

# ATTORNEY-CLIENT REPRESENTATION AGREEMENT

This agreement is made between The Law Offices of Jeffrey N. Golant, P.A. and \_\_\_\_\_ . Throughout the remainder of this document, The Law Offices of Jeffrey N. Golant, P.A. will be referred to as “Attorney” and \_\_\_\_\_ will be referred to either singularly or collectively as “Client.” This agreement is a contract, and shall describe the services that Attorney will provide to Client, the compensation that Attorney will receive, and each parties’ obligations relating to the performance of this contract. This agreement is specifically designed for clients who have claims or potential claims arising from the improper servicing of their mortgage loan.

## SECTION I. - EFFECTIVE DATE

This contract shall take effect upon its execution by both parties.

## SECTION II. – SCOPE OF REPRESENTATION

The services that Attorney will provide to Client shall take place in three different stages, and each stage shall involve somewhat different compensation. However, the matter may conclude before the second or third stage is reached.

### **Stage One – Free Consultation**

In the first stage, Attorney will assist Client in determining whether Client’s mortgage loan account has been handled improperly by Client’s mortgage servicer. During this stage, Attorney will evaluate potential legal issues affecting Client’s mortgage loan account, but will not render any substantive services in connection with either the prosecution or defense of any litigation. It may take some time to complete this stage. In most cases, as part of an “extended free consultation” Attorney will send formal correspondence on Client’s behalf to a mortgage servicer seeking information or notifying the mortgage servicer of an error. There shall be no fee for these services, however Client agrees to reimburse Attorney for the reasonable and actual cost incurred, specifically including but not limited to postage, including expenses related to certified mail, or sending any correspondence sent during this stage.

### **Stage Two - Pre-Litigation**

It is Attorney’s experience that sending a single letter to a mortgage servicer notifying the mortgage servicer of an error or requesting information is very often not effective because mortgage servicers frequently do not comply with their obligations to respond to that type correspondence. If Attorney sends correspondence to Client’s mortgage servicer notifying the mortgage servicer of an error, or requesting information, and the mortgage servicer fails to adequately respond, Attorney will prepare the matter for litigation. This will include evaluating the mortgage servicer’s response, and conducting factual and legal research. Frequently, Attorney will also send follow up correspondence. During this stage, Attorney will charge a fee consistent with the rate schedule described below. However, fees will only be incurred in this stage if Attorney determines that Client’s mortgage servicer failed to appropriately respond to the request for information or notification of an error that was previously sent on Client’s behalf. It is anticipated that any fees incurred during this stage will be recoverable as damages a result of that violation, and these costs shall be recovered through litigation subject to the provisions of Stage Three described below. Thus it is expected that the attorneys fees incurred in this stage

will be recovered as damages through litigation. Provided that Client reasonably complies with all of Client's obligation under this agreement and cooperates in the prosecution of appropriate claims through litigation, Attorney will defer collection of the fees incurred in this stage until the conclusion of the litigation. However, the fees incurred in this stage are not contingent. Nevertheless, provided that Client complies with all obligations under this agreement, Client shall be obligated to pay no more than \$50 per month for fees incurred under this agreement. Client's obligation to pay will only commence when the litigation concludes. This obligation shall only arise if the recovery from the litigation is insufficient to pay the fees incurred at this stage, or if that litigation is unsuccessful. Client's maximum liability for fees incurred at this stage shall be \$2000 (two-thousand dollars) and will generally be much less.

### **Stage Three - Litigation**

Attorney shall pursue appropriate claims on Client's behalf against Client's past or present mortgage servicer, or any appropriate any affiliate or subcontractor, likely including but not necessarily limited to entities in the business of force-placed insurance and/or insurance tracking. These claims that Attorney pursues on Client's behalf may arise under the Real Estate Settlement Procedures Act (RESPA), Fair Debt Collection Practices Act (FDCPA), the Fair Credit Reporting Act (FCRA), the Florida Consumer Collection Practices Act (FCCPA), or may include common law claims such as tort claims or breach of contract. In addition to pursuing claims against Client's mortgage servicer, this contract authorizes Attorney to pursue other claims that Attorney, in Attorney's professional judgment, determines are appropriate.

In the event that a judgment is entered against Client, or an adverse party takes an appeal of any ruling or judgment favorable to Client, this contract shall authorize Attorney to represent Client on that appeal. However, nothing herein shall obligate Attorney to represent Client in any appeal, and Attorney reserves the right to decline to do so.

It is expressly agreed and understood that while Attorney shall represent Client in connection with affirmative claims under this contract, this contract **does not** cover "Loss Mitigation Services" or the "defense of a mortgage foreclosure." "Loss Mitigation Services" refers to assistance with loan modifications, short sales, deeds in lieu of foreclosure, or any other foreclosure alternatives. The "defense of a mortgage foreclosure" refers to representation of the borrower in the defense of a mortgage foreclosure lawsuit. While Attorney does offer foreclosure defense representation in some circumstances, a separate written agreement is required, and unless and until such agreement is executed, Client should not assume Attorney is, or will, represent Client in connection with any mortgage foreclosure related litigation. Client is further advised that Attorney very rarely offers "Loss Mitigation Services", and generally encourage borrowers to handle loss mitigation services themselves.

