



Representing Management Exclusively in Workplace Law and Related Litigation

Jackson Lewis P.C.
800 Lomas Blvd NW
Suite 200
Albuquerque NM 87102
Tel 505 878-0515
Fax 505 878-0398
www.JacksonLewis.com

ALBANY, NY	GREENVILLE, SC	MINNEAPOLIS, MN	PROVIDENCE, RI
ALBUQUERQUE, NM	HARTFORD, CT	MONMOUTH COUNTY, NJ	RALEIGH, NC
ATLANTA, GA	HONOLULU, HI*	MORRISTOWN, NJ	RAPID CITY, SD
AUSTIN, TX	HOUSTON, TX	NEW ORLEANS, LA	RICHMOND, VA
BALTIMORE, MD	INDIANAPOLIS, IN	NEW YORK, NY	SACRAMENTO, CA
BIRMINGHAM, AL	JACKSONVILLE, FL	NORFOLK, VA	SALT LAKE CITY, UT
BOSTON, MA	KANSAS CITY REGION	OMAHA, NE	SAN DIEGO, CA
CHICAGO, IL	LAS VEGAS, NV	ORANGE COUNTY, CA	SAN FRANCISCO, CA
CINCINNATI, OH	LONG ISLAND, NY	ORLANDO, FL	SAN JUAN, PR
CLEVELAND, OH	LOS ANGELES, CA	PHILADELPHIA, PA	SEATTLE, WA
DALLAS, TX	MADISON, WI	PHOENIX, AZ	ST. LOUIS, MO
DAYTON, OH	MEMPHIS, TN	PITTSBURGH, PA	TAMPA, FL
DENVER, CO	MIAMI, FL	PORTLAND, OR	WASHINGTON DC REGION
DETROIT, MI	MILWAUKEE, WI	PORTSMOUTH, NH	WHITE PLAINS, NY
GRAND RAPIDS, MI			

*through an affiliation with Jackson Lewis P.C., a Law Corporation

MY DIRECT DIAL IS: 505-875-8567
MY EMAIL ADDRESS IS: JARRETTD@JACKSONLEWIS.COM

February 19, 2019

**PERSONAL AND CONFIDENTIAL; ATTORNEY-CLIENT
AND ATTORNEY WORK-PRODUCT PRIVILEGED MATERIAL**

VIA E-MAIL lpmartinez@salud.unm.edu

Ms. Loretta Martinez,
Chief Legal Counsel
Office of University Counsel
University of New Mexico
Scholes Hall, Room 208
1 University of New Mexico
Albuquerque, NM 87131-0001

RE: Confirmation of Engagement and Fee Agreement

Dear Ms. Martinez:

We are pleased that University of New Mexico (the "University") has decided to retain Jackson Lewis P.C. (herein "the Firm") for legal services in connection with the professor unit petition. This letter details the scope of our client relationship and outlines the fees for our services.

A. *Scope of Services*

[REDACTED]

B. *Fees*

We charge for our time on an hourly basis, in one-tenth hour increments. Our schedule of hourly rates for attorneys and other members of our professional staff is based on years of experience, level of professional attainment and geographic location. Currently, our hourly rates in the Albuquerque office range from

\$275 to \$380 for attorneys. My current billing rate is \$380. Mike Bertoncini's current billing rate is \$540. However, the Firm provides discounted rates for public sector and non-profit clients. As such, we have agreed to discount our rates for all attorneys to \$365 for principals and \$305 for associates. These hourly rates may be subject to periodic increases over time. Any changes in billing rates will be reflected in the invoice after any revised rates go into effect. We charge for all services rendered, including but not limited to, telephone calls, conferences, court and agency hearings, and other proceedings. Our entire billing process is explained in "A Word About Our Invoices," a copy of which is enclosed. The work on this engagement will not exceed \$60,000.

These discounted hourly rates, however, will not apply to complex matters which include, but are not limited to, class actions, multi-plaintiff litigations, and unfair competition litigation. For these matters, our regular hourly rates will apply.

C. Client Cooperation

The University understands and agrees that, in order for us to represent it effectively, it is necessary for the University to assist and cooperate with the Firm. The University agrees to (1) make itself (including its employees if applicable) available to discuss issues as they arise in this matter; (2) attend and participate in meetings, preparation sessions, court proceedings and other activities in connection with the representation; (3) provide complete and accurate information and documents to us on a timely basis; (4) make timely payment to any experts or vendors retained in connection with our services; and (5) advise whether there is an agreement to arbitrate the subject claim(s), either as set forth in a stand-alone arbitration agreement, an employee handbook, an employment application or otherwise.

