

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

DOUGLAS J. LUCKERMAN
Plaintiff

v.

CA 13-185-S

NARRAGANSETT INDIAN TRIBE
Defendant

**AFFIDAVIT OF CHIEF SACHEM MATTHEW THOMAS IN SUPPORT OF
DEFENDANT NARRAGANSETT INDIAN TRIBE'S
MOTION TO DISMISS PURSUANT TO RULE 12(b)(1) and 12(b)(7)**

Now comes Chief Sachem Matthew Thomas and after being sworn, hereby deposes and states:

1. I am the Chief Sachem of the Narragansett Indian Tribe and make this affidavit in good faith and except as otherwise indicated, on the basis of personal knowledge of the facts set forth herein.
2. The Narragansett Indian Tribe is a federally acknowledged and recognized tribe of Indians with inherent privileges and immunities. (48 Fed. Reg. 6177-78).
3. I have been the Chief Sachem of the Narragansett Indian Tribe since 1997.
4. I am familiar with the allegations in the above captioned action.
5. That I have reviewed the letter dated March 6, 2003 addressed to myself. (Attached as Exhibit 1 – Luckerman's letter of March 6, 2003)
6. That I have never executed or countersigned the letter dated March 6, 2003.
7. That neither the Tribe nor I have agreed to a waiver by the Narragansett Indian Tribe to "any defense of sovereign immunity solely for claims or actions arising from this Agreement that are brought in state or federal courts." (See. Exhibit 1).
8. Waivers of sovereign immunity are rarely authorized and only after significant deliberation by the Chief Sachem and Tribal Council.
9. That any waiver of the sovereign immunity of the Narragansett Indian Tribe requires the consent and resolution of the Narragansett Indian Tribal Council.

10. The Chief Sachem and the Tribal Secretary execute any Tribal Council resolution memorializing a waiver of immunity.
11. That I have reviewed the letter dated February 3, 2007 addressed to Mr. John Brown. (Attached as Exhibit 2- Luckerman's letter of February 3, 2007)
12. Mr. John Brown is the Narragansett Indian Tribal Historic Preservation Officer.
13. The Narragansett Indian Tribal Historic Preservation Office is a political subdivision of the Narragansett Indian Tribe.
14. The Narragansett Indian Tribal Historic Preservation Office is not authorized to waive or abrogate the Tribe's sovereign immunity.
15. No Tribal member, employee, entity or political subdivision is authorized to waive the immunity of the Narragansett Indian Tribe.

CHIEF SACHEM MATTHEW THOMAS

/s/ Chief Sachem Matthew Thomas

STATE OF RHODE ISLAND
COUNTY OF WASHINGTON

SUBSCRIBED and sworn before me this ____ day of July 2013.

/s/ John F. Killoy, Jr.

NOTARY PUBLIC
COMM. EXPIRES 7/29/13

DOUGLAS J. LUCKERMAN
Attorney at Law

20 Outlook Drive
Lexington, MA. 02421
(781) 861-6535
DLuckermanlaw@aol.com

March 6, 2003

Chief Sachem Matthew Thomas
Narragansett Indian Tribe
PO Box 268
Charlestown, Rhode Island 02813

Re: Agreement for Legal Services

Dear Chief Thomas:

Thank you for selecting me to represent the Narragansett Indian Tribe (Tribe). This letter confirms the discussion between you and the Law Office of Douglas J. Luckerman concerning his representation of the Narragansett Indian Tribe in connection with protecting the sovereign rights of the Narragansett Indian Tribe and assistance on other matters you may require on an ongoing basis.

I am aware of no conflicts or potential conflicts of interest between my representation of the Tribe and my representation of other clients that would preclude my representation here.

I will provide those legal services reasonably required to represent you, and take reasonable steps to keep you informed of progress and respond to your inquiries. You agree that I will not be required to take any action on your behalf that I do not consider appropriate in my professional judgment, regardless of whether another lawyer or law firm might exercise its judgment differently.

The hourly rate for my time will be \$225.00 per hour. The hourly rate for my associates is 150.00 per hour and my rate for paralegals and other employees is 125.00 per hour. I reserve the right to raise my hourly rates. I will notify you of any such increase at least thirty days before it becomes effective.

I will not charge the Tribe for costs and expenses incurred for in-office photocopying, long distance and local telephone calls, facsimile transmissions, ordinary postage, and local travel expenses. However, I will seek reimbursement of certain out-of-pocket costs and expenses, and the Tribe agrees to pay for these costs and expenses as I incur and bill them to you. These out-of-pocket costs and expenses commonly include express delivery fees (if such fees are incurred at your request, for your convenience, or as required for a particular matter), third party vendor photocopying and other reproduction costs, charges for computerized legal research, out-of-town travel expenses, extraordinary expenses incurred on your behalf, and other similar items. These costs and expenses will be billed to you at my cost.

