheld funds;

Whereas funds received by Iowa under the MSA are used for public health purposes and other public purposes;

Whereas, recovery of funds wrongfully withheld from the State of Iowa and such penalties/damages as could apply to wrongful conduct is in the public interest; and

Whereas, Special Counsel are uniquely qualified with specialized knowledge of the history and workings of the MSA through previous litigation over the same issues on behalf of Montana, such specialized knowledge is not generally available in Iowa, and the Attorney General's Office currently lacks sufficient staffing and funding to accomplish fully the purposes of this Agreement.

Whereas, upon the request of the State and authorization of the Executive Council, Special Counsel is retained pursuant to Iowa Code section 13.7 to represent the State in connection with the investigation and litigation of claims relating to amounts owed to the State by various tobacco companies under the Master Settlement Agreement, otherwise known as the "Tobacco Litigation." Such engagement includes, without limitation, taking the

appropriate action to investigate potential violations of the Iowa False Claims Act, breach of the duty of good faith and fair dealing and other appropriate claims related to the Master Settlement Agreement to determine if litigation is warranted.

Now Therefore, the Parties agree as follows:

I. Purpose

Special Counsel will assist the State in all phases of this investigation and litigation, including but not limited to:

1. The drafting of proposed civil investigative demands ("CID") or subpoenas, if warranted, and any required motions or responses related to a CID or subpoena;
2. Management, review and analysis of all responses received;
3. Interviewing potential witnesses and other persons with information about the conduct;
4. Identifying and working with potential experts and consultants;
5. Ongoing consultation with the State on other investigative activities required to fully inform the State about potential claims related to this conduct; and
6. Such other actions the State determines necessary to investigate and/or litigate this matter.

Special Counsel will work under the direction of and report to the Office of Attorney General, as more fully described in attachment A *"Standard Addendum concerning management of cases involving contingent fee attorney services ."*

Special Counsel is authorized to contract with others, including without limitation additional counsel, in order to enforce State's Claims. However, any compensation of such others shall be made by Special Counsel from the contingent fee it receives under this Agreement and not otherwise from the State. Special Counsel has the exclusive right to enforce the State's Claims.

II. Duration

This Agreement shall extend from the date of its execution until the Tobacco Litigation is completed, including all appeals, unless terminated by one of the parties pursuant to the terms set forth in this Agreement.

III. Case Management

The management of the Tobacco Litigation will be carried out in accordance with Attachment A, as required by Iowa Code section 23B.3(4).

IV. Attorneys Fees

Special Counsel will be compensated for all services related to this engagement by the State, based upon the following terms and conditions:

1. Special Counsel's contingency fee shall be calculated in accordance with Iowa Code section 23B.3(3), as follows:
 - a. 15% of any Recovery up to and including \$20 million, exclusive of reasonable Costs and Expenses.
 - b. 10% of any portion of any Recovery that exceeds \$20 million up to and including \$25 million, exclusive of reasonable Costs and Expenses.
 - c. 5% percent of any portion of any Recovery that exceeds \$25 million, exclusive of reasonable Costs and Expenses.

The aggregate contingency fee for Special Counsel shall not exceed \$50 million, exclusive of reasonable Costs and Expenses.

2. Definition of "Recovery'-. The term "Recovery" as used herein, means and shall include monies received and in possession of or control by the State which are paid or otherwise released by the defendants in the Tobacco Litigation to resolve the claims associated therein. If no Recovery occurs, then the State will owe Special Counsel nothing for Costs and Expenses or fees, except as otherwise provided in this

Agreement. Recovery shall also include the present value of future or prospective relief obtained or negotiated by the parties. Recovery shall not include any amounts Iowa receives that are solely related to the 2004 MSA payment.

