

August \_\_\_\_, 2025

**VIA EMAIL**

**Re: Initial Strategy and Preliminary Estimate of Fees For the Defense of CLIENT in the matter styled: \_\_\_\_\_ Case No. \_\_\_\_\_ pending in the Circuit Court/or the Eleventh Judicial Circuit in and/or Miami-Dade County, Florida**

Dear CLIENT:

We are honored that you have asked Ehrenstein|Sager to represent the CLIENT in this matter. The purpose of this correspondence is to confirm our understanding of the facts and circumstances surrounding this case, our understanding of CLIENT's goals, and to describe our preliminary strategy for helping CLIENT achieve those goals. In addition, this letter generally describes the litigation process and provides a preliminary estimated budget so that you may know what to expect as this matter progresses.

**CONFIRMATION OF THE FACTS AND PRELIMINARY STRATEGY**

**A. Our Understanding of the Facts**

CLIENT is a leading provider of \_\_\_\_\_. OTHER SIDE ("OTHER SIDE") sued CLIENT based on allegations that CLIENT NEGLIGENCE cost the OTHER SIDE \$000,000,000. OTHER SIDE asserts claims for negligence and trade libel and seeks a trial by jury. Many of the material facts which may emerge as this matter moves forward are not yet crystallized. However, at this juncture, it appears that \_\_\_\_\_.

The forgoing understanding of the facts is based on:

- our telephone conversations and exchange of emails on \_\_\_\_\_;
- my review of the complaint in this case;
- review of the court file in \_\_\_\_\_ Case No. \_\_\_\_\_ -dismissed from the United States District court for the Southern District of \_\_\_\_\_

Please understand that the following strategy and budget is based on this preliminary understanding. As this matter moves forward, it is likely that we may learn additional facts which may affect our strategy, the budget or both.

**B. Our Understanding of CLIENT's Goals**

Based on the foregoing, it is our understanding that CLIENT wants to vigorously defend against the claims asserted by OTHER SIDE to eliminate or limit its legal exposure as much and as efficiently as possible.

**C. Preliminary Strategy**

To achieve its goal, we recommend (preliminarily) that CLIENT take the following over-all steps:

1. Remove to federal court: First, we should investigate and if appropriate remove the case from state court to federal court. Federal court may be a better forum because:

- a. Federal court generally is a more expensive forum for Plaintiffs to litigate because the federal rules require far more legal research and briefing. This additional cost inures to CLIENT's benefit in defending against OTHER SIDE, which appears to have limited funds (it was borrowing to complete the initial order) and likely has counsel representing it on a contingency fee basis. Pushing the case into federal court will substantially increase the cost of litigating for OTHER SIDE and its counsel.
- b. Moreover, federal courts generally have a more restrictive and conservative approach than state courts in commercial matters.
- c. Third, though it is a gross generalization, jurisprudence in federal courts tends to be of higher quality than in state courts.

2. Challenge jurisdiction: Whether we remove to federal court or not, CLIENT should challenge jurisdiction. CLIENT is the entity that conducted the inspection and is accordingly the only party that may have been negligent. It is also the only relevant party that has not been named as a defendant. If Plaintiff asserts a claim against CLIENT it will have to establish grounds for our Florida court to exercise jurisdiction over that foreign entity-which will be a significant challenge since that entity does no business here, conducts \_\_\_\_\_ here or has not otherwise purposely availed itself of any benefit here sufficient to trigger the reasonable expectation that it could be haled into court here. Moreover, CLIENT can assert additional technical grounds to dismiss, like improper venue, forum non conveniens, and failure to state a claim on which relief can be granted. For example, OTHER SIDE has failed to articulate any grounds to pierce the corporate veil and proceed against CLIENT Limited or CLIENT (US), LLC.

