

# LAWYERS' PROFESSIONAL LIABILITY IN COLORADO: *Preventing Legal Malpractice and Disciplinary Actions*

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*Managing Editor*

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## Joint Defense Agreements

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## Chapter 40

# JOINT DEFENSE AGREEMENTS

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### § 40.1 • INTRODUCTION

#### § 40.1.1—Introduction To Joint Defense Agreement Professional Conduct Issues

The joint defense agreements addressed by this Chapter are those agreements entered into between or among separate defense counsel on behalf of their separate clients in civil litigation. This Chapter does not address similar agreements among plaintiffs' counsel who represent different plaintiffs in civil litigation, although many of the same basic concepts would apply to such agreements. Nor does it address agreements by separate counsel of different defendants in criminal matters. It also does not pertain directly to the joint representation of multiple parties by one lawyer, although the "joint defense privilege" that underlies the efficacy and validity of "joint defense agreements" has so far only been recognized by the Colorado Supreme Court in this latter circumstance in which one lawyer represents numerous parties.

Joint defense agreements implicate professional conduct rules and statutory provisions pertaining to communications with clients, the attorney-client privilege, the attorney work product doctrine, and conflicts of interest. Because of this, care must be taken to ensure that, before entering into such an agreement, the lawyer fully informs his or her client of the potential risks and implications, not only as to the current litigation to which the agreement directly relates, but also as to potential future litigation between the client and other signatories to the agreement. Only after explaining all of the potential risks and benefits, and only after obtaining the client's informed consent, should the lawyer agree to enter into such an arrangement.

#### **§ 40.1.2—Relevant Colorado Rules Of Professional Conduct**

Joint defense agreements contemplate that different lawyers representing different defendants will share among themselves, and with their clients, information and ideas that are protected by the attorney-client privilege or work product doctrine. Accordingly, entering into an arrangement that by its very nature involves the sharing of such protected information with third parties implicates numerous Colorado Rules of Professional Conduct (Colo. RPC).

Colo. RPC 1.6 provides in pertinent part that “[a] lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent . . . .” The Comments to the rule note that the principle of client-lawyer confidentiality is given effect by the related bodies of law of attorney-client privilege, the work-product doctrine, and the rule of confidentiality established in professional ethics.

Colo. RPC 2.3 relates to evaluation of matters for third parties other than the client and provides in pertinent part that a lawyer may provide such an evaluation only if the lawyer reasonably believes that making the evaluation is compatible with other aspects of the lawyer's relationship with the client and, when the lawyer knows or reasonably should know that the evaluation is likely to affect the client's interests materially and adversely, only after the client gives informed consent. This rule usually will implicate any joint defense agreement, since one of the prime purposes of such an agreement ordinarily is to obtain the evaluation by counsel for the group of signatory parties of both substantive and procedural defenses as well as strategies. The key to a lawyer participating in such an arrangement without inadvertently violating the ethical duties owed to the client is first to obtain the client's informed consent, with the emphasis being on the word “informed.”

Colo. RPC 1.7 and 1.9 address, respectively, conflicts of interest in the representation of current clients and duties owed to former clients. As will be seen in § 40.3.4, a lawyer's participation in a joint defense arrangement may well give rise to professional duties owed to defendants other than his or her current client, which may present a conflict of interest, may preclude the lawyer from being able to represent the current client in future litigation against another signatory to the agreement, and may preclude the lawyer from representing other parties in other litigation in the future, even if such litigation does not involve the client whom the lawyer represented in respect to the previous joint defense agreement. For these reasons, special care must be taken to address these concerns in the joint defense agreement itself and also, again, to thoroughly explain these risks to the client and to obtain the client's informed consent.

Colo. RPC 1.10 provides that “[w]hile lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7 or 1.9 . . . .” The above-referenced issues that may arise under Colo. RPC 1.7 or 1.9 for the individual lawyer who participates in a joint defense arrangement may therefore also affect the entire law firm, heightening the care that should be used in addressing in the agreement itself potential future conflicts.

