

**AGREEMENT FOR LEGAL REPRESENTATION
ALPENA COUNTY, MICHIGAN**

THIS AGREEMENT is made and entered into by and between the party of the first part, the County of Alpena, hereafter referred to as “the County,” as represented by the Judges of the 26th Circuit Court, and Alpena County Probate Court, hereafter referred to as “the Courts,” and the party of the second part, Devin Pommerenke, Justin Wilson, Michelle Elowski as Legal ME, PLLC, Chelsea Wallace as The Wallace Firm, P.C., and Katy Conklin, jointly and severally, hereafter referred to as “Contract Providers.”

RECITALS

WHEREAS, the County desires to contract for the representation of persons requiring legal representation as required by law in the Circuit, and Probate Courts; and

WHEREAS, the Contract Providers have proposed to provide such representation pursuant to the County’s request for same; and

WHEREAS, the County having determined that the Contract Providers are able to provide acceptable representation of the persons described above,

NOW THEREFORE, in consideration of the mutual covenants expressed herein, the parties agree as follows:

SCOPE

- A. During the term of this Agreement the Contract Providers agree to provide representation for all such persons whom they are appointed to represent by the Courts as required by law, including, but not limited to, appearances at the following proceedings in the Family Division of the Circuit Court and Probate Courts:

Devin Pommerenke and Justin Wilson: motions; hearings; trials; pleas; delinquency and juvenile proceedings; designation proceedings; waiver proceedings; paternity proceedings; probation violation proceedings; neglect and abuse petitions;

Katy Conklin: motions; hearings; trials; pleas; delinquency and juvenile proceedings; designation proceedings; waiver proceedings; paternity proceedings; probation violation proceedings; neglect and abuse petitions for matters where Mr. Pommerenke or Justin Wilson have a conflict, or in matters where there are

additional respondents as well as personal protection order hearings; Friend of the Court contempt hearings.

Chelsea Wallace: representation of minors in abuse and neglect cases by being appointed guardian ad litem for those minors in the aforesaid proceedings;

Michelle Elowski: mental illness, guardianship, legal incapacity, and conservatorship proceedings;

Specifically exempt are review hearings for Juveniles, and review hearings for parents in neglect and abuse cases, unless specifically appointed by the Court.

- B. The Courts shall determine the people entitled to representation under this Agreement by screening conducted by Court personnel. The Contract Provider shall be obligated to accept all cases covered by this Agreement at the time of receiving notice from the Court Administrator regarding eligibility for representation. Any monies collected by the Courts or the County from partially indigent persons receiving services by the Contract Provider under the terms of this Agreement remain the property of the County or Courts.

DUTIES AND RESPONSIBILITIES

The Contract Providers shall be responsible for the following:

- A. Assure they are competent to perform their required duties;
- B. Assure that they are members in good standing with the State Bar of Michigan;
- C. Provide competent and efficient legal representation of the person to whom they are appointed;
- D. Assure that they complete all duties in accordance with the Court Rules of the State of Michigan and the Rules of Professional Conduct.
- E. Assure that they are punctual for all Court appearances.
- F. The duties and responsibilities described in this Contract are separate and distinct from the Michigan Indigent Defense Commission policies and standards, as approved by the Department of Licensing and Regulatory Affairs.

TERM

The term of this Agreement shall be from April 1, 2020 through December 31, 2020, the date of signature by the parties notwithstanding. At the termination of this Agreement, the Contract Provider shall transfer representation timely in accordance with MCR 2.117, unless doing so is deemed improper by the Courts due to an essential hearing in the very near future which would make the same impossible or impracticable.

EARLY TERMINATION

This Agreement may be terminated, prior to its expiration, with or without cause by either party. Notice of early termination must be made with not less than 60 days written notice delivered by registered or certified mail or in person to the other party. Notice to the County shall be delivered to the Chief Judge of the 26th Judicial Circuit Court with courtesy copies provided to the Alpena County Probate Judge and the Chairman of the Alpena County Board of Commissioners. Notice to the Contract Providers shall be delivered each individually. If notice is delivered by mail, it shall be deemed received upon acknowledgment of receipt of the mail by addressee. In the event of termination, the Contract Providers shall be responsible to transfer representation of existing clients on open cases to whomever the County contracts with for the provision of services thereafter. Any representation after the date of termination of this Agreement shall be without additional compensation.

PERSONNEL

The Contract Providers shall provide the professional services to fulfill their obligations for the provision of legal representation of eligible persons under the terms of this Agreement. The Contract Provider shall provide qualified attorneys who are members in good standing with the State Bar of Michigan as may be needed to perform the functions stated herein.

In cases wherein the Contract Providers cannot represent an eligible person for any reason, the Contract Providers shall provide a qualified attorney as may be needed to perform the functions required herein, and the Contract Providers shall be responsible for remuneration of that attorney. Should the Contract Providers find continued difficulty in securing alternate counsel in personal conflict cases, it shall be the right and the discretion of the Circuit Court to secure such additional counsel as needed. Appropriate payment for this additional counsel shall be determined by the Circuit Court. This amount may be subtracted from the Contract Provider's compensation. The Judges of the Circuit and Probate Courts retain the right to remove an attorney appointed under this provision from representing persons pursuant to this Agreement at any time. It is within the professional discretion of the Contract Provider attorneys to determine, pursuant to the Michigan Rules of Professional Conduct, whether a conflict of interest exists.

