



# St. Bernard Parish Council

8201 West Judge Perez Drive Chalmette, Louisiana, 70043

(504) 278-4228 Fax (504) 278-4209

[www.sbpg.net](http://www.sbpg.net)

#25

**Kerri Callais**  
Councilmember  
at Large

**Richard "Richie" Lewis**  
Councilmember  
at Large

**Gillis McCloskey**  
Councilmember  
District A

**Nathan Gorbaty**  
Councilmember  
District B

**Howard Luna**  
Councilmember  
District C

**Wanda Alcon**  
Councilmember  
District D

**Manuel "Monty" Montelongo III**  
Councilmember  
District E

**Roxanne Adams**  
Clerk of Council

EXTRACT OF THE OFFICIAL PROCEEDINGS OF THE COUNCIL OF THE PARISH OF ST. BERNARD, STATE OF LOUISIANA, TAKEN AT A REGULAR MEETING HELD IN THE COUNCIL CHAMBERS OF THE ST. BERNARD PARISH GOVERNMENT COMPLEX, 8201 WEST JUDGE PEREZ DRIVE, CHALMETTE, LOUISIANA ON TUESDAY, SEPTEMBER 19, 2017 AT THREE O'CLOCK P.M.

On motion of Mr. Lewis, seconded by Ms. Callais, it was moved to adopt the following ordinance:

## ORDINANCE SBPC #2008-09-17

### Summary No. 3529

Introduced by: Councilmember Lewis on 9/5/17  
Public hearing held on 9/19/17

AN ORDINANCE TO AUTHORIZE THE DISTRICT ATTORNEY OF ST. BERNARD PARISH TO COMMENCE LITIGATION EFFORTS AND TO SELECT AND RETAIN OUTSIDE COUNSEL ON A CONTINGENCY FEE BASIS TO PROVIDE LEGAL REPRESENTATION ON BEHALF OF ST. BERNARD PARISH TO ASSERT ALL AVAILABLE CLAIMS, INCLUDING CLAIMS FOR DAMAGES, RELATING TO THE SALE AND DISTRIBUTION OF OPIOIDS AGAINST PHARMACEUTICAL COMPANIES, WHOLESALE DISTRIBUTORS, LOCAL DISTRIBUTORS AND ANY CULPABLE PARTIES, AND ANY MATTERS AND LITIGATION RELATED THERETO.

WHEREAS, the potential for St. Bernard Parish to assert its claims relating to the sale and distribution of opioids requires prompt action and it affects the health, property, public safety and welfare of the citizens of St. Bernard Parish,

ST. BERNARD PARISH COUNCIL DOES HEREBY ORDAIN:

**SECTION 1.** Authorization. The St. Bernard Parish Council, the governing authority, does hereby approve and authorize the District Attorney of St. Bernard Parish to retain the Law Offices of Dan A. Robin, Jr., LLC and Sher Garner Cahill Richter Klein & Hilbert, LLC. on a contingency fee basis to provide legal representation on behalf of St. Bernard Parish to assert all available claims, including claims for damages, relating to the sale and distribution of opioids against pharmaceutical companies, wholesale distributors, local distributors, and any other culpable parties, and to provide representation on any matters and litigation related thereto.

**SECTION 2.** Compensation and Contract. The compensation for any outside counsel shall be on a contingency fee basis with no costs or expenses owed by St. Bernard Parish Government and shall be set forth in a written contract in compliance with the parish home rule charter attached as Exhibit "A".



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Page -2-

Extract #25 continued  
September 19, 2017

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**SECTION 3.** Effective Date. This Ordinance shall become effective immediately upon authorizing signature by the Parish President. In the event of a presidential veto, this Ordinance shall become effective upon a two-thirds favorable vote of the total membership of the Council pursuant to Sections 2-11 and 2-13 of the St. Bernard Parish Home Rule Charter.

**SECTION 4.** Severability. If any section, clause, paragraph, provision or portion of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect any other section, clause, paragraph, provision or portion of this Ordinance, the St. Bernard Parish Council hereby expresses and declares that it would have adopted the remaining portion this Ordinance with the invalid portions omitted.

