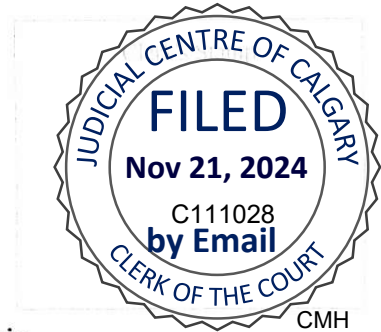


COURT FILE NUMBER 1201 12838  
COURT COURT OF KING'S BENCH OF ALBERTA  
JUDICIAL CENTRE Calgary  
PLAINTIFFS Fiona Singh And Muzaffar Hussain, by his litigation Representative Fiona Singh  
DEFENDANTS GlaxoSmithKline Inc., GlaxoSmithKline LLC and GlaxoSmithKline PLC  
DOCUMENT **AFFIDAVIT**  
**SWORN NOVEMBER 19, 2024**



CMH  
Dec 6, 2024

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT  
**ROSS NASSERI LLP**  
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**Viktor Nikolov, LSO# 84503P**  
vnikolov@rossnasseri.com  
Tel: 416-572-4910 ext. 132

### **AFFIDAVIT OF AMY KERRIVAN**

I, Amy Kerrivan, of Edmonton, Alberta, **SWEAR THAT:**

1. I am a class member of the Paxil® National Birth Defects Class Action and a client of Napoli Shkolnik Canada.
2. I was prescribed and took Paxil® during my pregnancy.

bw

3. I am the mother of Sydnee Adele Leigh Jeffrey, who was born on May 30, 2005. Sydnee was born with severe pulmonary stenosis. On May 30, 2005, she underwent surgery to treat the birth defect.

4. I have worked with Napoli Shkolnik Canada, Guardian Law and their U.S. partners since 2019. They have kept me informed of their progress in obtaining my medical records and those of my daughter.

5. I have been informed that they requested my obstetrical records, the records of the delivery, the doctor who prescribed me Paxil<sup>®</sup>, and the pharmacy where the prescription was filled. Through their efforts they were able to establish proof of use.

6. I have also been informed that they were able to obtain the records of my daughter from the hospital and subsequent treaters that documented the birth defect and her subsequent treatment.

7. I would not have been able to obtain the documentation to submit a claim on behalf of my son and I without the efforts of Napoli Shkolnik Canada and their partners.

8. I am greatly appreciative of the work that Napoli Shkolnik Canada and its lawyers and partners have done on my behalf. I have a signed retainer agreement with them that permits them to recover fees directly from any amounts that I receive under the class action settlement. I would likely not be able to recover anything from the settlement without the work they have done to date. As such, it is my strong desire that they be compensated for their work on my behalf, and on behalf of the whole class. My retainer agreement is attached as Exhibit "A".

9. I am advised by my lawyers that there is a dispute over whether the "Class Counsel Fee" in the settlement agreement ought to be \$500,000 or \$2,000,000, and certain other related terms. I

plw

do not have a position on that dispute. However, to the extent that a higher initial "Class Counsel Fee" potentially affects (a) Napoli Shkolnik Canada's recovery of fees under my retainer agreement with the firm or (b) other potential class members' ability to be represented by counsel to claim compensation from the settlement fund, then I object to a higher "Class Counsel Fee." I want Napoli Shkolnik Canada to recover fair and reasonable fees for its work on my behalf, and I want other class members to have the benefit of similar work under a fee structure that incentivizes counsel to investigate and put together claim submissions on their behalf.

10. I swear this affidavit in support of the application to approve class counsel fees of five hundred thousand dollars (\$500,000.00). As such, to the extent it potentially affects my relationship with Napoli Shkolnik Canada and/or the relationship between other class members and their counsel, I oppose the increase in the class counsel fee and request that one million five hundred thousand dollars (\$1,500,000.00) be returned to the class and that our contracts with our lawyers of choice be honoured.