Although "Loss Mitigation Services" are not covered by this contract, Attorney may from time to time assist Client with the submission of loss mitigation related applications and documents, particularly where the mortgage servicer solicits loss mitigation related information following the initiation of a lawsuit. Where Attorney assists with loss mitigation activities, Client understands and agrees that Attorney does so as a courtesy only, and without additional charge. However, Attorney will not advise Client regarding the loss mitigation process, or review Client's loss mitigation submission. Nor will negotiate any loss mitigation resolution on Client's behalf. Client however remains free to negotiate loss mitigation options on Client's own behalf.

### **SECTION III. – ATTORNEY’S COMPENSATION**

Attorney strives to make quality representation available to consumers who may be unable to pay for legal services, and Attorney’s services are generally offered and no direct cost, or very little direct cost, to Attorney’s client. Nevertheless, with the exception of stage one, the services provided under this agreement are not provided on a pro-bono basis.

Services rendered under Stage One describe above shall be rendered without cost. Services rendered under Stage Two shall be charged at the rate schedule described below, subject to the limitations described above. Services under Stage Three shall be contingent and will be charged a the *larger* of

1. The total amount of time spent plus the appropriate hourly rates under the rate schedule describe below.
2. 40% of the entire recovery (or 45% in the event of an appeal), less deduction for all third party costs advanced by attorney. This calculation shall include any amounts awarded as shifted attorneys’ fees, but shall exclude any amounts awarded as costs. However, the amount of costs shall be applied to reimburse any third party costs advanced.
3. The amount of shifted fees awarded by a Court pursuant any applicable fee shifting law.

#### **Rate Schedule**

\$400 per hour - Jeffrey Golant or any attorney affiliated with The Law Offices of Jeffrey N. Golant, P.A. with 10 or more years experience as an attorney licensed to practice in any United States jurisdiction.

\$325 per hour - Any attorney affiliated with The Law Offices of Jeffrey N. Golant, P.A. with more than 3 but less than 10 years experience

\$250 per hour - Any attorney affiliated with The Law Offices of Jeffrey N. Golant, P.A. with less than 3 years experience.

\$100 per hour - Any time spent by non-attorney professionals or para-professionals associated with The Law Offices of Jeffrey N. Golant, P.A.

### **SECTION IV. - COSTS AND EXPENSES**

While Attorney may advance costs for postage (including certified mail or express delivery services such as Federal Express) associated with sending correspondence, Client understands that those costs are Client’s responsibility and agrees to reimburse Attorney upon demand.

If this matter results in litigation, it is anticipated that Attorney will advance the costs associated with litigation that Attorney, in Attorney’s sole professional judgment and discretion, believes is

reasonably necessary in bringing the matter to a successful conclusion. If there is no recovery, Client shall not be obligated to reimburse those costs. Similarly, if the recovery is insufficient to reimburse those costs, Client shall not have any obligation beyond the amount recovered.

### **SECTION V. - ATTORNEY'S LIEN**

Client grants Attorney a lien on all claims in which Attorney represents Client under this agreement. The lien shall cover any costs advanced, and any fees due to Attorney, including contingent fees, shifted fees, or fees based upon the doctrine of quantum meruit. This lien will attach to any money or property recovered by Client arising from Attorney's services described herein. Attorney shall also have a lien on Client's records, money, or property in Attorney's possession for any sums due and owing to Attorney at the termination of Attorney's services. Client shall pay all reasonable charges, in advance, for any and all copies of records requested by, or on behalf of client.

### **SECTION VI. – GOOD FAITH COOPERATION**

Client recognizes that a successful outcome in this matter is only possible with significant participation from Client. From time to time, Attorney will need information and/or documents from Client. Client will also likely be required to attend at least one deposition, appear in person at mediation, provide written answers to questions served by the opposing party (interrogatories), (normally) prepared with Attorney's assistance, and produce documents requested by the opposing party. Client may also be required to attend court proceedings. Client agrees to cooperate in all litigation related responsibilities, and to be reasonably accessible when Attorney needs to communicate with Client. Client shall keep attorney informed regarding Client's phone number, mailing address, and email address. The failure to comply with this provision shall constitute a breach of this contract.

The primary purpose of this representation is to obtain a monetary recovery for Client due to the opposing party's violation of the law, and for Attorney to receive the agreed upon compensation. On occasion, mortgage servicers will offer non-monetary settlements in exchange for the dismissal of claims asserted by consumers. These offers will often include loan modifications or debt forgiveness. Many of these offers result in a situation where there is no recovery that can be used to pay Attorney. In some cases, mortgage servicers make such offers with the specific goal of undermining Attorney's practice in an effort to make it financially difficult or impossible for Attorney to continue to represent similarly situated clients with claims against the mortgage servicer. Client understands that accepting any non-monetary settlement shall constitute a breach of this agreement, and that as a result Client shall be responsible for paying Attorney pursuant to the rate schedule described above for all time spent on Client's behalf in either Stage Two or Stage Three.