3. Contractual or Statutory Fees

- a) Nothing herein shall be construed to limit Special Counsel's right to seek reimbursement of attorney fees under cost shifting or attorney fee recovery remedies in the Tobacco Litigation, be they contractual or statutory. For the purpose of calculating attorneys' fees sought to be recovered under fee shifting statutes or contractual attorney fee recovery remedies, the ordinary rates charged by Special Counsel or additional counsel shall be used.
- b) In the event Special Counsel is awarded fees against adverse parties under fee shifting statutes or any contractual attorney fee recovery remedies, such award shall offset amounts owed by State as Special Counsel's contingent fee. *For example, if the State's recovery is \$100 and Special Counsel is owed a contingency fee of \$10, but recovers \$5 in attorneys' fees from Defendants, the State only owes an additional \$5 in contingency fees.*

V. Recovery of Costs and Expenses

1. Definition of "Costs and Expenses". The term "Costs and Expenses" as used herein, means and includes reasonable expenses incurred or advanced for filing fees or other court costs, large photocopying projects, subpoena and/or witness or service of process fees, expert witness fees and expenses, investigator fees, computer legal research, overnight postage, courier services, postage for large mail outs, travel, lodging, meals, and mileage expenses, in amounts customarily allowed State employees, deposition expenses and court reporter fees, and other similar litigation-related expenses.

2. Costs and Expenses do not include cellular telephone charges, long distance charges, or charges for the transmission or receipt of facsimiles, e-mails, or instant messages.
3. Advancement of and Reimbursement for Costs and Expenses. Special Counsel shall be responsible for advancing or causing to be advanced, to the extent reasonably necessary, all Costs and Expenses, as defined above. Special Counsel shall be entitled to be reimbursed all Costs and Expenses it has advanced or caused to be advanced, from any Recovery obtained. The State shall have no duty to reimburse Special Counsel for any Costs or Expenses which Special Counsel is responsible for advancing or has advanced, unless there is a Recovery. At no time will the total amount of Costs and Expenses attributed to the State on a pro-rata basis exceed two percent (2%) of the State's Recovery.
4. To the extent Costs and Expenses are incurred that may be shared for the mutual benefit of other state clients involved in the same or similar Tobacco Litigation, such Costs and Expenses shall be allocated on a "pro rata" basis among such states so as to help reduce the Costs and Expenses for all states equally.
5. Nothing herein shall be construed to limit Special Counsel's right to seek reimbursement of Costs and Expenses from adverse parties, including but not limited to, Costs and Expenses under cost shifting or attorney fee and cost recovery remedies.
6. Special Counsel shall use reasonable efforts to recover Costs and Expenses from adverse parties. If Special Counsel recovers Costs and Expenses from an adverse party, then Special Counsel shall be entitled to retain all such recovered Costs and Expenses and shall not deduct such recovered Costs and Expenses from the Recovery for the purposes of calculating Special Counsel's contingent fee.

VI. Conflicts of Interest

1. Special Counsel represents, warrants, and covenants that they do not have any interest, and shall not acquire any direct or indirect interest, including the representation of any other client, that would conflict in any manner or degree with the legal representation or the services provided under this Agreement unless such conflicting representation has been fully disclosed to and waived by the Attorney General.
2. This Agreement shall not disqualify Special Counsel or Special Counsel's firm from continuing to represent other clients in unrelated matters adverse to the State, agencies of the State, or governmental subdivisions of the State, whether ongoing at the time of this Agreement or undertaken thereafter, that do not have a substantial relationship to the legal representation or the services provided under this Agreement.

VII. Representations

1. Qualifications: Special Counsel, by signing this Agreement, attests that Special Counsel is qualified to perform the services specified in this Agreement and agrees to faithfully and diligently perform the services consistent with the standards of legal practice in the community.
2. Confidentiality: All transactional data, reports, estimates, and information furnished by the State to Special Counsel are confidential and shall not be divulged, in whole or in part, except by testimony under oath in judicial proceedings or as otherwise required by law. Special Counsel and Special Counsel's firm shall take all necessary steps to ensure that no staff member divulges any information concerning the Tobacco Litigation. All files and documents containing confidential information shall be filed in separate files maintained in the offices of Special Counsel's firm with access restricted to Special Counsel and needed clerical personnel.
3. Facilities and Personnel Special Counsel has, and will continue to have, proper facilities and personnel to perform the services and work agreed to be performed. Where appropriate, State will endeavor to

provide conference rooms and workspaces in order to facilitate meetings or discovery obligations.