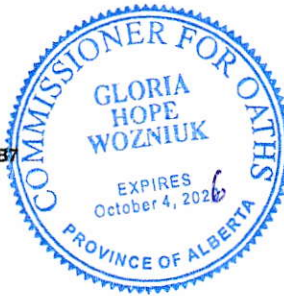
SWORN BEFORE ME at )  
the City of Calgary, )  
in the Province of Alberta )  
this 19 day of November 2024. )

Gloria Wozniuk )  
Commissioner for Oaths in and for the )  
Province of Alberta )

\_\_\_\_\_  
AMY KERRIVAN




DW



THIS IS EXHIBIT " A " referred to in the Affidavit of AMY KERRIVAN Sworn before me this 19th day of NOVEMBER A.D., 2024.

**CONTINGENCY FEE RETAINER AGREEMENT**  
(Paxil® and Paxil CR™ Congenital Birth Defects) *plowier Wozniuk*

BETWEEN Amy Kerrivan *16046 123rd Street* "Client" *Edmonton, AB*  
AND  **NAPOLI SHKOLNIK CANADA** *905 King Street West, Suite 905* "Law Firm" *Hamilton, Ontario L8P 4W7 (306) 540-2284* *TSX 2017*

**1. The Client retains the Law Firm**

- to investigate, develop, and settle the Client's potential claim against GlaxoSmithKline for congenital malformations from the prescription and use of Paxil® and Paxil CR™ where the Client's mother or guardian previously signed a retainer agreement when the Client was under the age of majority, and where the Client is now over the age of majority and has the legal capacity to enter into this agreement and to pursue his or her own claim. The Law Firm is authorized to act as the Client's negotiator in any and all settlement negotiations with GlaxoSmithKline. The Client may have potential claims against other potential defendants, including prescribing physicians and pharmacists, that the Law Firm will not pursue.
- by way of a contingency fee retainer agreement. The Law Firm's remuneration for services to be provided for or on behalf of the Client is contingent, in whole or in part, on the successful disposition of the matter in respect of which the services are provided. The Client and the Law Firm have discussed other options for retaining the Law Firm, including on an hourly-rate retainer. Hourly rates may vary among solicitors and the Client can speak with other law firms to compare rates.

**2. The Law Firm has already, or agrees to subsequently**

- collect, analyze, and summarize medical and pharmaceutical records on behalf of the Client, which the Law Firm has previously done pursuant to the retainer agreement with the Client's mother or guardian. The Client has previously signed, or will hereafter sign, written authorizations to obtain the Client's medical, pharmaceutical, and healthcare costs payment records that have not already been obtained. The Client acknowledges that the Law Firm has, to date, undertaken an investigation and claims assessment on behalf of the Client pursuant to the previous retainer with the Client's mother or guardian, and has obtained medical records in relation thereto.
- take all reasonable steps to settle the Client's claim for fair and reasonable consideration, including by way of any class action in Canada in which the Client is now or later becomes entitled to participate. If the Client does not or has not opted out of any certified class proceeding, including *Singh v GlaxoSmithKline Inc.* (Alta. K.B. 1201-12838), the Client agrees that the Law Firm may act for the Client in any settlement administration or individual issues resolution procedures that are subsequently approved by a court. If the Client does opt out of a class action in which the Law Firm is class counsel, the Law Firm may be unable to continue to act for the Client.
- pay disbursements incurred in furthering the Client's potential claim, if instructed by the Client (below).

*plow*



### 3. The Client agrees to

- pay the Law Firm a fee of no more than 35% of any amount recovered as settlement proceeds on behalf of the Client plus any applicable taxes thereon, or such lesser percentage as a Court may approve. For example, if the Client accepts a settlement of \$100,000, the Client will pay no more than \$35,000 as a fee to the Law Firm, or a lesser amount ordered by a Court. The Law Firm will in no circumstances recover more in fees than the Client receives by way of settlement. The Law Firm may associate with other firms, but the contingency fee will not increase based upon the association.
  
- pay or reimburse the Law Firm for any disbursements advanced in developing and settling the Client's case, such as costs to:
  - obtain, analyze, and store hospital, medical, and other health care records;
  - retain and pay physicians and other experts for their fees and expenses to prepare reports for existing or contemplated litigation;
  - access online legal research services;
  - perform computerized on-line searches;
  - pay express mail, postage, and courier costs;
  - make photocopies, faxes, and long-distance telephone calls;
  - present a comprehensive report at settlement negotiations and individual issues resolution or settlement administration procedures on the Client's behalf;
  - pay court costs including filing fees and examination costs;
  - prepare trial exhibits in various physical and electronic formats; and
  - make travel and hotel reservations to attend negotiations and court hearings.