3. Challenge the liability. If we are not successful in dismissing for lack of jurisdiction or otherwise, CLIENT should challenge the facts on which OTHER SIDE bases CLIENT's alleged liability. In a nutshell, OTHER SIDE asserts it lost business with \_\_\_ due to the \_\_\_\_\_. Yet OTHER SIDE's New York complaint against \_\_\_ inconsistently asserts that \_\_\_\_\_ wrongfully terminated its relationship despite the fact OTHER SIDE's \_\_\_\_\_. Moreover, the termination letter from \_\_\_ indicates that \_\_\_ terminated the relationship not because of \_\_\_\_\_, but because \_\_\_ did not have a comfort level that OTHER SIDE could deliver the promised product or that the product would meet the rigorous standards of \_\_\_\_\_. Challenging these facts effectively will require substantial discovery, including subpoenaing documents and testimony from \_\_\_\_\_, as well thorough investigation of the facts concerning the initial and revised reports.

4. Challenge the damages: Simultaneously, we should challenge the calculation of damages sought by OTHER SIDE. Worst case scenario, OTHER SIDE would be entitled to damages based on the profit (not the gross revenue) it would have generated had these transactions moved forward.

## **THE LITIGATION PROCESS**

Because our strategy to achieve your goals contemplates litigation, it is important that you have a realistic understanding of the process. You should understand at the outset that despite our best efforts to limit cost and expeditiously accomplish your goals, litigation is often a complex, time consuming, expensive, and frustrating endeavor. Indeed, the strategies, time, and effort we must dedicate to this matter for CLIENT depend in part upon the actions and reactions of OTHER SIDE and other witnesses.

The process of litigation is perhaps most easily understood by breaking the process down into several distinct stages: initial investigation, pleadings, discovery, motion practice, mediation, trial preparation and trial, post-trial motions, and appeal. The following endeavors to describe each of the stages of the litigation process.

### **A. Initial Investigation**

Usually, the initial investigation takes place prior to the initiation of any litigation. In this case, we started our initial investigation by reviewing the documents you provided, and by our conversations with you. However, substantial additional work needs to be accomplished to complete that investigation. We would recommend dedicating approximately \$00,000 to complete the initial investigation. Please understand, however, that, this range is simply a starting point for budgeting purposes, and as with this entire budget, the actual fees which may be incurred may be substantially higher or lower.

### **B. Pleadings**

The first formal stage of litigation occurs in the pleadings. Pleadings are the mechanism through which the parties advise each other of the claims and contentions they will make at trial. Specifically, through these documents, the Plaintiff alleges the facts which, if proven, will establish the defendant's liability and the defendant alleges facts which if proven will establish the defendant's avoidance of liability. The aim at this stage of litigation is to ensure that each party is given adequate notice of that which the other party intends to prove. Once that occurs, and the forum is certain of its jurisdiction over the parties and the subject matter of the dispute, the matter then proceeds through the following phases of the litigation process.

The Plaintiff first files a pleading called the Complaint, in which the Plaintiff must identify the parties, and allege facts to establish that the forum has jurisdiction over both the subject matter and the parties. In addition, in the Complaint, the Plaintiff must allege the facts which establish the elements of each of the claims which he intends to prove at trial and set forth a demand for relief. Once the Complaint has been answered, the pleadings are deemed "closed", and this phase of the litigation process is over. Here, the complaint has been filed, and we will likely attempt to remove it to federal court. In addition, we will challenge jurisdiction, which may require the parties to engage in some limited jurisdictional discovery. We reasonably suggest that you budget up to \$000,000 to complete this phase of the litigation, including removal analysis and argument, dismissal analysis and argument and if necessary jurisdictional discovery. Please understand, however, that, this range is simply a starting point for budgeting purposes, and as with this entire budget, the actual fees which may be incurred may be substantially higher or lower.

### **C. Discovery**

The purpose of discovery is to permit the parties to obtain information from each other and from others with which to prove their respective claims and defenses. Discovery in commercial disputes tends to focus on document requests, interrogatories, requests for admissions, and depositions. A request for production is a discovery tool which requires an adverse party to permit inspection and copying of all documents in its possession, custody, and control which refer or relate to issues raised in the case. Interrogatories are written questions which adverse parties are required to answer under oath. Requests for admissions are written statements which an adverse party is required to admit or deny. Depositions, on the other hand, are oral questions, answered by an adverse party or witness, under oath and in person.