Client further acknowledges that attempting to re-negotiate the terms of this agreement after it is executed, and withholding cooperation in accomplishing the objectives of this agreement, shall constitute a breach of this contract.

## **SECTION VII. - TERMINATION AND WITHDRAWAL**

Either party may terminate this agreement at any time. Upon the termination of Attorney's services, whether or not it is terminated by Client or by Attorney, all unpaid costs that Attorney advanced shall immediately become due and payable to Attorney. However, if this agreement is terminated by Attorney, and such termination is not for cause, Client shall have no obligation to immediately reimburse third party costs, although those costs shall be paid from any settlement as outline above. Attorney will be entitled to recover any shifted or contingent fees available at the end of the case that are attributable to Attorney's services rendered prior to withdrawal pursuant to the doctrine of quantum meruit. Attorney will likewise, subject to the terms of Section V above, deliver to Client all records of the case and all property of client in Attorney's possession, except those subject to any lien.

Client is similarly free to terminate attorney at any time, provided that if Client terminates Attorney, Client shall retains substitute counsel and make a diligent effort to pursue the case. Any failure to do so will constitute a breach of the contract, and Client shall be obligated to pay attorney the amounts required under the rate schedule described above.

## **SECTION VIII. - DISCLAIMER OF GUARANTEE**

Attorney will use its best efforts in representing Client, but makes no promises or guarantees regarding the outcome of Client's case. Attorney's comments regarding the outcome of the case are mere expressions of opinion. Neither does Attorney guarantee any time frame within which Client's case will be resolved.

## **SECTION IX. – DISCLOSURE OF RISKS INHERENT IN LITIGATION**

Client has been advised that litigation is inherently risky, unpredictable, and expensive. While Attorney will use best efforts and reasonable professional judgment, it remains possible that this matter could be resolved against Client simply because a judge or jury disagrees with Client and or Attorney regarding the merits of the case.

Generally, the prevailing party is responsible for the opposing party's costs, but not attorney's fees. Thus, if Client does not prevail in this action, Client recognizes that Client will likely be required to pay the opposing party's costs. While difficult to predict, it is unlikely that the costs would exceed the sum of \$3,000. This number however is only an estimate, and Attorney does not guarantee or warrant it.

In some limited circumstances, it may be possible that Client could be held responsible for the opposing party's attorneys' fees. Unless a claim is asserted under a "double fee shifting" statute, those circumstances generally do not arise at the outset of litigation. Attorney does not currently intend to pursue any claims under a "double fee shifting statute" and will not do so unless authorized in writing by Client. Attorney will use Attorney's best efforts to timely advise Client should those circumstances arise here. Client is hereby warned that, should Client become unavailable or inaccessible for an extended period of time, one consequence of such unavailability could be exposure to shifted fees.

Despite the contingent nature of this agreement, in no event shall Attorney be liable for any prevailing party attorneys' fees or costs incurred by Client.

## **X. CO-COUNSEL RELATIONSHIPS**

Client have consulted or retained another attorney, and may be simultaneously represented by another law firm in addition to Attorney in connection with this matter. Attorney has relationships with other law firms and Legal Aid or Legal Services organizations. This contract shall not replace any agreement that Client may have with any other related attorneys. Often where there are more than one law firm or organization of attorneys involved, the contingent fee may be shared pursuant to a separate co-counsel agreement.

## **XI- CLIENT CONTACT INFORMATION**

Client's address, phone number and email address is below. Attorney may communicate with Client using any of these. If Client's address, phone number, or email address changes, Client agrees to ***immediately*** notify attorney.

## **SECTION XII – DISBURSMENT STATEMENT**

Whenever any funds are recovered from any adverse party, those funds will be held in escrow and disbursed pursuant to the terms of this agreement. Prior to disbursement, Attorney shall provide Client with a written statement explaining the total amount recovered, the total amount of third party costs, the total amount of attorneys fees, and the amount to be paid to each attorney. No funds will be disbursed until Client executes the disbursement statement. If Client refuses to execute the disbursement statement, or is unavailable to do so for a prolonged period of time, Attorney will commence an interpleader action. In the event that Client's acts or omissions make an interpleader action necessary, Client agrees that any time spent by Attorney in connection with the interpleader action shall be reimbursed at the amounts set forth in the above rate schedule and any third party, shall be reimbursed entirely from the recovered funds that would otherwise be payable to Client.

**SECTION XIII. - CLIENT'S RIGHTS**

The undersigned Client has, before signing this contract, received and read the statement of client rights and understands each of the rights set forth therein. The undersigned Client has signed the statement of client rights and received a signed copy to refer to while being represented by Attorney.

**Signatures Below:**

Client signature : \_\_\_\_\_  
(Client)

Date: \_\_\_\_\_

Client signature : \_\_\_\_\_  
(Client)

Date: \_\_\_\_\_

Accepted by:

\_\_\_\_\_  
Jeffrey N. Golant Esq.:  
For The Law Offices Of Jeffrey N. Golant, P.A.

Date: \_\_\_\_\_