## § 40.2 • JOINT DEFENSE PRIVILEGE

### § 40.2.1—Definition

The U.S. District Court for the District of Colorado in *Static Control Component, Inc. v. Lexmark International, Inc.*<sup>1</sup> addressed the “joint defense privilege” in the context of a “situation where independently represented parties have agreed in one manner or another to pursue a joint defense,”<sup>2</sup> noting that the use of the phrase in this context is also referred to as the “common interest rule privilege,” and that it is to be distinguished from the “joint client doctrine” that applies when two or more clients share the same lawyer.<sup>3</sup> Quoting from its earlier decision in *Metro Wastewater Reclamation District v. Continental Casualty Company*, the court further described the privilege as follows:

The joint defense privilege preserves the confidentiality of communications and information exchanged between two or more parties and their counsel who are engaged in a joint defense effort. Waiver of the joint defense privilege requires the consent of all parties participating in the joint defense. [T]he joint defense privilege is merely an extension of the attorney-client privilege and the work-product doctrine. In other words, it confers no independent privileged status to documents or information. Thus, to be eligible for protection under the joint defense privilege, it must be established that the materials fall within the ambit of either the attorney-client privilege or the qualified immunity afforded to work product.<sup>4</sup>

This definition is consistent with numerous other decisions that have recognized the joint defense privilege in this context.<sup>5</sup>

### § 40.2.2—Relevant Colorado Law

While the joint defense privilege as defined by the court in *Static Control* has been recognized by the federal courts in Colorado, it has not been expressly recognized by the Colorado Supreme Court. However, the Colorado Supreme Court in its 2000 decision in *Gordon v. Boyles*<sup>6</sup> did recognize that a joint defense privilege exists in the joint client context in which multiple defendants are represented by the same lawyer, and this certainly portends that a joint defense privilege as to multiple civil defendants represented by different lawyers will also be recognized by the Colorado Supreme Court when the precise issue is presented. This conclusion is also bolstered by the above-referenced decision of the U.S. District Court for the District of Colorado in *Metro Wastewater*, which noted that the privilege is “widely accepted by courts throughout the United States,”<sup>7</sup> and which decision was cited with approval by the Colorado Court of Appeals in

*People v. Lesslie*<sup>8</sup> for the proposition that “communications shared with an attorney in the presence of third persons ‘who have a common legal interest with respect to the subject matter thereof will be deemed neither a breach nor a waiver of the confidentiality surrounding the attorney-client relationship.’”<sup>9</sup> But, because the joint defense privilege among different defendants represented by different counsel has not specifically been adopted by the Colorado Supreme Court and because revealing an attorney-client communication to a third party, as noted by the Colorado Court of Appeals in *People v. Lesslie*, usually operates as a waiver of the attorney-client privilege,<sup>10</sup> lawyers should be especially careful as to what information is revealed, what evaluations are given, and what strategies are shared in respect to joint defense agreements entered into among civil defendants in Colorado state court cases.

## § 40.3 • JOINT DEFENSE AGREEMENTS

### § 40.3.1—Form

Generally, courts that recognize the validity of joint defense agreements do not require that such agreements be in writing.<sup>11</sup> Rather, it has been held to apply to any communication given in confidence by a client in a litigation setting to a lawyer for another party where a joint defense effort has been undertaken by the parties and their counsel.<sup>12</sup> Nevertheless, it is recommended that any such agreement be documented so that its scope and purpose are clearly delineated and to address and avoid future disputes over its validity and terms.

### § 40.3.2—Basic Terms

An excellent discussion of the basic terms of a joint defense agreement appears in an article by Thomas G. Pasternak and R. David Donoghue.<sup>13</sup> Further, a 2003 article in *The Colorado Lawyer* also addresses this issue.<sup>14</sup> As noted by Messrs. Pasternak and Donoghue, a court generally will require that at least five basic criteria exist before it will recognize a joint defense privilege:

- All of the participants must be pursuing a common defense in existing or anticipated litigation;
- The protected communications must relate to a common issue;
- The protected communications and sharing of information must further existing or potential legal representation in pursuit of the common defense . . . ;
- The communications must be made with an expectation of confidentiality; [and]
- The privilege has not been waived.<sup>15</sup>

Accordingly, the terms of a joint defense agreement should, at a minimum, address each of these prerequisites.

The agreement should also define the “Joint Defense Information” that is to be shared among counsel; define the form of information covered (*e.g.*, oral, written, and electronic); and state that such information is protected by the attorney-client and work product privileges and/or as confidential business or technical information.

