

December 15, 2017

VIA EMAIL

Hardin County, Iowa
1201 14th Ave., 2nd Floor
Eldora, IA 50627

RE: *Engagement of Simmons Hanly Conroy LLC, Crueger Dickinson LLC, and von Briesen & Roper, s.c. as Counsel in Relation to Claims Against Opioid Manufacturers*

Dear Hardin County:

The purpose of this letter (“Engagement Letter”) is to set out in writing the terms and conditions upon which the law firms of Simmons Hanly Conroy LLC, Crueger Dickinson LLC and von Briesen & Roper, s.c., (collectively “Counsel”) will provide legal services to Hardin County (“County”) in relation to the investigation and prosecution of certain claims against the following manufacturers and other parties involved with the manufacture of opioid medications: Purdue Pharma L.P., Purdue Pharma Inc., The Purdue Frederick Company, Inc., Teva Pharmaceuticals USA, Inc., Cephalon, Inc., Johnson & Johnson, Janssen Pharmaceuticals, Inc., OrthoMcNeil-Janssen Pharmaceuticals, Inc. n/k/a Janssen Pharmaceuticals, Inc., Janssen Pharmaceutica, Inc. n/k/a Janssen Pharmaceuticals, Inc.; Endo Health Solutions Inc., Endo Pharmaceuticals, Inc. (collectively “Opioid Manufacturers”). Depending upon the results of initial investigations of the facts and circumstances surrounding the potential claim(s), there may be additional parties sought to be made responsible and/or certain of the aforementioned parties may be removed from the potential claim.

This Engagement Letter shall apply solely and exclusively to the services set forth herein in relation to the investigation and Lawsuit, as defined below. This Engagement Letter does not govern, nor does it apply to, any services of either Counsel unrelated thereto.

SCOPE OF SERVICES

Counsel will work with County in the collection of information necessary to form a good faith basis for filing a claim against the Opioid Manufacturers. County hereby authorizes Counsel to file a lawsuit against one or all of the Opioid Manufacturers (“Lawsuit”) upon the terms and conditions set forth herein.

RESPONSIBILITIES

Counsel will prosecute the Lawsuit with diligence and keep County reasonably informed of progress and developments, and respond to County’s inquiries. County understands and agrees that all fees paid to Counsel shall be as set forth in this Engagement Letter. County agrees to cooperate with Counsel in the gathering of information necessary to investigate and prosecute the Lawsuit. County further understands and agrees that the law firm of von Briesen & Roper, s.c., shall not be identified on any pleading as counsel of record for County in relation to the Lawsuit, but shall be available to assist County and Counsel in relation to the Lawsuit.

The following additional terms apply to the relationship between County and Counsel:

- A. Counsel shall remain sufficiently aware of the performance of one another and the performance to ascertain if each firm’s handling of the Lawsuit conforms to the Rules of Professional Conduct. Counsel shall be available to County regarding any concerns on the part of County relating to the performance of Counsel. Counsel shall at all times remain ethically and financially responsible to the County for the services of Counsel set forth herein.
- B. As set forth below, County’s responsibility for attorney fees and expenses is contingent upon the successful outcome of the Lawsuit, as further defined below. Counsel have agreed in writing as to the appropriate split of attorney fees and expenses. Specifically, in the event of a Recovery (as defined below), the attorney fees will be split between the law firms as follows:

| <u>Firm Name</u> | <u>Percentage of Fees if Successful</u> |
|---------------------------|--|
| von Briesen & Roper, s.c. | 10% |
| Crueger Dickinson LLC | 45% |
| Simmons Hanly Conroy LLC | 45% |

The split of attorneys’ fees between Counsel may be subject to change. In the event of such an amendment, the County will be notified in writing of that amendment.

- C. Counsel and County understand and agree that Counsel will all be considered attorneys for County. As such, each and all of Counsel will adhere to the Rules of Professional Responsibility governing the relationship between attorney and client.