The above and foregoing having been submitted to a vote, the vote thereupon resulted as follows:

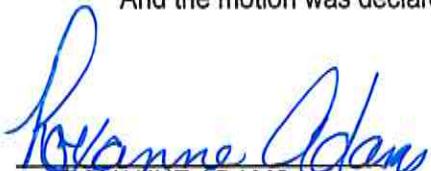
**YEAS:** McCloskey, Gorbaty, Luna, Alcon, Montelongo, Callais

**NAYS:** None

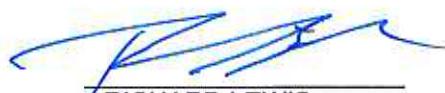
**ABSENT:** None

The Council Chair, Mr. Lewis, cast his vote as YEA.

And the motion was declared adopted on the 19<sup>th</sup> day of September, 2017.



ROXANNE ADAMS  
CLERK OF COUNCIL



RICHARD LEWIS  
COUNCIL CHAIR

Delivered to the Parish President

9/22/2017 2:27 pm  
Date and Time

Received by

Magen Campu



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Page -3-  
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September 19, 2017

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Clerk of Council

Approved ✓

Vetoed \_\_\_\_\_

Parish President

Guy McInnis  
Guy McInnis

Returned to Clerk of the Council

9/26/2017 9:30am  
Date and Time

Received by

Jennifer Lemaine



*Law Offices of*  
**Dan A. Robin Jr., Esq.**

September 13, 2017

St. Bernard Parish Government  
Through The Honorable Perry Nicosia  
District Attorney, 34th Judicial District  
St. Bernard Parish Courthouse  
1101 West St. Bernard Hwy.  
Chalmette, La 70043

Re: Contingency Fee Engagement Agreement  
St. Bernard Parish Government – Counsel for Pharmaceutical  
Companies

Dear Mr. Nicosia:

We are pleased that you have requested the Law Offices of Dan A. Robin, Jr., L.L.C. ("Dan Robin") and Sher Garner Cahill Richter Klein & Hilbert, L.L.C. ("Sher Garner"; together with Dan Robin and any additional counsel engaged pursuant to Section 2 below, "Counsel") to provide counsel and legal representation for St. Bernard Parish Government ("Parish"), through the Honorable Perry Nicosia, District Attorney, 34th Judicial District (the "District Attorney"), in connection with the recovery of damages and/or civil penalties owed to the Parish by various pharmaceutical manufacturers/companies, wholesale pharmaceutical distributors and/or local pharmaceutical distributors in order to protect the Parish's interests and recoup monies expended by the Parish as a result of the damages incurred as a result of various pharmaceutical manufacturers/companies, wholesale pharmaceutical distributors and/or local pharmaceutical distributors, including any pending and future litigation related to opioid production and/or distribution, and consideration of opportunities for settlement and compromise of all such issues for the Parish (collectively, "Disputes"). This Contingency Fee Engagement Agreement (the "Engagement Agreement") and the engagement of Counsel by the District Attorney on behalf of the Parish is made in accordance with provisions of applicable law. This Engagement Agreement shall provide for the Parish a clear understanding of our policies regarding legal services and fees from the inception of our relationship.

The terms of this Engagement Agreement are as follows:

I. Counsel shall provide any and all legal services deemed appropriate and necessary to accomplish the purposes of this Engagement Agreement. The Parish understands that Counsel will be paid a contingency fee for handling the Parish's claim. Any such fee shall be paid to Counsel only from Gross Recovery. "Gross Recovery" means, collectively, any and all of the following, whether by suit, settlement, judgment, contract, or otherwise and whether arising



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Dan A. Robin Jr., Esq.

before or after the resolution of the Disputes: any payment of money, other financial benefit of any type, or anything of value received by the Parish relating to the Disputes, including principal, interest, penalties, litigation costs and expenses, statutory attorneys' fees (if any), and any and all other amounts recovered or to be recovered, including the value of any structured settlement, future payments, in-kind payments, remediation, restoration, or any other type of non-pecuniary benefits. If the Parish obtains no Gross Recovery, there shall not be a fee due to counsel.

In the event the Parish obtains recovery for the claims identified before filing a lawsuit, this contingency fee will be twenty five percent (25%) of the total Gross Recovery. In the event a lawsuit is filed and such suit is then settled more than one year after the date of this Engagement Agreement, this contingency fee will be thirty-five percent (35%) of the total Gross Recovery. All amounts paid to Counsel as compensation for legal services related to the Disputes under this Engagement Agreement shall be paid fifty percent (50%) to Dan Robin and fifty percent (50%) to Sher Garner; provided, however, Dan Robin and Sher Garner will each bear fifty percent (50%) of the costs and expenses identified in Section 3, below, as and when incurred.