The agreement should recite the parties' understanding that they intend to share information under the protection of a joint defense privilege or common interest rule; that the sharing of the information does not waive any applicable privilege or other protection, including, but not limited to the attorney-client privilege or the work product doctrine; that the parties have a common interest in the defense of the lawsuit or anticipated litigation; and that, but for their mutual and common interests, they would not share the information.

The use of the shared information should be specified as being restricted to defense of the lawsuit or anticipated litigation and the agreement should recite that such information will not be disclosed to anyone outside the group without the written consent of the producing party. The agreement should specify whether and to what extent information can be shared with in-house representatives of the various clients; whether and to what extent it can be shared with legal assistants, expert witnesses, etc.; and whether the information must be returned or destroyed upon the conclusion of the case or by a settling defendant in the event of settlement. The agreement should provide that it may be provided to the court to protect against disclosure to a third party, or as ordered by the court.

The issue of how and when a party can withdraw from the agreement should be addressed, and the agreement should specify the extent to which a settling or withdrawing party will continue to be bound by the agreement. It should also address what procedure should be followed should a party be subpoenaed to produce any protected information.

Because some courts have opined that, under certain circumstances, the participation in a joint defense arrangement may give rise to an implied attorney-client relationship between each participating lawyer and each of the defendants who are signatories to the agreement,<sup>16</sup> the agreement should specify that the parties agree that no such relationship will result from participating in the agreement and that each party to the agreement retains complete independence to resolve the claims against it without the need to consult or obtain consent from the others.

The agreement should also recite that it does not preclude cross-claims or future actions by one of the participants against any other participant and that participation by a lawyer or law firm in the joint defense arrangement shall not disqualify the lawyer or the firm from representing their client in such cross-claim or future litigation. An excellent article by Eric Hudson<sup>17</sup> discusses, in particular, this aspect of a joint defense agreement. The article recommends that a paragraph be included in the joint defense agreement that specifically acknowledges that each party waives the right to object to the continued retention of any other party's counsel or to seek the counsel's disqualification on the ground that (1) such counsel had access to confidential information by virtue of the agreement or (2) such counsel has a conflict of interest by reason of participation in the joint defense efforts under the agreement.<sup>18</sup> The article also recommends that the agreement contain a waiver of any right to take the testimony from counsel for another party based on that counsel's participation in joint defense efforts.<sup>19</sup> All are good suggestions.

The agreement should also address the “nuts and bolts” issues of how costs are to be shared, how fees of jointly retained experts are to be handled, that the agreement shall remain effective after conclusion of the litigation, which jurisdiction’s law shall govern the agreement, that it shall inure to the benefit and be binding on successors and assigns, etc.

An exemplar of a joint defense agreement is included at the end of this Chapter as Exhibit 40A. The exemplar is not intended to be a template for all joint defense agreements but is only included as an example of the form and substance of certain provisions that parties may want to include in such an agreement. The final decision as to what provisions to include will be driven by the factual and procedural circumstances of each particular case.

### **§ 40.3.3—Benefits**

Joint defense agreements are particularly useful in patent, toxic tort, anti-trust, and environmental cases and other litigation in which there are numerous defendants who are accused of causing the same harm to the plaintiff(s) or who have a common interest in one or more affirmative defenses. The benefits include, of course, just having some extra brainpower in discussing strategies and developing legal and factual defenses. The benefits also include the divvying up of tasks and the costs of tasks, including the coordination of factual investigation and discovery, the coordination of motion practice, and the joint retention of experts. For those who are target defendants, it also provides an avenue for control of the litigation and the opportunity to enhance the defense efforts of other less culpable defendants who may not have the interest or resources to pursue aggressively certain strategies that are important to the target, and who may do less than an adequate job pursuing such strategies to the detriment of the target.

### **§ 40.3.4—Burdens And Risks**

The obvious risk of participating in a joint defense agreement is waiver of the attorney-client privilege, should the Colorado Supreme Court ultimately decide that sharing of a client’s otherwise protected communications with third parties in the context of a joint defense agreement waives the attorney-client protection for those communications. Further, such sharing of information may waive the privilege and all other communications the client had with its lawyer involving the same subject matter<sup>20</sup> and may subject the lawyer to being deposed or having to testify at trial. Another obvious risk is that the sharing by a lawyer of his or her work product and strategies will eliminate any protections afforded by the attorney work product doctrine.