D. Protection of Client Confidences – High Tech Communication Devices

We are always mindful of our central obligation to preserve the secrets and confidences of our clients. To that end, it is important that we agree from the outset what kinds of communications technology we will employ in the course of this Engagement. Unless the University specifically directs us to the contrary, for purposes of this Engagement, we agree that it is appropriate for us to use fax machines and e-mail in the course of the Engagement without any encryption or other special protections. In that regard, if there is a specific e-mail address which you would like us to use to communicate with you, other than your current University e-mail address, please let us know. Please also notify the Firm if the University has any other requests or requirements in connection with the methods of telecommunication, or persons to be included or copied in the circulation of documents relating to the Engagement.

E. Termination of Representation

The University may terminate this representation at any time, with or without cause. We also reserve the right to withdraw at any time to the fullest extent permitted by the applicable ethical rules. Any termination of our representation of the University would be subject to such approval as may be required from any court(s) in which we are appearing on the University's behalf. In the event of termination by either of us, fees and costs for work performed prior to termination will still be payable as provided for in this letter.

Following any termination of representation, client files will be released only following delivery to the Firm of a signed release letter containing appropriate directions and an acknowledgment of the obligation to pay outstanding fees. The University will be charged for the reasonable costs of retrieval, assembly, copying, processing and transfer of all files or materials, including Electronically Stored Information ("ESI").

Upon termination of representation, the Firm reserves the right to maintain the University's legal file in electronic format only.

F. Preservation of Documentation

Should a claim be received by the University, the University must take immediate steps to identify, preserve and collect all relevant information until the matter is completely resolved. This information includes all paper and all ESI related to the claim. ESI includes, but is not limited to, the following: e-mails, text messages and other electronic communications, word processing files, spreadsheets, PowerPoints, photos and other images, SharePoint, voicemail, databases, data files and archive files, regardless of whether the information is contained on servers, laptop and desktop computers, back-up tapes, home and personal computers, cloud storage systems, or portable ESI storage devices such as iPhones, Android phones, Blackberries and other smart phones, iPads, iPods, thumb drives, CD's, DVD's, and portable hard drives. This also will likely include any and all relevant surveillance tapes and recordings.

The University must also immediately suspend any document retention/destruction policy and put in place a "Litigation Hold." This Litigation Hold is designed to ensure that relevant electronic evidence is preserved and not destroyed, altered, modified, disposed of, or in any way compromised. Therefore, any individuals who may have relevant information or documents related to a matter must comply with this litigation hold.

Although this may seem like an onerous task, document retention is critical for the defense of a matter and to ensure the University complies with its legal obligation to preserve and produce relevant information. A failure to preserve documents or electronic data could have dire consequences in a matter. For example, in addition to monetary sanctions, the University may be precluded from using certain evidence at trial or the court may allow a jury to draw negative inferences against the University. Under a worst case scenario, the court may award a judgment in favor of the claimant. Therefore, if the University has any doubt regarding whether paper or electronic data falls within the scope of a "Litigation Hold", it should err on the side of preservation and contact us.

G. Advance Conflict of Interest Waiver

Because of the size, geographical reach and the broad scope of the Firm's legal practice, it is possible that attorneys in one or more of the Firm's offices or departments may now or in the future represent parties in matters in which their interests are adverse to those of the University or its affiliates, or have contractual or other dealings with the University. As a condition of our representation, the University agrees that the Firm may represent other parties in matters in which their interests are adverse to those of the University or its affiliates and waives any conflict that would otherwise exist in such matters, provided that (i) any matter in which the Firm represents an adverse party is not substantially related to the Firm's work for the University, and (ii) if appropriate, an ethical wall is created to separate the other matter from the matters the Firm is handling for the University.

H. Potential Insurance Coverage

As employment defense counsel, the Firm cannot provide an opinion with respect to the extent or terms of the University's coverage under any employment practices liability insurance, directors and officers or other insurance policies or programs (on an ongoing basis or otherwise). We urge the University to review this matter with its internal counsel, insurance broker or anyone else with whom it wishes to discuss the possibility of other insurance being applicable, e.g., an excess liability insurance policy, homeowners or personal insurance or

any other form or kind of insurance including workers compensation insurance. As with any insurance policy, prompt and complete notice should be given, as required by the policy and by applicable law. Failure to do so could adversely affect the existence of or eligibility for any insurance coverage.

Further, please note that, in many instances, punitive damages may not be covered by the University's insurance policies. There may also be other policy exclusions, as well as limits respecting any coverage(s). Again, please address any exclusions, or limits on coverage for the subject claim(s), with the University's carrier(s), insurance broker, or legal counsel.

I. Dispute Resolution

University of New Mexico and Jackson Lewis P.C. agree that any dispute between us arising out of, or relating to, this agreement, or the breach thereof, shall be resolved by binding arbitration between the parties. This includes, but is not limited to any claims regarding attorney's fees or costs under this agreement or regarding a claim of attorney malpractice, that is, whether any legal services Jackson Lewis P.C. has rendered, under this agreement or otherwise, were improperly, negligently, or incompetently rendered, or otherwise rendered in breach of a contractual or ethical duty.