VIII. External Communications

1. Special Counsel and Special Counsel's firm shall refer any and all inquiries from the press or media concerning the Tobacco Litigation or related matters to the Office of the Attorney General.
2. Special Counsel and Special Counsel's firm hereby agree to not make any statement to the press or media relating to the Tobacco Litigation or related matters unless authorized to do so by the to the Office of the Attorney General.

IX. Independent Contractor

1. The relationship of Special Counsel to the State is that of an independent contractor. No liability or benefits, such as workers compensation, insurance rights or liabilities, or other provisions or liabilities, arising out of or related to a contract for hire or employer/employee relationship, shall arise or accrue to either party or either party's agent, subcontractor, or employee as a result of the performance of this Agreement.
2. Special Counsel and Special Counsel's firm will be solely and entirely responsible for their acts and the acts of their agents and employees during the performance of this Agreement. Notwithstanding the above, the relationship is subject to the requirements of the attorney client privilege.

X. Indemnification

1. Special Counsel and Special Counsel's firm agree to save harmless the State, its elected officials, officers, agencies, boards, and employees against and from any and all liabilities, obligations, damages, penalties, claims, costs, charges, and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses

and other consultants) which may be imposed upon, incurred by, or asserted against the State for either of the following reasons:

- a) Any malpractice, negligent or tortuous act or omission attributable, in whole or in part, to Special Counsel, Special Counsel's firm or any of their employees, consultants, subcontractors, assigns, agents, or any entities associated, affiliated, or subsidiary to the firm now existing, or hereafter created, their agents and employees for whose acts any of them might be liable.
- b) Any failure by Special Counsel, Special Counsel's firm, or the parties retained by either, to perform its obligations either expressed or implied by this Agreement.

XI. Insurance

1. Errors and Omissions. Special Counsel's firm shall maintain, and by execution of the Agreement confirms it has, professional liability insurance sufficient in an amount to provide coverage for any errors or omissions arising out of the performance of any of the professional services rendered pursuant to this Agreement.
2. Certificate of Insurance. Special Counsel's firm shall produce certificates evidencing such insurance to the Attorney General upon request. All certificates are to be prepared and submitted by the insurance provider and shall contain a provision indicating that the coverage(s) afforded under the policies will not be cancelled, materially changed, or not renewed without thirty (30) calendar days prior written notice, except for ten days for non-payment of premium, and any such notice of cancellation, material change, or nonrenewal shall immediately be forwarded to the Attorney General upon receipt.
3. Additional Insurance. If, during the term of this Agreement, changed conditions should, in the judgment of the Attorney General, render inadequate the insurance limits, Special Counsel's firm will finish on demand such additional coverage as may be required. All insurance required under this Agreement shall be acquired at the expense of

Special Counsel's firm, under valid and enforceable policies, issued by insurers of recognized responsibility. The Attorney General reserves the right to reject as unacceptable any insurer.

XII. Termination

1. Termination of Legal Representation

For good cause, Special Counsel may withdraw from representation of the State at any time upon sixty (60) days written notice. Notice shall be delivered to the Attorney General by process server or by certified mail, and the notice period will begin to run on the date that the Attorney General actually receives the written notice. Immediately upon service of the notice, Special Counsel must fully and diligently cooperate in the transition of representation to any other representation that the Attorney General may thereafter secure. Special Counsel may not withdraw from representation at any time within one hundred twenty (120) days prior to the beginning of trial, pursuant to any scheduling order that the court may issue.

b. For good cause, the State, via the Attorney General may upon sixty (60) days written notice terminate this Agreement. Notice shall be delivered to Special Counsel by process server or by certified mail, and the notice period will begin to run on the date that Special Counsel actually receives the written notice. Immediately upon service of the notice, Special Counsel must fully and diligently cooperate in the transition of representation by Special Counsel to any other representation that the Attorney General may thereafter secure.

c. If Special Counsel is terminated by the State or Attorney General or otherwise withdraws from the duties and obligations stated herein Special Counsel shall be entitled to a share of any recovery by judgment or settlement less the State's cost, expenses and fees on a quantum meruit basis, subject to the provisions in sections IV and V above.