Less obvious are the risks that a lawyer’s participation in joint defense meetings will serve to prohibit the lawyer from subsequently representing his or her client in litigation against one of the other members of the joint defense group<sup>21</sup> or indeed, from taking any case that may involve asserting a claim or defense against any member of the joint defense group with respect to which confidential information learned about that member in the course of participating in the joint defense effort may be relevant.<sup>22</sup>

In order to avoid as much as possible these potential risks, each of these risks should be specifically addressed in the joint defense agreement itself.

**NOTES**

1. *Static Control Components, Inc. v. Lexmark Int'l, Inc.*, 250 F.R.D. 575 (D. Colo. 2007).
2. *Id.* at 578 n. 2.
3. *Id.*
4. *Static Control Components*, 250 F.R.D. at 578 (quoting *Metro Wastewater Reclamation Dist. v. Continental Cas. Co.*, 142 F.R.D. 471, 478 (D. Colo. 1992)).
5. See, e.g., *In re Quest Commc'ns Int'l, Inc. Sec. Litig.*, 450 F.3d 1179 (10th Cir. 2006); *John Morrell & Co. v. Local Union 304A*, 913 F.2d 544 (8th Cir. 1990), cert. denied, 500 U.S. 905 (1991); *United States v. Schwimmer*, 892 F.2d 237 (2d Cir. 1989); *Waller v. Fin. Corp. of Am.*, 828 F.2d 579 (9th Cir. 1987); *In re Beville, Bresler & Schulman Asset Mgt. Corp.*, 805 F.2d 120 (3d Cir. 1986).
6. *Gordon v. Boyles*, 9 P.3d 1106 (Colo. 2000).
7. *Metro Wastewater*, 142 F.R.D. at 478.
8. *People v. Lesslie*, 24 P.3d 22 (Colo. App. 2000).
9. *Id.* at 26.
10. *Id.*
11. See *United States v. Stepney*, 246 F. Supp. 2d 1069, 1079 n. 5 (N.D. Cal. 2003) (“No written agreement is generally required to invoke the joint defense privilege”); *Avocent Redmond Corp. v. Rose Elecs., Inc.*, 516 F. Supp. 2d 1199, 1203 (W.D. Wash. 2007) (“[a] written agreement is not required, but the parties must invoke the privilege; they must intend and agree to undertake a joint defense effort”).
12. *Schwimmer*, 892 F.2d at 243 (“It serves to protect the confidentiality of communications passing from one party to the attorney for another party where a joint defense effort or strategy has been decided upon and undertaken by the parties and their respective counsel”); *In re Quest Commc'ns*, 450 F.3d at 1195 (“the ‘joint defense’ or ‘common interest’ doctrine provides an exception to waiver because disclosure advances the representations of the party and the attorney’s preparation of the case”).
13. Pasternak and Donoghue, “Trials, Tactics, Tools: Making Joint Defense Agreements Work,” 34 *Litigation* 26 (Summer 2008).
14. Timothy M. Reynolds, “Application of the Joint Defense Privilege and Common Legal Interest Rule,” 32 *Colo. Law.* 51 (Jan. 2003).
15. Pasternak and Donoghue, *supra* n. 14, at 26.
16. See, e.g., *United States v. Henke*, 222 F.3d 633, 637 (9th Cir. 2000) (“[a] joint defense agreement establishes an implied attorney-client relationship with the co-defendant . . . .”); see also *In Re Gabapentin Patent Litig.*, 407 F. Supp. 2d 607 (D.N.J. 2005); *Kaskie v. Celotex Corp.*, 618 F. Supp. 696 (N.D. Ill. 1985).
17. Hudson, “Joint Defense Agreements,” *For the Defense* 16 (Feb. 2007).
18. *Id.* at 20.
19. *Id.*
20. See *In re EchoStar Communications Corp.*, 448 F.3d 1294 (Fed. Cir. 2006).
21. See discussions in *Essex Chem. Corp. v. Hartford Accident & Indem. Co.*, 975 F. Supp. 650 (D.N.J. 1997), rev’d 993 F. Supp. 241 (D.N.J. 1998); *In re Gabapentin Patent Litig.*, 407 F. Supp. 2d 607; *Kaskie*, 618 F. Supp. 696.
22. *Id.*



**EXHIBIT 40A • SAMPLE JOINT DEFENSE AGREEMENT****SAMPLE JOINT DEFENSE AGREEMENT**

This Joint Defense Agreement (“Agreement”) is made among the undersigned parties (collectively “Parties,” individually “Party”), and their respective counsel (collectively “Counsel”).