ACTUAL AND POTENTIAL CONFLICTS OF INTEREST AND WAIVER OF CONFLICT

As County is aware, Counsel contemplate entering into the same arrangement as that set forth in this Engagement Letter with other counties and municipalities in Iowa and elsewhere. Counsel believe that the goals and objectives of County are aligned with the goals and objectives of all other counties and municipalities with respect to the Lawsuit. Counsel do not believe that to achieve the goals of the Lawsuit, either County or another county or municipality must take a position that is adverse to the interests of the other. However, to the extent any issue may arise in this matter about which County disagrees with another county or municipality, and one of you may wish to pursue a course that benefits one but is detrimental to the interest of the other, we cannot advise County or assist County or any other county or municipality in pursuing such a course. That is to say, Counsel cannot advocate for County’s individual interests at the expense of the other counties or municipalities that Counsel represent in a Lawsuit. Counsel do not believe that this poses a problem because County’s interests are currently aligned with the other counties and municipalities that are or may be in the Lawsuit. Counsel are confident that their representation of County will not be limited in this matter by representation of any other county or municipality, but County should consider these consequences of joint representation in deciding whether to waive this conflict.

In addition to the material limitation discussed above, there are other consequences for County in agreeing to joint representation. Because each county or municipality would be a client of Counsel, Counsel owe equal duties of loyalty and communication to each client. As such, Counsel must share

all relevant information with all counties and municipalities who are clients in relation to the Lawsuit and Counsel cannot, at the request of one county or municipality, withhold relevant information from the other client. That is to say, Counsel cannot keep secrets about this matter among the counties and municipalities who are clients of Counsel with respect to the Lawsuit. Also, lawyers normally cannot be forced to divulge information about communications with their clients because it is protected by the attorney-client privilege. However, because County would be a joint client in the same matter with other counties and municipalities, it is likely that were there to be a future legal dispute between County and other counties or municipalities that engage Counsel about this matter, the attorney-client privilege would not apply, and each would not be able to invoke the privilege against the claims of the other.

Further, while County's position is in harmony with other counties and municipalities presently, and the conflict discussed above is waivable, facts and circumstances may change. For example, County may change its mind and wish to pursue a course that is adverse to the interests of another county or municipality and the conflict may become unwaivable. In that case, depending upon the circumstances, Counsel may have to withdraw from representing either County or another county or municipality and County would have to bear the expense, if County chooses, of hiring new lawyers who would have to get up to speed on the matter.

County is not required to agree to waive this conflict, and County may, after considering the risks involved in joint representation, decline to sign this Engagement Letter. By signing this Engagement Letter, County is signifying its consent to waiving the conflict of interest discussed herein.

Other than the facts and circumstances related to the joint representation of numerous counties and municipalities, Counsel are unaware of any facts or circumstances that would prohibit Counsel from providing the services set forth in this Engagement Letter. However, it is important to note that the law firm of von Briesen & Roper, s.c., is a relatively large law firm based in Wisconsin and represents many companies and individuals. It is possible that some present and future clients of von Briesen & Roper, s.c., will have business relationships and potential or actual disputes with County. von Briesen & Roper, s.c., will not knowingly represent clients in matters that are actually adverse to the interests of County without County's permission and informed consent. von Briesen & Roper, s.c, respectfully requests that County consent, on a case by case basis, to von Briesen & Roper, s.c.'s representation of other clients whose interests are, or maybe adverse to, the interests of County in circumstances where County has selected other counsel and where von Briesen & Roper, s.c., has requested a written conflict waiver from County after being advised of the circumstances of the potential or actual conflict and County has provided informed consent.

