

DAVID Y KAN, MD
ENGAGEMENT AND FEE AGREEMENT FOR
FORENSIC CONSULTATION SERVICES

1. This agreement between _____, attorney, and David Y Kan, M.D., expert, entered into on _____, shall constitute their entire agreement in the pending matter.

2. The expert will render assistance to the attorney in this case by:
 - Performing interviews, record review, and literature research necessary to reach an informed opinion concerning the referral question.
 - Providing consultation to the attorney's psychological expert, as needed, within 72 hours of completion of the psychological tests, and to the attorney, if requested.
 - Providing a written report of the evaluation findings to the attorney within three weeks of completion of the evaluation.
 - Being available, if requested, to testify in court concerning the evaluation findings.

3. The expert shall be compensated in the following method:

At the rate of \$675.00 per hour for all services to be rendered in this case, with additional details regarding missed appointments, cancellations, travel, clerical work, etc. as set forth in the attached Fee Statement below.

4. The expert's compensation shall be received as follows:

As a retainer, the amount of \$6750.00 shall be paid prior to the rendering of any services, which shall be considered non-refundable. Any charges exceeding the retainer to be paid monthly, upon receipt of billing, per the below "Fee Statement."

5. The attorney guarantees payment of the expert's compensation and may seek reimbursement through separate agreement from the attorney's client. The attorney will be solely responsible for seeking such reimbursement from the attorney's client and failure to receive such reimbursement will in no way affect the terms of this agreement and the attorney's financial obligations to the expert.

6. Other than is necessitated in providing the contracted service, the expert shall not discuss this case with any person other than the attorney without prior consent of the attorney or court order.

7. The attorney shall keep the expert advised on any cancellations or postponements in scheduled appointments, trial appearances, or pretrial examinations. The attorney shall be responsible to compensate the expert for untimely cancellation of reserved time as per the expert's usual and customary fee schedule that will be provided in advance to the attorney.

8. This agreement may be terminated by the attorney or expert for any of the following grounds:
 - Failure of either party to perform according to the terms of this agreement.
 - Misrepresentation of the facts of the case or the applicable law by the attorney to the expert.
 - Misrepresentation of expert opinions by the expert to the attorney.
 - A request by either party that the other engage in unprofessional conduct.

**FEE STATEMENT GOVERNING THE PROVISION OF
FORENSIC CONSULTATION SERVICES**

CLIENT. The retaining attorney, and not any litigant, party, third party, or insurance company, is to be considered the client of Dr. Kan and is the financially responsible party.

FEES. Fees for service shall include, but not be limited to, telephone contacts with Dr. Kan, professional consultations, interviews, broken and canceled appointments, reviewing documents, preparing affidavits, reserving time for testimony, photocopying, and for staff assistant time and clerical time. The responsible party shall pay for all time and services, whether the time spent is initiated by that party, an attorney, the court, Dr. Kan, or other persons or agencies relevant to the matter. This includes responsibility even if the time is spent on activities perceived as adverse to the interests of the responsible party. Should the attorney be seeking reimbursement of any fees from a litigant or third party, it is the attorney's responsibility to inform those parties that their financial obligation is to the attorney and not to Dr. Kan.

The fee for all time and services by Dr. Kan is \$675.00 per hour for consultation-related services, legal proceedings, including time reserved to provide depositions and court testimony. One reserved half-day is billed at \$675.00 per hour for five hours (\$3375.00) plus costs. One reserved full day is billed at \$675.00 per hour for ten hours (\$6750.00) plus costs. Telephone consultations with Dr. Kan are billed at a rate of \$67.50 per tenth of an hour or any portion thereof. This includes reserved time for scheduled telephone conferences that are missed or broken by attorneys, parties, or collaterals. The fee for all staff time except scheduling and billing is billed at \$50.00 per hour, plus charges for photocopying and faxing, at \$.50 per page (\$1.00 per page for first 10 pages) plus handling and mailing charges.

APPOINTMENTS and CANCELLATIONS. Because the scheduled appointment time is held exclusively for one person or task, advance notice of cancellation is required. Cancellation charges are calculated as per the table below:

| Time Reserved | Amount of Notice of Cancellation | Charge for Canceled Time |
|----------------------|---|---------------------------------|
| ½ day or less | Less than 48 hours | Full Charge |
| More than ½ day | Less than 72 hours | Full Charge |

RETAINER. There is a minimum retainer of \$6750. Regardless of the original source of the funds, the retainer will be credited to the account of the retaining attorney. The retainer is due before Dr. Kan may be identified as having been retained or declared as an expert witness in the matter. Appointments with Dr. Kan will be automatically canceled without notice if the retainer is not paid in full at least 10 business days in advance of the first appointment or scheduled Service.