**RECITALS**

**WHEREAS**, the Parties are all defendants in *Jones v. Smith, et al.*, District Court, Denver County, State of Colorado, Case No. 2008cv0000, Div. 5 (the “Lawsuit”); and

**WHEREAS**, the law provides that parties that have been jointly sued may work together within the attorney-client and other applicable privileges to further their common interests in the defense of litigation; and

**WHEREAS**, the Parties and Counsel acknowledge that they share a common interest in and are pursuing a common defense related to certain common issues in the Lawsuit; and

**WHEREAS**, each of the Parties and Counsel acknowledge that the Parties share a joint defense privilege, also known as the common interest rule, that applies to communications, information exchanges, and discussions taken to further the mutual interests of the Parties in defending the Lawsuit; and

**WHEREAS**, the Parties and Counsel plan to meet on January 1, 2008, to discuss the Lawsuit and desire to have a joint defense agreement in effect for that meeting; and the Parties anticipate that this Joint Defense Agreement may be superceded or modified subsequent to that meeting.

**NOW, THEREFORE**, the Parties and Counsel in consideration of the recitals above and the mutual covenants contained in this Agreement agree to the following:

**AGREEMENT**

1. As used in this Agreement, “Joint Defense Information” shall mean all information, whether written, oral, or in electronic form, communicated by a Party and/or its Counsel (the “Originating Party”), to another Party and/or its Counsel to further the Parties’ joint defense, including but not limited to information and communications that are privileged or protected (a) by the attorney-client privilege or any other privileges, (b) by the work product doctrine, or (c) as confidential business or technical information.

2. The Parties believe that this Agreement will benefit both them and Plaintiffs by creating efficiencies in pursuing and presenting common defenses and by minimizing the requirements of Plaintiffs' counsel to contact counsel for each Defendant separately.

3. Each of the Parties and its Counsel have confirmed that no conflict of interest exists which would prevent such Party or its Counsel from entering into this Agreement.

4. The Parties and Counsel agree that they share and are protected by a joint defense privilege or common interest rule, and that the sharing of Joint Defense Information does not constitute a waiver of any applicable privilege, immunity, doctrine, or exemption, including but not limited to the attorney-client privilege and/or work product doctrine. The Parties agree that they would not disclose to each other such Joint Defense Information but for their mutual and common interests in defense of the Lawsuit and but for the undertakings in this Agreement. Further, the Parties agree that, in pursuit of their common interests in the defense of the Lawsuit, they do not intend to waive any privilege and that they intend to preserve all privileges to the maximum extent permitted by applicable law. No Party or its Counsel shall have any authority to waive any applicable privileges or doctrine on behalf of any other Party or its Counsel.

5. The Parties agree that this Agreement does not create any obligation on any of them to share any documents or other information with any other Party to this Agreement.

6. The Parties agree that various costs associated with activities that jointly benefit all of the Parties shall be handled as follows: \_\_\_\_\_  
\_\_\_\_\_.

7. The Parties and Counsel agree that all Joint Defense Information shared in connection with the defense of the Lawsuit will be used solely in connection with the defense of the Lawsuit and for no other purpose, and will not be disclosed to any third party without the prior written consent of the Originating Party. However, the Parties and Counsel may disclose Joint Defense Information to (a) outside or in-house counsel representing a Party in the Lawsuit, (b) such counsel's legal assistants, secretaries, and word-processing personnel, and (c) corporate representatives of a Party who have responsibility for making decisions concerning the litigation, or directly advising those who make such decisions. In addition, any Party may disclose the terms of this Agreement to a court in connection with and as necessary to protect any privileged materials from disclosure to a third party, or if ordered to do so by a court of competent jurisdiction.