The University understands and acknowledges that by agreeing to binding arbitration, it waives and thereby eliminates the right to submit the dispute for determination by a court and thereby also waives the right to a jury trial. The University acknowledges that it has been informed that the grounds for appeal of an arbitration award are very limited compared to a court judgment or jury verdict. Consequently, the University should carefully consider whether arbitration is acceptable to it and should consult with independent counsel.

Arbitration shall be in accordance with the New Mexico Uniform Arbitration Act, NMSA 44-7A-1, et. seq. The dispute will be resolved by a single arbitrator to be selected by the parties.¹

The arbitrator must be an attorney in good standing in New Mexico. The cost of the arbitration shall be shared by the parties, but the arbitrator shall have the right to allocate costs in the final award.

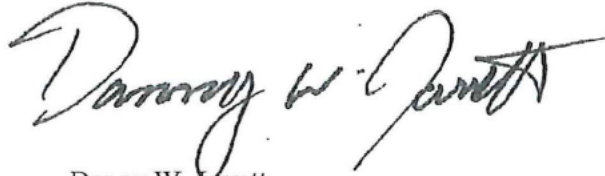
* * * *

If you have any questions at any time regarding the scope of our representation, the handling of any matter or the content of any invoice, please contact me at once. We are pleased to be of service to the University.

¹ *If in the opinion of any party, there arises a problem or unreasonable delay with the administration of the dispute, including but not limited to scheduling any hearing, any party upon 10 days written notice to the other, shall have the right and power to notify and engage the American Arbitration Association (AAA) to commence formal administration of the proceeding before the AAA in accordance with its then prevailing rules. The award rendered by the arbitrator(s) shall be final and may be confirmed in any court having jurisdiction thereof.*

Very truly yours,

JACKSON LEWIS P.C.



Danny W. Jarrett

Agreed to and Accepted by:

University of New Mexico



By: Bruce Cherrin

Title: CPO

Date: 3-6-19

Reviewed and approved by:



A WORD ABOUT OUR INVOICES . . .

Invoices are sent to our clients monthly. Billings for services rendered on your matter(s) and for reasonable expenses incurred on your behalf are sent approximately three to four weeks after the completion of the month in which the work is performed.

Payment for our services and expenses described are expected upon receipt of our invoice. We are confident our clients make every effort to pay us promptly. We do our utmost to provide quality and professional service to our clients, we only ask for timely payment for services rendered. A monthly service charge of one and a half percent (1.5%) is added to the unpaid balance of any invoice not paid within sixty (60) days after it is rendered.

For any threatened or actual claim, if insurance of any kind is available, please provide prompt and complete notice to us and the insurance carrier.

We charge for all services rendered on your matter(s) including, but not limited to, telephone calls, conferences, court and agency hearings, and other proceedings. These include reimbursement for travel-related expenses, such as lodging, meals, air travel, cab fares, auto expenses, parking fees, tolls and mileage. Also, we bill for all photocopying costs, telephone calls, facsimiles, postage, messenger service and, if required, delivery charges where material must be sent via certified or registered mail or by express mail or package carrier. If a situation arises which requires overtime work by our secretaries, we will invoice you at our cost. All third party charges (e.g. filing, trial, and court reporter fees) are the responsibility of the client and should be paid directly by the client. The cost for computerized legal research is the rate calculated by our vendor LexisNexis. Your cost is not based on the annual discount arrangement the Firm has with LexisNexis.

All non-legal electronic discovery related charges will be billed directly by the vendor who provides these services, including those of our preferred vendor, Kroll Ontrack, Inc. These non-legal services and expert witness charges are provided under separate agreement between you and the vendor or expert. Their charges will not be included on our statements. The non-legal services that might be necessary for electronic discovery include: forensic collection of electronically stored information ("ESI") from your computer systems, computer forensic and other technical consulting, ESI processing, ESI uploading and search/review software hosting, ESI production, training, and project management services. You are responsible for making timely payment of their invoices so as to avoid any disruption in our legal services.

The above terms shall apply to each invoice unless the Firm and the client have agreed, in writing, to a modification of the billing arrangements.

Please forward all payments to our lock box:

**JACKSON LEWIS P.C.
P.O. BOX 416019
BOSTON, MASSACHUSETTS 02241-6019**

We also accept electronic payment of our invoices. If you choose to pay your invoice by electronic transfer, please include the invoice number in the transfer information and send payment to:

Bank name - Citibank Private Bank
666 5th Avenue, 5th Floor
New York, NY 10103

ABA Routing no. - [REDACTED]
Account name - Jackson Lewis P.C.
Account no. - [REDACTED]

***Send confirmation of payments via email to Epayers@jacksonlewis.com**

Our foreign - based clients must ensure payment is made via international money order payable in U.S. dollars. If payment is by regular check drawn on a foreign bank, we will add \$30.00 to our bill for banking charges.

If you have any questions about our billing procedures or any time or disbursement charges, please speak to the attorney responsible for your matter.