FEES FOR LEGAL SERVICES AND RESPONSIBILITY FOR EXPENSES

A. Calculation of Contingent Fee

There is no fee for the services provided herein unless a monetary recovery acceptable to County is obtained by Counsel in favor of County, whether by suit, settlement, or otherwise ("Recovery"). County understands and agrees that a Recovery may occur in any number of different fashions such as final judgment in the Lawsuit, settlement of the Lawsuit, or appropriation to County following a nationwide settlement or extinguishing of claims in lawsuits and matters similar to the Lawsuit. Counsel agree to advance all costs and expenses of Counsel, and the Lawsuit associated with investigating and prosecuting the Lawsuit provided, however, that the costs and expenses associated with County cooperating with Counsel in conjunction with the Lawsuit and otherwise performing its responsibilities under this Engagement Letter are the responsibility of County. In consideration of the legal services to be rendered by Counsel, the contingent attorneys' fees for the services set forth in this

Engagement Letter shall be a gross fee of 25% of the Recovery, which sum shall be divided among Counsel as set forth in the above chart.

Upon the application of the applicable fee percentage to the gross Recovery, and that dollar amount set aside as attorneys' fees to Counsel, the amount remaining shall first be reduced by the costs and disbursements that have been advanced by Counsel, and that amount shall be remitted to Counsel. By way of example only, if the gross amount of the Recovery is \$1,000,000.00, and costs and disbursements are \$100,000.00, then the fee to Counsel shall be \$250,000, the costs amount of \$100,000 shall be deducted from the balance of \$750,000.00, and the net balance owed to County shall be \$650,000. The costs and disbursements which may be deducted from a Recovery include, but are not limited to, the following, without limitation: court fees, process server fees, transcript fees, expert witness fees and expenses, courier service fees, appellate printing fees, necessary travel expenses of attorneys to attend depositions, interview witnesses, attend meetings related to the scope of this Engagement Letter and the like, and other appropriate matter related out-of-pocket expenses. In the event that any Recovery results in a monetary payment to County that is less than the amount of the costs incurred and/or disbursements made by Counsel, County shall not be required to pay Counsel and any more than the sum of the full Recovery.

B. Nature of Contingent Fee

No monies shall be paid to Counsel for any work performed, costs incurred or disbursements made by Counsel in the event no Recovery to County has been obtained. In the event of a loss at trial due to an adverse jury verdict or a dismissal of the Lawsuit by the court, no monies shall be paid to Counsel for any work performed, costs incurred or disbursements made by Counsel. In such an event, neither party shall have any further rights against the other.

C. Disbursement of Recovery Proceeds to County

The proceeds of any Recovery on County's behalf under the terms of this Engagement Letter shall be disbursed to County as soon as reasonably practicable after receipt by Counsel. At the time of disbursement of any proceeds from a Recovery, County will be provided with a detailed disbursement sheet reflecting the method by which attorney's fees have been calculated and the expenses of litigation that are due to Counsel from such proceeds. Counsel are authorized to retain out of any moneys that may come into their hands by reason of their representation of County the fees, costs, expenses and disbursements to which they are entitled as determined in this Engagement Letter.

TERMINATION OF REPRESENTATION

This Engagement Letter shall cover the period from the date first indicated below until the termination of the legal services rendered hereunder, unless earlier terminated as provided herein. This Engagement Letter may be terminated by County at any time, and in the event of such termination, neither party shall have any further rights against the other, except that in the event of a Recovery by County against the Opioid Manufacturers subsequent to termination, Counsel shall have a statutory lien on any such recovery as provided by applicable law and further maintain rights in the nature of *quantum meruit* to recover fees, costs and expenses reasonably allocable to their work prior to termination. Counsel may withdraw as County's attorneys at any time for the following reasons:

- A. If Counsel determine, in their sole discretion, that County's claim lacks merit or that it is not worthwhile to pursue the Lawsuit further; or

- B. For Good Cause. For purposes of this Paragraph, Good Cause may include County's failure to honor the terms of the Engagement Letter, County's failure to follow Counsel's advice on a material matter, or any fact or circumstance that would, in the view of Counsel, impair an effective attorney-client relationship or would render continuing representation unlawful or unethical. If terminated for Good Cause, County will take all steps necessary to free Counsel of any obligation to perform further, including the execution of any documents (including forms for substitution of counsel) necessary to complete withdrawal provided, however, that Counsel shall have a statutory lien on any Recovery as provided by applicable law and further maintain rights in the nature of *quantum meruit* to recover fees, costs and expenses reasonably allocable to their work prior to termination.