8. Any Party may elect to withdraw from this Agreement at any time upon written notice to the other Parties. In the event any of the Parties enters into a settlement agreement with the Plaintiff(s) in the Lawsuit or otherwise elects to withdraw from this Agreement, the privilege and/or immunity that exists at common law and is confirmed in this Agreement shall not be waived, and shall be deemed to continue in full force and effect. The settling or

withdrawing Party shall promptly return to the Originating Party or destroy all Joint Defense Information provided pursuant to this Agreement, except that the settling or withdrawing Party and its Counsel may each retain one copy for archival purposes. The settling or withdrawing Party and its Counsel shall continue to be bound by this Agreement to maintain the confidentiality of Joint Defense Information. This Agreement shall remain operative with respect to such settling or withdrawing Party as to all Joint Defense Information irrespective of any claim that the common interest or joint defense privilege has become inoperative.

9. Except for limited confidential disclosures necessary to add additional parties to this Agreement, the terms of this Agreement are confidential and shall not be disclosed to any person or entity other than the Parties hereto and their Counsel without the prior written consent of each of the Parties. Any Party, however, may disclose the terms of this Agreement to a court in connection with and as necessary to protect any privileged materials from disclosure to a third party, or if ordered to do so by a court of competent jurisdiction.

10. In the event that any of the Parties or Counsel is served with legal process by subpoena, discovery requests, or otherwise, seeking disclosure of any Joint Defense Information shared pursuant to this Agreement, the Party or Counsel subject to such process shall immediately inform the Originating Party, provide a copy of any such process, and make every reasonable effort to prevent or limit disclosure of such information through assertion of joint defense privilege, attorney-client privilege, work product doctrine, or other applicable defenses.

11. The Parties agree that neither this Agreement nor any Joint Defense Information shall be used, or shall form the basis of, a motion to disqualify any attorney or his or her firm (or technical consultant or expert witness) from representing any Party in the Lawsuit or in any future action between or among any of the Parties on the asserted ground that (1) such counsel had access to confidential information by virtue of this Agreement or (2) such Counsel has a conflict of interest by reason of participation in joint defense efforts under the Agreement. Each Party waives any right to take testimony from Counsel for another Party based on that Counsel's participation in joint defense efforts under this Agreement.

12. The Parties agree that this Agreement is not intended to limit or restrict the right or ability of any Party to assert claims, if any, against any other Party either in this action or in any other action, either now or in the future.

13. The Parties agree that this Agreement is not intended to create an attorney-client relationship between any Party and any attorney other than the Party's own attorney. Each Party retains complete independence to resolve the claims against it without the need to consult or obtain consent from any other Party.

14. Upon the Final Termination of the Lawsuit, all Joint Defense Information shall be returned to the Originating Party or destroyed, except that each Party and its Counsel may

each retain one copy for archival purposes. As used herein, "Final Termination" shall mean that all the Parties have entered into a settlement agreement with the Plaintiff(s) in the Lawsuit or there has been an entry of judgments beyond further right of appeal that terminates all issues in the Lawsuit with respect to all Parties.

15. In the event any of the Parties is dismissed from the Lawsuit, or this action against a Party is transferred to another court or jurisdiction, the privilege and/or immunity that exists at common law and is confirmed in this Agreement shall not be waived, and shall be deemed to continue in full force and effect. The dismissed or transferred Party and its Counsel shall continue to be bound by this Agreement to maintain the confidentiality of Joint Defense Information. This Agreement shall remain operative with respect to such dismissed or withdrawing Party as to all Joint Defense Information irrespective of any claim that the common interest or joint defense privilege has become inoperative.

16. Each Counsel executing this Agreement on behalf of a Party represents and acknowledges that he or she has discussed the contents of this Agreement with his or her client and that the client has agreed to be bound by this Agreement.

17. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

18. This Agreement may be executed on behalf of the Parties by their Counsel. In doing so, each Counsel is representing that he or she is authorized to execute on behalf of that Party.

19. This Agreement constitutes the entire agreement among the Parties and may be modified or amended only by a writing signed by all Parties.

20. This Agreement shall inure to the benefit of and be binding on the successors or assigns of the Parties.

21. This Agreement may be executed in one or more counterparts and all such counterparts shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed by their counsel, effective as provided herein:

\_\_\_\_\_  
 Jack Spratt  
 Fat & Lean, P.C.  
 Attorneys for Defendant  
 Cholesterol, Inc.

\_\_\_\_\_  
 Jack Nimble  
 Bee & Quick, L.L.P.  
 Attorneys for Defendant  
 Paraffin, Inc.

\_\_\_\_\_  
 John Dewey  
 Dewey, Chetum & Howe, P.C.  
 Attorneys for Defendant  
 Tin Smith