At the conclusion of this retainer, these disbursements shall be deducted after the computation of the Law Firm's fee. Continuing the example above, if these or other disbursements are \$2,000, the Law Firm will receive no more than \$37,000, and the Client will receive at least \$63,000 or such other amounts as a Court may order. All such costs and expenses may be either advanced by the Client or the Law Firm. The Client may choose either option (with a presumption that the Law Firm will pay disbursements unless the Client elects otherwise).

I elect to advance money for costs and expenses.

I elect to have the Law Firm advance the money for costs and expenses.

If the Client elects to have the Law Firm advance the money for costs and expenses, the Law Firm may borrow the money on the Client's behalf to pay the cost of prosecuting or defending a claim or action or otherwise protecting or promoting the Client's interests. If the Law Firm borrows money from any lending institution to finance the cost of the Client's case, the amounts advanced by the institution will bear interest at the amount paid by the Law Firm to the institution or the highest rate allowed by law, whichever is less. If recovery is by way of a structured settlement, all disbursements and interest thereon will be reimbursed in priority to the Law Firm's fees and the Client's settlement payout.

pay a fair and proportionate share of "common costs" incurred by the Law Firm on the Client's behalf. The Client is aware that the Client's claim is being advanced as part of a class proceeding using personnel and resources already devoted to advancing the claims of all class members, and that the Law Firm will incur disbursements for the common benefit of all such claims. Costs that have advanced the interests of other clients shall be deemed "common costs". Common costs shall be allocated on a *pro rata* basis. For example, if there

*plw*



are 10 clients who utilize the same expert report, the cost of that expert report is a common cost, and each client will be assessed their *pro rata* share of that cost.

Since the Law Firm has been retained by other clients having claims for congenital malformations from Paxil® and Paxil CR™, disbursements incurred to establish the liability of GlaxoSmithKline or its predecessors and affiliates may be proportionately shared by all such clients. This may be accomplished by collaborating with other North American law firms in a pooling of research and information, for which a case-by-case membership fee may be necessary. Any such fees are a deemed disbursement and will be deducted from the Client's settlement or judgment proceeds after the computation of the Law Firm's fee.

The Client agrees to pay a fair and proportionate share of any and all such disbursements.

**4. The Client or the Law Firm may terminate the Contingency Fee Retainer Agreement**

at any time by providing reasonable notice in writing. If the Law Firm terminates the agreement, the Client will not be responsible for fees and disbursements. If the Client terminates the agreement, the Client will pay disbursements as outlined above and a fair and reasonable fee for the Law Firm's services to date.

**5. The Client retains the right to**

make all critical decisions regarding the conduct of the matter, including acceptance of any offer to settle the Client's claim. The Client is aware that the Client's claim may be settled in a class proceeding in the Court of King's Bench of Alberta with other similar Canadian claims, including claims of other clients of the Law Firm; however, the Law Firm will not settle nor compromise the Client's claim without Court approval.

apply to the Saskatchewan Court of King's Bench under section 64(3) of *The Legal Profession Act*, 1990, SS 1991, c L-10.1 to a court in the province in which the Client resides, or to the Alberta Court of King's Bench in the class proceeding, for a determination as to whether or not this agreement or the amount to be paid to the Law Firm is fair and reasonable.

all protections and controls on retainers between a lawyer and client, as defined by the Law Societies of Saskatchewan and the common law. This Contingency Fee Retainer Agreement is entered into under, and governed by, the laws of Saskatchewan and Canada, and to the extent that there is a conflict between these laws, the Client shall have the benefit of the provisions that are most favourable to the Client.

seek independent legal advice about any of the matters in this agreement.

10/28/2024  
Dated:

A handwritten signature in black ink, appearing to be "Amal" followed by a surname that is partially obscured.

Law Firm

Handwritten initials in blue ink, possibly "PW".