The retainer is a credit balance against which fees shall be charged. Should the consultation or examination be canceled or not completed for any reason at any time by any party or attorney other than Dr. Kan, a minimum of \$6750.00 of the retainer will be non-refundable. Dr. Kan shall return any unused remaining refundable portion of retainer replenishments to the retaining attorney within ten business days from the time when the attorney notifies him that his services will no longer be required in the matter.

The actual final cost of forensic services varies significantly depending on the amount of time spent by Dr. Kan and the amount of contact with the parties and the attorneys, the number of other persons to be included, the amount of information to be read, and the degree of complexity of the matter. Dr. Kan's fees may substantially exceed the initial retainer, in which case counsel should anticipate that additional retainers shall be required. Retainers and fees shall be paid promptly when requested by Dr. Kan. All services will be suspended if retainers or fees are not paid when requested. Testimony, reports, and opinions will not be written or released unless account balances are current and retainers have been paid.

PAYMENT. Payment is due and payable at the time of service. Service charges will accrue at 1.0% per month (or a minimum service charge of \$2.00 per month), but not to exceed the amount permissible by law, on any balance not paid within 30 days after the charge was incurred. Should the bank for any reason whatsoever return a check, a \$35 returned check fee will be due.

THIRD PARTY PAYMENT. The acceptance by Dr. Kan of direct payment from any third party shall be construed only as a payment having been made by the third party on the behalf of the financially responsible party and will be credited to the financially responsible party's account. This will not be construed as an indication that the third party is or has become the financially responsible party nor that the party has become a client of Dr. Kan.

INSURANCE COMPANY PAYMENTS. The use of health insurance by a party is not a substitute for the financial obligations described herein. Most physical health and mental health insurance is intended for the provision of treatment and does not usually cover forensic services. Under California law, the misrepresentation of a service by a provider to an insurance company in the attempt to obtain coverage for an otherwise uncovered service may constitute a felony. All of Dr. Kan's billings will clearly state that a forensic service has been provided. Should an insurance company, nevertheless, chose to provide coverage for a forensic service, the acceptance by Dr. Kan of such payment shall be construed only as payment having been made by a third party on the behalf of the financially responsible party and not as an indication that the third party is or has become the financially responsible party or a client of Dr. Kan, nor as an indication that therapy has been provided.

COLLECTION. If an account is due for 60 days, it shall be sent for collection. The responsible party shall pay all reasonable costs of collecting the bill, such as reasonable collection agency charges that are 50% of the bill, reasonable attorney's fees, and court costs. The 50% collection agency charge shall be added to the bill and shall become part of the financial responsibility at the time the account is sent to the collection agency. In the event that legal action is instituted to collect fees and charges, the responsible party shall pay all additional reasonable costs and fees resulting from the suit, such as reasonable collection agency charges which are 50% of the bill, reasonable attorney's fees, and court costs and that the suit shall be filed and the matter shall be properly heard in San Francisco County, California.

TERMINATION. Dr. Kan may immediately terminate his services at any time he reasonably believes that any party is not fully complying with the provisions stated herein or with the orders of the court. Since Dr. Kan is retained by the attorney and his professional liaison with the court is an attorney, Dr. Kan may, at his sole discretion, immediately terminate his service if any party related to this matter is not, or ceases to be, represented by counsel. No services including reports, recommendations, or opinions will be provided after services are terminated.

AGREEMENT. This statement shall be considered an agreement between Dr. Kan and the retaining attorney(s) unless Dr. Kan is notified otherwise in writing before services are provided. All agreements are between Dr. Kan and the retaining attorney(s). Any modification of the terms of this statement must be in writing and signed by Dr. Kan. Should Dr. Kan, at his sole discretion, choose to waive any requirement under the terms of this agreement, that waiver shall not be deemed a subsequent waiver of that requirement or any other requirement under the terms of this agreement. Dr. Kan, in agreeing to provide this consultation and service, is specifically relying on the responsible party's agreement to abide by all of the terms of this statement.



David Y Kan, M.D.

Attorney signature: _____
(binds law firm)

Dated: _____