XIII. Compliance With Laws

Special Counsel and any of their employees, consultants, subcontractors, assigns, or agents performing services under this Agreement shall comply with all applicable federal, state, foreign, and local laws, rules, regulations, procedures, ordinances, codes, and orders when performing within the scope of this Agreement, including without limitation, all laws applicable to the prevention of discrimination in employment, the administrative rules of the Iowa Department of Management and the Iowa Civil Rights Commission which pertain to equal employment opportunity and affirmative action, laws relating to prevailing wages, occupational safety and health standards, business permits and registrations, payment of taxes, gift laws, lobbying laws, and laws relating the use of targeted small businesses as subcontractors or suppliers.

XIV. General Provisions

1. Choice of Law and Forum. The laws of the State shall govern and determine all matters arising out of or in connection with this Agreement without regard to the choice of law provisions of Iowa law. In the event any proceeding of a judicial or quasi-judicial nature is commenced in connection with this Agreement, the exclusive jurisdiction for the proceeding shall be brought in Polk County District Court for the State of Iowa.
2. This provision shall not be construed as waiving any immunity to suit or liability, including, without limitation, sovereign immunity, in state or federal court, which may be available to the State or the Treasurer.
3. No Waiver. Failure of a party to insist on the strict performance of this Agreement shall not constitute waiver of any breach of the Agreement.
4. Other Debts. Special Counsel and Special Counsel's firm are not and will not become in arrears to the State upon any contract, debt, or other obligation, including taxes.
5. Invalidity. If any provision of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be judicially

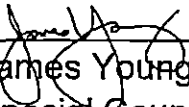
determined to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each provision of the Agreement shall be valid and enforceable to the fullest extent permitted by law.

6. **Headings.** The headings of the sections in this Agreement are for convenience only and shall not be used to interpret the scope or intent of this Agreement.
7. **Entire Agreement.** This Agreement represents the entire agreement between the parties and supersedes all proposals or other prior agreements, oral or written, and all other communications between the parties.
8. **Amendment.** No amendment to the Agreement shall be effective and binding upon the parties, unless it expressly makes reference to this Agreement, is in writing, and is signed by duly authorized representatives of all parties and all the requisite State approvals are obtained.
9. **Execution.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single agreement

APPROVED BY:

Executive Council
Approved by:

Date



James Young
Special Counsel
Morgan & Morgan Complex Litigation Group

1/25/22

Date

David R. Paoli

David Paoli
Special Counsel
Paoli Law Firm P.C.