**COMMISSIONER FOR OATHS CERTIFICATE**

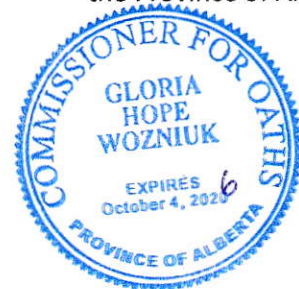
CANADA }  
PROVINCE OF ALBERTA }  
ALBERTA }

I, Gloria Wozniuk a Commissioner for Oaths, with Napoli Shkolnik Canada, located in the City of Calgary in the Province of Alberta, DO CERTIFY that this affidavit was sworn before me using video conferencing through Zoom and that Amy Kerrivan executed the Affidavit. I am satisfied that this process was necessary because it was impossible for Ms. Kerrivan and myself to be physically present together for swearing of her affidavit. I further confirm that she endorsed her initials on the corner of each page of the Affidavit while on the video conference with me.

Dated: November 19, 2024

*Gloria Wozniuk*

Commissioner for Oaths in and for  
the Province of Alberta



COURT FILE NUMBER 120112808  
COURT COURT OF KING'S BENCH OF ALBERTA  
JUDICIAL CENTRE Calgary  
PLAINTIFFS Fiona Singh And Muzaffar Hussain, by his  
Litigation Representative Fiona Singh  
DEFENDANTS GlaxoSmithKline Inc., GlaxoSmithKline LLC  
and GlaxoSmithKline PLC  
DOCUMENT **AFFIDAVIT**  
**SWORN NOVEMBER \_\_, 2024**

ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION  
OF PARTY  
FILING THIS  
DOCUMENT

**ROSS NASSERI LLP**  
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**Eric S. Block, LSO# 47479K**  
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**Viktor Nikolov, LSO# 84503P**  
vnikolov@rossnaseri.com  
Tel: 416-572-4910 ext. 112

### **AFFIDAVIT OF AMY KERRIVAN**

I, Amy Kerrivan, of Edmonton, Alberta, **SWEAR THAT:**

1 I am a class member of the Paxil<sup>®</sup> National Birth Defects Class Action and a client of Napoli Shkolnik Canada.

2 I was prescribed and took Paxil<sup>®</sup> during my pregnancy.

Aye



3 I am the mother of Sydney Adele Leigh Jeffrey, who was born on May 10, 2005. Sydney  
was born with severe pulmonary stenosis. On May 30, 2005, she underwent surgery to treat the  
birth defect.

4 I have worked with Napoli Shkolnik Canada, Guardian Law and their U.S. partners since  
2019. They have kept me informed of their progress in obtaining my medical records and those  
of my daughter.

5 I have been informed that they requested my obstetrical records, the records of the delivery,  
the doctor who prescribed me Paxil<sup>®</sup>, and the pharmacy where the prescription was filled. Through  
their efforts they were able to establish proof of use.

6 I have also been informed that they were able to obtain the records of my daughter from  
the hospital and subsequent treaters that documented the birth defect and her subsequent treatment.

7 I would not have been able to obtain the documentation to submit a claim on behalf of my  
son and I without the efforts of Napoli Shkolnik Canada and their partners.

8 I am greatly appreciative of the work that Napoli Shkolnik Canada and its lawyers and  
partners have done on my behalf. I have a signed retainer agreement with them that permits them  
to recover fees directly from any amounts that I receive under the class action settlement. I would  
likely not be able to recover anything from the settlement without the work they have done to date.  
As such, it is my strong desire that they be compensated for their work on my behalf, and on behalf  
of the whole class. My retainer agreement is attached as Exhibit "A".

9 I am advised by my lawyers that there is a dispute over whether the "Class Counsel Fee"  
in the settlement agreement ought to be \$500,000 or \$2,000,000, and certain other related terms. I

AK

do not have a position on that dispute. However, to the extent that a higher initial "Class Counsel Fee" potentially affects (a) Napoli Shkolnik Canada's recovery of fees under my retainer agreement with the firm or (b) other potential class members' ability to be represented by counsel to claim compensation from the settlement fund, then I object to a higher "Class Counsel Fee". I want Napoli Shkolnik Canada to recover fair and reasonable fees for its work on my behalf, and I want other class members to have the benefit of similar work under a fee structure that incentivizes counsel to investigate and put together claim submissions on their behalf.