SETTLEMENT

County has the authority to accept or reject any final settlement amount after receiving the advice of Counsel. County understands settlements are a "compromise" of its claim(s), and that Counsel's fee, as set forth above, applies to settlements also. For example, if a settlement is reached, and includes future or structured payments, Counsel's fee shall include its contingent portion of those future or structured payments.

NO GUARANTEE OF RECOVERY

County understands and acknowledges that dispute resolution through litigation often takes years to achieve. County understands and acknowledges that there is no guarantee or assurances of any kind regarding the likelihood of success of the Lawsuit, but that Counsel will use their skill, diligence, and experience to diligently pursue the Lawsuit.

LIMITED LIABILITY

von Briesen & Roper, s.c., and Crueger Dickinson LLC are limited liability entities under Wisconsin law. This means that if Counsel fails to perform duties in the representation of County and that failure causes County damages, the firms comprising Counsel and the shareholder(s) or principals directly involved in the representation may be responsible to County for those damages, but the firm's other shareholders or principals will not be personally responsible. Counsel's professional liability insurance exceeds the minimum amounts required by the Wisconsin Supreme Court for limited liability entities of similar size.

COMMUNICATION BY E-MAIL

Counsel primarily communicates with its clients via unencrypted internet e-mail, and this will be the way in which communications occur with County. While unencrypted e-mail is convenient and fast, there is risk of interception, not only within internal networks and the systems used by internet service providers, but elsewhere on the internet and in the systems of our clients and their internet service providers.

FILE RETENTION AND DESTRUCTION

In accordance with Counsel's records retention policy, most paper and electronic records maintained are subject to a 10-year retention period from the last matter activity date or whatever date deemed appropriate. Extended retention periods may apply to certain types of matters or pursuant to County's specific directives.

After the expiration of the applicable retention period, Counsel will destroy records without further notice to County, unless County otherwise notifies in writing.

MISCELLANEOUS

This Engagement Letter shall be governed by and construed in accordance with the laws of the State of Iowa, without regard to conflicts of law rules. In the event of any dispute arising out of the terms of this Engagement Letter, venue for any such dispute shall be exclusively designated in the State or Federal Courts in Iowa.

It is expressly agreed that this Engagement Letter represents the entire agreement of the parties, that all previous understandings are merged in this Engagement Letter, and that no modification of this Engagement Letter shall be valid unless written and executed by all parties.

It is expressly agreed that if any term or provision of this Engagement Letter, or the application thereof to any person or circumstance, shall be held invalid or unenforceable to any extent, the remainder of this Engagement Letter, or the application of such term or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby; and every other term and provision of this Engagement Letter shall be valid and shall be enforced to the fullest extent permitted by law.

The parties acknowledge that they have carefully read and fully understand all of the provisions of this Engagement Letter, and that they have the capacity to enter into this Engagement Letter. Each party and the person signing on behalf of each party, represents that the person signing this Engagement Letter has the authority to execute this document and thereby bind the party hereto on whose behalf the person is signing. Specifically, County acknowledges that it is bound by this Engagement Letter, has satisfied all conditions precedent to execution of this Engagement Letter and will execute all the necessary documents that may be required by its governing statutes and/or code.

CONCLUSION

Counsel are pleased to have this opportunity to be of service to County. If at any time during the course of representation you have any questions or comments about our services or any aspect of how we provide services, please don't hesitate to call one or all of the individuals listed below.

Very truly yours,

CRUEGER DICKINSON LLC



Erin K. Dickinson

SIMMONS HANLY CONROY LLC



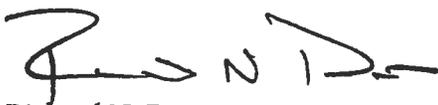
Paul J. Hanly

von BRIESEN & ROPER, s.c.



Andrew T. Phillips

HARDIN COUNTY agrees to retain the services of Counsel all upon the terms and conditions specified above.

By: 
Richard N. Dunn

Title: Hardin County Attorney

Date: January 4, 2018