Notwithstanding the above, Counsel shall be entitled to negotiate a reasonable attorneys' fee with any or all settling defendant(s) for the value of services related to obtaining such a settlement. Counsel shall be entitled to receive this negotiated fee or the contingency fee as described above, whichever is greater, but not both. In all events Counsel's fee shall be reasonable, in keeping with the Louisiana Rules of Professional Conduct, and, when applicable, as approved by a Court of competent jurisdiction.

2. Dan Robin and Sher Garner shall have the right to associate other counsel to assist in the representation of the Parish as Sher Garner and Dan Robin may deem desirable or necessary upon notice of such association to the Parish. Dan Robin, Sher Garner, and any additional Counsel associated in connection with this Engagement Agreement shall share any contingency fee paid as may be agreed by Counsel. Association of additional counsel shall not increase the fee due Counsel under this Engagement Agreement.

3. Counsel shall have the right and authority, without prior approval of the Parish, to incur such costs and expenses as may be necessary and/or advisable in furtherance of the purpose of this Agreement. In the event of a recovery, costs and expenses, such as deposition transcripts, copy fees for document production and exhibits, expert fees, filing and recordation fees, and other expenses, shall be payable from the "net" of the Gross Recovery payable to the Parish after payment of all legal fees to Counsel and before payment of the remaining Gross Recovery to the Parish.

4. As you know, Counsel currently represent clients in a wide area of commerce and industry. Therefore, it is possible that a conflict could arise if the Parish's interest becomes



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adverse, commercially or in a litigation context, with another client of one of the firms constituting Counsel. Counsel screen each piece of legal work to determine whether an actual or potential conflict of interest exists. If any possible conflict of interest is detected, Counsel will bring it to the Parish's attention and attempt to resolve it in an open and ethical manner. Counsel occasionally have to refuse acceptance or continuation of a particular undertaking for a client due to conflict.

5. The Parish hereby agrees and acknowledges that Counsel may represent other governmental entities in connection with the Disputes. The Parish agrees that no conflict of interest is anticipated by Counsel's representation of such other governmental entities.

The Parish also acknowledges and agrees that in the event that there is a monetary recovery awarded in connection with the Parish's Disputes as described herein or in connection with any claims on behalf of other governmental entities (including other parishes), including a single lump-sum of money payable to all those governmental entities with claims related to the Disputes, the distribution among the parties shall be made by mutual agreement. In the event that the Parish and the other parties cannot mutually agree as to how any lump-sum monetary recovery should be distributed, the Parish agrees that distribution shall be made pursuant to a mechanism to achieve a fair distribution, which shall be agreed upon at that time.

Despite the mutual assessment of Counsel and the Parish that no conflicts related to the matters described above exist, or are anticipated, should a conflict arise, the Parish agrees to address the matter at that time in good faith with Counsel in an effort to resolve or waive the conflict consistent with the Louisiana Rules of Professional Conduct.

To avoid any errors in communication, we will accept instructions concerning this engagement or any additional work in connection with other matters only from you and from other persons identified by you in writing.

It is important that the client and attorney understand the scope of the representation and the method of payment obligations. If this Engagement Agreement correctly sets forth your understanding of the scope of the services to be rendered to the Parish by Counsel and if all of the terms set forth in this Engagement Agreement are satisfactory, please sign and date a copy of this Engagement Agreement where indicated below and return it to me as soon as possible. If you have any questions or concerns, please do not hesitate to call.

It is our pleasure to represent you in this matter, and we look forward to working with you.



*Law Offices of*  
Dan A. Robin Jr., Esq.

Sincerely,

LAW OFFICES OF DAN A. ROBIN, JR., L.L.C.

By: Dan Robin, Jr.  
Dan A. Robin, Member

ACKNOWLEDGED AND AGREED AS OF  
THE 19<sup>th</sup> DAY OF SEPTEMBER 2017 BY:

ST. BERNARD PARISH GOVERNMENT

By: Perry Nicosia,  
Perry Nicosia, District Attorney,  
34th Judicial District Court

ACKNOWLEDGED AND AGREED AS OF  
THE 19<sup>th</sup> DAY OF SEPTEMBER 2017 BY:

SHER GARNER CAHILL RICHTER  
KLEIN & HILBERT, L.L.C.

By: James M. Garner,  
James M. Garner,  
Co-Managing Member