1/25/22

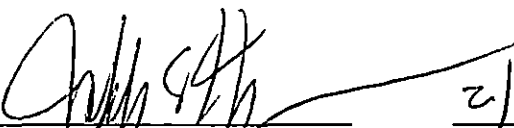
Date

Paul M. Leisher

Paul Leisher
Special Counsel
Leisher & Landsiedel, P.C.,

1/25/22

Date



Jeffrey S. Thompson
Solicitor General
Iowa Department of Justice

2/10/22

Date

STANDARD ADDENDUM- CASE
MANAGEMENT CONTINGENCY FEE
ATTORNEY SERVICES

1. General Provisions. This Standard Addendum concerning management of cases involving contingent fee attorney services was developed pursuant to Iowa Code section 23B.3(4). The Attorney General will retain complete control over the course and conduct of the case. Jeffrey Thompson, Solicitor General, or his designated appointee or successor will be personally involved in overseeing the litigation. Jeffrey Thompson will retain veto power over any decisions made by Special Counsel.
2. Notifications to Attorney General. All notices, correspondence and inquiries, reports, pleadings, and other documents mentioned in this Agreement and Addendum shall be directed to the Attorney General as follows: Jeffrey Thompson, Solicitor General, Iowa Attorney General's Office, Hoover State Office Building, 1305 E. Walnut, Des Moines, IA., 50319, Phone: 515-281-4419, Email: Jeffrey.Thompson@ag.iowa.gov
3. Communications with Defendant. A defendant that is subject of this litigation may contact Jeffrey Thompson directly, without having to confer with Special Counsel.
4. Notices to Attorney General. Special Counsel shall promptly inform Jeffrey Thompson of the following as soon as they become known:
 - a) Favorable actions or events that enable meeting time schedules and goals sooner than expected.
 - b) Delays or adverse conditions that materially prevent, or may materially prevent, the meeting of the objectives of the services provided. A statement of any remedial action taken or contemplated by the Special Counsels shall accompany this disclosure.
 - c) Notices of all court appearances, trial dates, depositions, and all other proceedings.

5. Attorney General Review/Approval of Litigation.
 - a) Special Counsel shall provide Jeffrey Thompson with copies of all pleadings filed by Special Counsel or by the opposing party. Pleadings to be filed by Special Counsel shall be provided sufficiently in advance of filing with the court to allow meaningful review, unless exigent circumstances dictate otherwise.
 - b) Before any dispositive motion is filed, or a response filed thereto, the supporting brief must be submitted to Jeffrey Thompson for review and approval for filing with the court.
 - c) The use of investigative subpoenas must be approved by Jeffrey Thompson. Jeffrey Thompson may request investigative subpoenas in addition to what Special Counsel files.
 - d) Special Counsel will consult with Jeffrey Thompson and assist in the preparation of answers to requests for discovery. Special Counsel shall indicate those requests to which the Special Counsel intends to file an objection.
 - e) At least ten calendar days prior to the day a witness list or an exhibit list is due, Special Counsel shall provide Jeffrey Thompson a preliminary witness list or exhibit list for review and recommendations of additional names of witnesses or additional exhibits.
6. Settlements. All decisions regarding settlement of the case are reserved exclusively to the discretion of the Attorney General, including all decisions regarding the use of mediation or arbitration to resolve the case. Jeffrey Thompson will participate in all settlement conferences, mediations, or arbitrations. Special Counsel must immediately communicate any settlement proposal received along with the recommendation to accept, reject, proffer a counterproposal to any offer received to Jeffrey Thompson.

7. Appeals. No appeal of any order of any Iowa State court or any United States District Court in this litigation will be taken to the Iowa Court of Appeals, the Iowa Supreme Court, or any United States Circuit Court of Appeals, without prior written approval of the Attorney General. Further, Special Counsel agrees that no petition for certiorari will be filed in the United States Supreme Court without prior written permission of the Attorney General. In all matters where an appeal is taken by another party or an appeal should be considered from an adverse decision of the trial courts. Special Counsel shall immediately notify Jeffrey Thompson by providing a written summary of the case, including facts, issues, copy of and analysis of the court's decision, and an analysis of the State's position on appeal.
8. Records Retention. In accordance with Iowa Code section 23B.3(6), Special Counsel, from the inception of this Agreement until at least four years after the Agreement expires or is terminated, shall maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the provision of attorney services. Special Council will make all such records available for inspection and copying in accordance with Iowa Code chapter 22. Upon request of the Attorney General, Special Counsel will provide a copy of all such records and all litigation files related to the litigation.
9. Monitoring Law Firms, Consultants, and Experts. Special Counsel shall be responsible for monitoring the services provided by third parties and ensuring compliance with all provisions of this Agreement and this Standard Addendum. Special Counsel will be responsible for and ensure payment of all third-party attorney fees solely from the Special Counsel's contingent fee provided for in this Agreement.
10. Reasonable Cooperation by Attorney General. The Attorney General shall provide reasonable and prompt cooperation to Special Counsel with respect to the matters addressed in this Standard Addendum.