ASSIGNMENT

It is understood by the parties that the Contract Providers may contract with other persons for the furnishing of services to be provided under this Agreement as expressly contemplated herein. However, there shall be no other assignment of rights or obligations under this Agreement, except that the persons named herein as the Contract Providers may assign their entire rights and obligations under this Agreement to a law firm of which they are the principal owners.

ADMINISTRATION AND SUPPORT

The Contract Providers or attorneys retained by the Contract Providers shall provide or cause to be provided the following at no additional cost to the County:

- A. All general administrative services including all administrative scheduling of attorneys' court appearances needed to insure the orderly and timely provision of the legal services contemplated herein;
- B. Office facilities adequate to the needs of the named attorneys while performing all legal services hereunder;
- C. All necessary secretarial and clerical assistance;
- D. All necessary stationary, office supplies, and office equipment including but not limited to duplicating equipment, dictating equipment, computers, facsimile machines, typewriters, and telephones;
- E. All transportation for the Contract Provider necessary for the provision of the legal services contemplated herein.
- F. The collection, retention, and communication of all statistical records regarding the their duties set forth in Scope, paragraph A, of this Agreement as may be required by the Supreme Court Administrator's Office.

COMPENSATION

In consideration of all the services and all incidental costs, expenses and material provided by the Contract Providers under the terms of this Agreement and as accepted elsewhere herein, the County agrees to pay the Contract Providers as follows:

Devin Pommerenke, Justin Wilson, and Legal ME, PLLC, each individually, the sum of \$2,222.22 per month for a term of eight months (the first eight months) and the sum of \$2,222.24 for a term of one month (the last month).

Katy Conklin and The Wallace Firm, each individually, the sum of \$1,111.11 per month for a term of eight months (the first eight months) and the sum of \$1,111.12 for a term of one month (the last month).

Said payments to each Provider are to be made on the fifteenth day of each month that this Agreement remains in effect.

In addition, the County shall pay, upon motion and prior Court approval, the following expenses:

- A. Expert witness fees and costs;
- B. Other witness fees and costs as required by law;
- C. Fees and costs associated with polygraph examinations;
- D. Fees and costs associated with psychiatric examinations;
- E. Transcript fees and costs.

The Contract Provider agrees that the above-listed expenses shall be considered extraordinary and not routine and shall be granted only upon a showing of unusual circumstances by the Contract Provider and at the discretion of the Court. No other payments other than those stated herein shall be made without specific, prior approval by the Courts.

Notwithstanding any language that may be, or appear to be, to the contrary, the compensation specifically provided herein is deemed to be the entire amount to be paid by parties of the first part to parties of the second part as attorney and personnel fees for representation in any and all Courts.

INSURANCE

The Contract Providers shall each maintain professional liability insurance of at least \$100,000.00/\$300,000.00 to insure against any and all liability arising through the acts of the attorneys under this Agreement. The Contract Providers shall append to its policies that the County shall receive notice 30 days prior to any cancellation of said insurance policies.

OTHER PROVISIONS

It is understood and agreed by the parties that:

- A. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when reduced to writing and duly signed by the parties or appointed representatives thereof;
- B. No claim for services furnished by the Contract Providers not specifically provided for in this Agreement will be honored by the County or Courts unless such service has been specifically ordered by the Court(s) and such service, as ordered, is clearly outside the scope of the services specified by the terms of this Agreement;
- C. That the Contract Providers herein act as independent contractors and neither they, their members, nor their employees acquire any tenure nor any rights or benefits from the Courts or the County by way of Worker’s Compensation, nor any benefits under the Courts’ or the County’s personnel programs covering medical and hospital care, sick pay, vacation pay, or severance pay;
- D. Further, it is understood that the Contract Providers, collectively or individually, shall not be deemed a governmental or quasi-governmental agency under this Agreement.

ENTIRE AGREEMENT

It is understood and agreed that the entire agreement of the parties is contained herein and that this Agreement supercedes all oral agreements and negotiations between the parties related hereto and the subject matter hereof.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the dates written below:

Honorable Benjamin T. Bolser, Chief Judge
26th Judicial Circuit Court

Dated: _____

Honorable Thomas J. LaCross
Alpena County Probate/ Judge

Dated: _____

Devin Pommerenke, Attorney
Contract Provider

Dated: _____

Justin Wilson, Attorney
Contract Provider

Dated: _____

Michelle Elowski, Attorney for Legal ME, PLLC
Contract Provider

Dated: _____

Chelsea Wallace, Attorney for The Wallace Firm, P.C.
Contract Provider

Dated: _____

Katy Conklin, Attorney
Contract Provider

Dated: _____