The production of documents can be a laborious process, requiring you to gather the requested material, and requiring the attorneys to review the documents for responsiveness and privilege, to redact privileged and/or confidential material from the documents, and to label the documents in such a way that each produced (or withheld) document is identifiable for evidentiary purposes. For this reason, the more documents involved in the production, the lengthier and more expensive the process will be. In addition to the production of documents and interrogatories, depositions will also play a substantial role in discovery expenses. The amount of preparation and time spent on a single deposition varies depending on the witness. At a minimum, we will need to take the deposition of the corporate representative of the OTHER SIDE, the deposition of the inspector, and the corporate representative of \_\_\_\_\_. We may also have to make a representative of CLIENT available for deposition, and potentially other witnesses as well.

Based on the foregoing, a preliminary estimated budget for discovery is approximately \$000,000. Of course, we may need to draft or respond to more than one round of written discovery, and it is possible that additional witnesses may need to be deposed by either side. It is also possible we will not want to depose each of the witnesses identified, or that the preparation for and attendance at each deposition will take significantly less time than anticipated. Again, we provide this range simply as a starting point for budgeting purposes. Please understand, as with this entire budget, the actual fees which may be incurred by you may be substantially higher or lower.

#### **D. Motion Practice**

Motion practice serves at least two purposes. First, motion practice grants the parties an opportunity to contest discovery requests, or to enforce discovery requirements. We recommend that you budget \$00,000 for using motion practice to address discovery issues. The second, and more effective function of motion practice is to narrow and limit the issues which will be presented at trial. This second function is generally effectuated at the close of discovery through motions for summary judgment. In a motion for summary judgment, the movant must establish that there are no genuine issues of material fact, and that the movant is therefore entitled to judgment as a matter of law, thereby obviating the need for a trial. Because motions for summary judgment are so fact intensive, they are generally fairly costly to prepare. Despite their expense, motions for summary judgment provide an excellent tool to either avoid the trial entirely, narrow the issues to be presented for trial, or even force the opposing party to reveal the facts upon which it relies to avoid liability. We anticipate that you would incur fees of \$00,000 in advancing and defending motions for summary judgment. Please understand, however, that, this range is simply a starting point for budgeting purposes, and as with this entire budget, the actual fees which may be incurred may be substantially higher or lower.

#### **E. Mediation**

Mediation is a formal negotiating process which the parties attend prior to trial. Although mediation processes vary, generally during mediation each party presents a brief summary of their case to the mediator, who then meets separately with each party in an attempt to assist the parties in negotiating a resolution to their dispute. Mediation usually is most effective after substantial discovery has occurred, although it can also be used as a tool to resolve the case earlier. To prepare for mediation, we must spend an appropriate amount of time to review all of the discovery and draft a confidential mediation summary for the Mediator, addressing all liability and damage issues. After preparation of the summary, you should be prepared to incur additional time in order to actually attend the mediation. Accordingly, our total preliminary estimated budget for mediation is \$00,000. We provide this range simply as a starting point for budgeting purposes. Again, as with this entire budget, the actual fees which may be incurred by you may be substantially higher or lower.

#### **F. Trial Preparation and Trial**

Traditionally, the largest expenditure of time and the concomitant incursion of fees in litigation will take place in trial preparation and attendance at trial. We reasonably expect that if this matter goes to trial, you will incur approximately \$000,000 in trial fees. Of course, the foregoing is only an estimate, and serves as our best guess at the amount of time it will take to properly prepare your case for trial. Likewise, the trial may be higher if we determine that it is necessary for more than two lawyers to participate in the trial proceeding. We provide this range simply as a starting point for budgeting purposes, with the understanding that the actual expenditure may be higher or lower.

