

ORDINANCE NO. 2023 – 73

**AN ORDINANCE AUTHORIZING AND DIRECTING THE ADMINISTRATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH WEISMAN, KENNEDY & BERRIS, CO., L.P.A. AND PLEVIN & GALLUCCI COMPANY, L.P.A. FOR VARIOUS PROFESSIONAL SERVICES, AND DECLARING AN EMERGENCY**

WHEREAS, the City of Parma Heights has expended and continues to expend financial resources relevant to inflated insulin supply chain pricing; and

WHEREAS, the City has determined that its legal remedies for losses and damages it has incurred must be determined and pursued.

**NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Parma Heights, County of Cuyahoga and State of Ohio:

Section 1: The Administration is authorized and directed to execute on behalf of the Municipality a professional services agreement with Weisman, Kennedy & Berris, Co., L.P.A. and Plevin & Gallucci Company, L.P.A., in the form identified as Exhibit “A”, attached hereto, and made a part hereof as though fully rewritten.

Section 2: This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of the Council and of any of its Committees comprised of a majority of the members of the Council that resulted in those formal actions were in meetings open to the public, in compliance with the law.

Section 3: This Ordinance is declared to be an emergency measure necessary for the public peace, health, and safety of the Municipality, and for the further reason it is necessary to determine and pursue the City’s legal remedies for losses and damages; wherefore, this Ordinance shall be in full force and effect immediately upon its passage by Council and approval by the Mayor.

PASSED: November 13, 2023 Thomas Rounds  
PRESIDENT OF COUNCIL

ATTEST: Barbara Allen November 13, 2023  
CLERK OF COUNCIL APPROVED

FILED WITH  
THE MAYOR: November 13, 2023 Marie Gallo  
MAYOR MARIE GALLO

# EXHIBIT A

## LEGAL SERVICES CONTRACT

Mail or Fax to:

**WEISMAN, KENNEDY & BERRIS, CO., L.P.A.**  
Daniel Goetz, Esq.  
2900 Detroit Avenue, 2<sup>nd</sup> Floor  
Cleveland, Ohio 44113  
Telephone: (216) 781-1111  
Fax: (216) 781-6747

**PLEVIN & GALLUCCI COMPANY, L.P.A.**  
Frank Gallucci, Esq.  
55 Public Square  
Suite 2222  
Cleveland, Ohio 44113  
Telephone: (216) 861-44113  
Fax: (216) 861-5322

WHEREAS, the undersigned ("Client") agrees to retain the law offices of Weisman, Kennedy & Berris, Co., L.P.A. and Plevin & Gallucci Company, L.P.A. (collectively "Law Firms") as Client's attorneys in the prosecution of any legal claim against manufacturers, distributors and PBMs ("supply chain parties") related to insulin arising out of the supply chain parties fraudulent and inappropriate manipulation of the insulin supply chain. The Parties specifically agree as follows:

1. **FEE PERCENTAGE:** As consideration for legal services rendered and to be rendered by the Attorneys in carrying out the purpose hereof, Client agrees to pay Law Firms pursuant to the below fee arrangement, of all gross amounts recovered:

15% of pre-complaint recovery;  
33% of recovery after the filing of a lawsuit;  
40% of recovery after the commencement of trial.

Further, if the action is certified as a class action, the Law Firms shall request an award of common benefit fees and compensation to be award within the discretion of the court irrespective of the stated retainer amount. Client assigns, and the Law Firms accepts and acquires as its fee, a proportionate interest in the subject matter of any claim, action, or suit instituted or asserted under the provisions of this agreement. All expenses and costs will be deducted prior to the contingent fee calculation. Any liens and subrogation are to be deducted after the contingent fee is calculated.

2. **DISBURSEMENTS:** The Law Firms shall be reimbursed all reasonable expenses associated with the legal services being rendered including, but not limited to, legal research, long distance telephone calls, fax, postage, copying, travel, litigation, and expert expenses. Costs shall also include, but not be limited to, any "MDL Assessment" imposed by any Multi-District Litigation ("MDL") Court or withheld from any settlement or favorable judgment by any defendant. In addition to the above listed individual costs, there will be

common benefit costs. Common benefit costs are costs expended for the common benefit of a group of clients. For example, if a deposition of a defendant expert witness is taken in one case, and this deposition can be used for and/or benefits the claims of many other clients, these costs will be classified as common benefit costs. By using this common benefit cost system, no one client has to solely bear the costs which actually benefit the group as a whole, and many of the most substantial costs of litigation can be shared equally by all. Client's repayment of costs and expenses is contingent on the outcome from any funds received on the claim in question.