10. I swear this affidavit in support of the application to approve class counsel fees of five hundred thousand dollars (\$500,000.00). As such, to the extent it potentially affects my relationship with Napoli Shkolnik Canada and/or the relationship between other class members and their counsel, I oppose the increase in the class counsel fee and request that one million five hundred thousand dollars (\$1,500,000.00) be returned to the class and that our contracts with our lawyers of choice be honoured.

**SWORN BEFORE ME** at  
the City of Calgary,  
in the Province of Alberta  
this \_\_\_ day of November 2024.

|  
|  
|  
|  
|




\_\_\_\_\_  
Commissioner for Oaths in and for the  
Province of Alberta

\_\_\_\_\_  
**AMY KERRIVAN**

AJK

THIS IS EXHIBIT A  
referred to in the Affidavit of  
AMY KERRIVAN  
Sworn before me this \_\_\_\_\_  
day of NOVEMBER 2024

**CONTINGENCY FEE RETAINER AGREEMENT**  
**(Paxil® and Paxil CR™ Congenital Birth Defects)**

BETWEEN Amy Kerrivan 16046 123A Street  
Edmonton, AB  
AND  905 King Street West, Suite 905  
Hamilton, Ontario  
L8P 4W7  
(306) 540-2384  
"Law Firm" TSX 2017

**1. The Client retains the Law Firm**

to investigate, develop, and settle the Client's potential claim against GlaxoSmithKline for congenital malformations from the prescription and use of Paxil® and Paxil CR™ where the Client's mother or guardian previously signed a retainer agreement when the Client was under the age of majority, and where the Client is now over the age of majority and has the legal capacity to enter into this agreement and to pursue his or her own claim. The Law Firm is authorized to act as the Client's negotiator in any and all settlement negotiations with GlaxoSmithKline. The Client may have potential claims against other potential defendants, including prescribing physicians and pharmacists, that the Law Firm will not pursue.

by way of a contingency fee retainer agreement. The Law Firm's remuneration for services to be provided for or on behalf of the Client is contingent, in whole or in part, on the successful disposition of the matter in respect of which the services are provided. The Client and the Law Firm have discussed other options for retaining the Law Firm, including on an hourly-rate retainer. Hourly rates may vary among solicitors and the Client can speak with other law firms to compare rates.

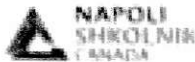
**2. The Law Firm has already, or agrees to subsequently**

collect, analyze, and summarize medical and pharmaceutical records on behalf of the Client, which the Law Firm has previously done pursuant to the retainer agreement with the Client's mother or guardian. The Client has previously signed, or will hereafter sign, written authorizations to obtain the Client's medical, pharmaceutical, and healthcare costs payment records that have not already been obtained. The Client acknowledges that the Law Firm has, to date, undertaken an investigation and claims assessment on behalf of the Client pursuant to the previous retainer with the Client's mother or guardian, and has obtained medical records in relation thereto.

take all reasonable steps to settle the Client's claim for fair and reasonable consideration, including by way of any class action in Canada in which the Client is now or later becomes entitled to participate. If the Client does not or has not opted out of any certified class proceeding, including *Singh v GlaxoSmithKline Inc.* (Alta. K.B. 1201-12838), the Client agrees that the Law Firm may act for the Client in any settlement administration or individual issues resolution procedures that are subsequently approved by a court. If the Client does opt out of a class action in which the Law Firm is class counsel, the Law Firm may be unable to continue to act for the Client.

pay disbursements incurred in furthering the Client's potential claim, if instructed by the Client (below).

AKC



3. The Client agrees to

pay the Law Firm a fee of no more than 35% of any amount recovered as settlement proceeds on behalf of the Client plus any applicable taxes thereon, or such lesser percentage as a Court may approve. For example, if the Client accepts a settlement of \$100,000, the Client will pay no more than \$35,000 as a fee to the Law Firm, or a lesser amount ordered by a Court. The Law Firm will in no circumstances recover more in fees than the Client receives by way of settlement. The Law Firm may associate with other firms, but the contingency fee will not increase based upon the association.

pay or reimburse the Law Firm for any disbursements advanced in developing and settling the Client's case, such as costs to:

- obtain, analyze, and store hospital, medical, and other health care records;
- retain and pay physicians and other experts for their fees and expenses to prepare reports for existing or contemplated litigation;
- access online legal research services;
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- pay express mail, postage, and courier costs;
- make photocopies, faxes, and long-distance telephone calls;
- present a comprehensive report at settlement negotiations and individual issues resolution or settlement administration procedures on the Client's behalf;
- pay court costs including filing fees and examination costs;
- prepare trial exhibits in various physical and electronic formats; and
- make travel and hotel reservations to attend negotiations and court hearings.