#### **G. Post-Trial Motions**

After trial, typical practice requires the losing party to file a motion for new trial, motion for rehearing, motion for directed verdict, and/or motion for judgment notwithstanding the verdict. The purpose of each of these motions is to attack the outcome of the trial by arguing that the evidence presented is insufficient to sustain the result or that an error occurred in the trial which rendered the proceeding fundamentally unfair. At this time, we estimate that you will incur an additional \$00,000 in preparing or responding to these various motions, depending upon their complexity.

#### **H. Appeal**

After a decision is rendered, the ruling may be appealed. The appellate process requires the filing of briefs and, in some cases, oral argument. In the event that the court's ruling is appealed, we estimate that you will incur \$00,000 through the appellate process.

#### **I. Summary of Budget**

Based on the foregoing analysis, we presently estimate that you will incur fees through trial and appeal totaling approximately \$000,000. This estimate is for fees only and does not include costs (such as filing fees, travel costs, transcript costs, expert fees and expenses and the like). In addition, this estimate assumes that the matter will not be resolved short of trial and appeal - which statistically is extraordinarily unlikely given that over 99% of civil cases filed in South Florida are resolved prior to trial. In addition, though the budget may seem steep, it is intentionally drafted from a conservative perspective based on the facts presently known. It may well be that the fees ultimately incurred are substantially less than budget. Likewise, you should understand that the fees incurred may well also exceed the budget.

## **J. Time Frames**

Clients frequently want to know how long the litigation process will take. Unfortunately, there is no right answer to that question. The length of the process depends in large part on the complexity of the case and the tactics of the parties. Some cases have been litigated for more than 10 years. Others have been resolved within a matter of several months. According to recent statistics from the clerk of this Court, on average, cases are adjudicated through final judgment (not including any appeal), within 14 months. Similarly, the Florida Rules of Judicial Administration establish 18 months as the time standard for adjudication through trial.

### **CLIENT SERVICE COMMITMENT**

We understand how important this matter is to you, and we are honored that you have chosen us to act as your counsel. We will strive at all times to provide you with the very best legal service.

#### **Communication**

Communication is the bedrock upon which our client service is founded. We will communicate with you frequently regarding the status of your case.

My contact information is:

Office: (305) 503-5930

Cell: (305) 586-0981

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My partner, Brett Sager, Esq., will also work on your case. His contact information is:

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My partner, Latasha Johnson, Esq., will also work on your case. Her contact information is:

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Our Legal Assistant is Alexandra Monserrat. Her contact information is:

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To assure prompt communication with our clients, each of the attorneys in our office carries a smart phone, which permits us to directly receive e-mails and calls from our clients even when we are not in the office.

Please remember that communication is a two-way street. For us to provide these services most effectively, we require you to disclose fully and accurately all pertinent facts and keep us apprised

of all developments in the matter. Please cooperate with us and be available to attend meetings, conferences, hearings, and other proceedings as appropriate.

**Our Guaranty of Client Service (but not Results)**

We will endeavor to serve you effectively and strive to represent CLIENT's interests vigorously and efficiently. Any expressions on our part concerning the cost or outcome of your legal matters are expressions of our best professional judgment but are not guarantees. Our judgment is necessarily limited by our knowledge of the facts and is based on the state of the law at the time it is expressed. If at any time you are not reasonably satisfied with our service to you, you need not pay for the work that you are not satisfied with until we correct and remedy your concern. Of course, this is not a guarantee of a result, but rather a guarantee that we will provide you with exceptional service and responsiveness to your needs. In the event you believe there are circumstances which trigger this guarantee, you must (a) communicate your concern to us within fifteen days of the date of your invoice and (b) provide us with an opportunity to address your concern.

**CONCLUSION**

We hope this strategy letter provides you with a sound strategy and information about the litigation process to guide your decision-making process. If you have any questions, please let us know.

Very Truly Yours,

/s/ Michael D. Ehrenstein

Michael D. Ehrenstein