3. **TAX ADVICE:** The Client understands that the Law Firms will not provide any advice regarding the tax consequences of accepting money from a settlement or award. CLIENT SHOULD CONTACT A TAX PROFESSIONAL REGARDING ANY TAX CONCERNS REGARDING ANY SETTLEMENT PRIOR TO THE SETTLEMENT.

4. **TERMINATION:** The Law Firms expressly reserve the right to withdraw their representation at any time upon reasonable notification to the Client, subject to applicable ethical rules, if any. Should the Client terminate the Law Firms, the Law Firms shall continue to be entitled to their legal fees on any and all sums recovered as a result of the claims.

5. **APPEALS:** The above contingency fee does not contemplate any appeal. The Law Firms are under no duty to perfect or prosecute any such appeal until a satisfactory fee arrangement is made between the Parties and is reduced to writing regarding costs and attorneys' fees.

6. **COUNTERCLAIMS:** The above contingency fee does not contemplate the Law Firms' representation of Client against any claims made by a person against the Clients. The Law Firms are under no duty to defend or prosecute any such claim or counterclaim until a satisfactory fee arrangement is made between the Parties and is reduced to writing regarding costs and attorneys' fees.

7. **STATUTE OF LIMITATIONS:** Client understands that the Statute of Limitations period for the case must be investigated and that this Agreement is made subject to that investigation as well as an investigation of the entire case. Client understands that statutes of limitation may have run on the case and agrees to hold the Law Firms harmless in the event the applicable statutes of limitation have run for any reason.

8. **NO GUARANTEE OF FINAL OUTCOME:** No attorney can accurately predict the outcome of any legal matter. Accordingly, the Law Firms make no express or implied representations as to the final outcome of the matter(s) contemplated by this Agreement. Client further understands that Client must immediately report any changes in Client's address or telephone number to the Law Firms.

9. **APPROVAL NECESSARY FOR SETTLEMENT:** Client hereby grants the Law Firms power of attorney so that the Law Firms may have full authority to prepare, sign and file all legal instruments, pleadings, drafts, authorizations, and papers as shall be reasonably necessary to conclude the representation including settlement and/or reducing to possession any and all monies or other things of value due to Client under its claim as fully as the Client could

do so. The Law Firms are also authorized and empowered to act as Client's sole negotiator in any and all negotiations concerning the subject of this Agreement. To be clear, all decisions regarding final resolution of the litigation, including settlement, are within the sole power of the Client.

10. **ASSOCIATION OF OTHER ATTORNEYS:** The Law Firms may, at its own expense, use or associate with other attorneys in the representation of the Client.

11. **CLASS ACTION:** Client understands that Law Firms may pursue a class action on behalf of Client and all others similarly situated and client specifically authorizes Law Firms to do so. Client understands that Client may serve as a class representative and may be called upon to act in a representative capacity for those who are similarly situated. Client knows of no conflict that would cause Client to be inadequate representative and agrees to vigorously defend the interests of the class if called upon to do so.

12. **OHIO LAW TO APPLY:** This Agreement shall be construed under and in accordance with the laws of the State of Ohio and the rights, duties and obligations of Client and of the Law Firm's representation of Client and the laws of the State of Ohio shall govern regarding anything covered by this Agreement.

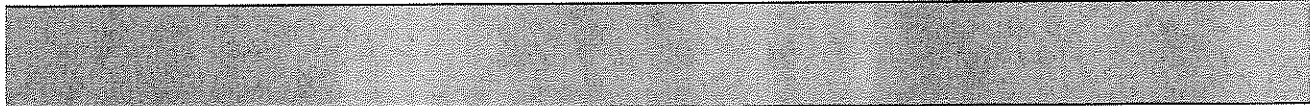
13. **PARTIES BOUND:** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, legal representative, successors and assigns.

14. **LEGAL CONSTRUCTION:** In case any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable, such invalidity, herein illegality, or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained.

15. **PRIOR AGREEMENTS SUPERSEDED:** This Agreement constitutes the sole and only agreement of the Parties hereto and supersedes all prior understandings or written or oral agreement between the Parties respecting the within subject matter, if any.

Client certifies and acknowledges that Client has had the opportunity to read this Agreement. Client further affirms that Client has voluntarily entered into this Agreement, that Client has been advised that Client may seek legal counsel to review this Agreement before signing, and that Client is fully aware of the terms and conditions contained in this Agreement.

**SIGNED AND ACCEPTED ON THIS \_\_\_\_\_ day of \_\_\_\_\_, 2023**



<b>Print Client's Name:</b>	<b>PLEVIN &amp; GALLUCCI COMPANY, L.P.A.</b>
<b>Signature:</b>	<b>By:</b>
<b>Address:</b>	