At the conclusion of this retainer, these disbursements shall be deducted after the computation of the Law Firm's fee. Continuing the example above, if these or other disbursements are \$2,000, the Law Firm will receive no more than \$37,000, and the Client will receive at least \$63,000 or such other amounts as a Court may order. All such costs and expenses may be either advanced by the Client or the Law Firm. The Client may choose either option (with a presumption that the Law Firm will pay disbursements unless the Client elects otherwise).

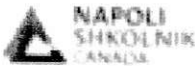
I elect to advance money for costs and expenses.

I elect to have the Law Firm advance the money for costs and expenses.

If the Client elects to have the Law Firm advance the money for costs and expenses, the Law Firm may borrow the money on the Client's behalf to pay the cost of prosecuting or defending a claim or action or otherwise protecting or promoting the Client's interests. If the Law Firm borrows money from any lending institution to finance the cost of the Client's case, the amounts advanced by the institution will bear interest at the amount paid by the Law Firm to the institution or the highest rate allowed by law, whichever is less. If recovery is by way of a structured settlement, all disbursements and interest thereon will be reimbursed in priority to the Law Firm's fees and the Client's settlement payout.

pay a fair and proportionate share of "common costs" incurred by the Law Firm on the Client's behalf. The Client is aware that the Client's claim is being advanced as part of a class proceeding using personnel and resources already devoted to advancing the claims of all class members, and that the Law Firm will incur disbursements for the common benefit of all such claims. Costs that have advanced the interests of other clients shall be deemed "common costs". Common costs shall be allocated on a pro rata basis. For example, if there

MAC



are 10 clients who utilize the same expert report, the cost of that expert report is a common cost, and each client will be assessed their *pro rata* share of that cost.

Since the Law Firm has been retained by other clients having claims for congenital malformations from Paxil® and Paxil CR™, disbursements incurred to establish the liability of GlaxoSmithKline or its predecessors and affiliates may be proportionately shared by all such clients. This may be accomplished by collaborating with other North American law firms in a pooling of research and information, for which a case-by-case membership fee may be necessary. Any such fees are a deemed disbursement and will be deducted from the Client's settlement or judgment proceeds after the computation of the Law Firm's fee.

The Client agrees to pay a fair and proportionate share of any and all such disbursements.

**4. The Client or the Law Firm may terminate the Contingency Fee Retainer Agreement**

at any time by providing reasonable notice in writing. If the Law Firm terminates the agreement, the Client will not be responsible for fees and disbursements. If the Client terminates the agreement, the Client will pay disbursements as outlined above and a fair and reasonable fee for the Law Firm's services to date.

**5. The Client retains the right to**

make all critical decisions regarding the conduct of the matter, including acceptance of any offer to settle the Client's claim. The Client is aware that the Client's claim may be settled in a class proceeding in the Court of King's Bench of Alberta with other similar Canadian claims, including claims of other clients of the Law Firm; however, the Law Firm will not settle nor compromise the Client's claim without Court approval.

apply to the Saskatchewan Court of King's Bench under section 64(3) of *The Legal Profession Act, 1990*, SS [1991, c 1-10.] to a court in the province in which the Client resides, or to the Alberta Court of King's Bench in the class proceeding, for a determination as to whether or not this agreement or the amount to be paid to the Law Firm is fair and reasonable.

all protections and controls on retainers between a lawyer and client, as defined by the Law Societies of Saskatchewan and the common law. This Contingency Fee Retainer Agreement is entered into under, and governed by, the laws of Saskatchewan and Canada, and to the extent that there is a conflict between these laws, the Client shall have the benefit of the provisions that are most favourable to the Client.

seek independent legal advice about any of the matters in this agreement.

10/28/2024  
Dated:

A handwritten signature in black ink, appearing to read "D. [unclear]".

Law Firm

Handwritten initials in black ink, possibly "PSC".