If you should decide to discontinue the services of my law firm at any time you agree to notify me in writing of your decision and agree to be liable for any outstanding work time computed at the rates described above that are in effect at the time of the notice. I will send you statements at the end of any month in which I render services for the Tribe. The statements are due in full upon receipt. Past due amounts are subject to interest of 1.5 per cent per month and late fees. The Tribe agrees to waive any defense of sovereign immunity solely for claims or actions arising from this Agreement that are brought in state or federal courts.

TRUSTEES

Edward J. Morrone

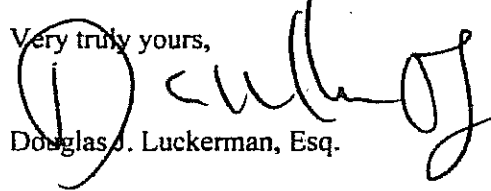
EDWARD MORRONE, CLERK
WASHINGTON COUNTY SUPERIOR COURT

I promise to keep you informed of all developments as they occur and to send you copies of all incoming and outgoing correspondence immediately after it is generated/received. I will personally manage all aspects of the matter you request that I address, preparing all necessary papers and documents.

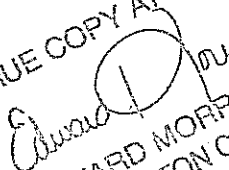
I will make myself available, upon request, to attend Tribal Council meetings to answer questions or discuss the work I am doing for the Tribe. I will also be available by phone and email to answer questions from the Tribal Chief, Tribal Council and other members of the Tribe regarding the work I am doing for the Tribe.

I look forward to working with you and the Narragansett Indian Tribe. Thank you for placing your confidence in me. I look forward to providing you with high quality legal services.

Very truly yours,


Douglas J. Luckerman, Esq.

NOTE: THIS IS YOUR AGREEMENT. IT PROTECTS BOTH YOU AND YOUR ATTORNEY. IT IS DESIGNED TO PREVENT MISUNDERSTANDING. IF YOU DO NOT UNDERSTAND IT OR IF IT DOES NOT CONTAIN ALL THE AGREEMENTS WE DISCUSSED, PLEASE NOTIFY ME.

TRUE COPY ATTEST

EDWARD MORPONE, CLERK
WASHINGTON COUNTY SUPERIOR COURT

DOUGLAS J. LUCKERMAN
Attorney at Law

20 Outlook Drive
Lexington, MA. 02421
(781) 861-6535
(781) 652-8099 fax
DLuckermanlaw@aol.com

February, 3, 2007

Mr. John Brown
Narragansett Indian Tribal Historic Preservation Officer
Narragansett Indian Tribe
215 Fenner Hill Road
Hopkinton, Rhode Island 02832

Re: Contract Agreement and Payment of Past Due Funds

Dear Mr. Brown:

This letter confirms that you have engaged the Law Office of Douglas J. Luckerman to represent the Narragansett Indian Tribal Historic Preservation Office (NITHPO) in connection with issues that relate to the preservation of Tribal sovereignty, culture and traditions as well as for economic development and other issues you may choose in the future.

This letter, when accepted by you and returned to me, will constitute the agreement between us for me to represent the NITHPO.

I will provide those legal services reasonably required to represent you, and take reasonable steps to keep you informed of progress and respond to your inquiries. You agree that I will not be required to take any action on your behalf that I do not consider appropriate in my professional judgment, regardless of whether another lawyer or law firm might exercise its judgment differently.

The hourly rate for my time will be \$350.00 per hour. The rate for an Associate is \$225.00 per hour and the rate for a paralegal or other office time is \$125.00 per hour. I reserve the right to raise my hourly rates. I will notify you in writing of any such increase at least thirty days before it becomes effective.

I will not charge the Tribe for costs and expenses incurred for in-office photocopying, long distance and local telephone calls, facsimile transmissions, ordinary postage, and local travel expenses. However, I will seek reimbursement of certain out-of-pocket costs and expenses, and the NITHPO agrees to pay for these costs and expenses as I incur and bill them to you. These out-of-pocket costs and expenses commonly include express delivery fees (if such fees are incurred at your request, for your convenience, or as required for a particular matter), third party vendor photocopying and other reproduction costs, charges for computerized legal research, out-of-town travel expenses, extraordinary expenses incurred on your behalf, and other similar items. These costs and expenses will be billed to you at my cost.

If you should decide to discontinue my services at any time, you shall be liable for my time computed at the rates indicated above. The NITHPO agrees to a limited waiver of Tribal sovereign immunity in Tribal, federal and state courts, solely for claims arising under this Agreement. I will send you statements at the end of any month in which I render services for the NITHPO. The statements are due in full upon receipt. Outstanding funds are assessed an interest rate of 1.5 per cent per month.

I promise to keep you informed of all developments as they occur and to send you copies of all incoming and outgoing correspondence immediately after it generated/received. I will personally manage all aspects of the matter you request that I address, preparing all necessary papers and documents.

TRUE COPY TEST

EDWARD MORRONE, CLERK
WASHINGTON COUNTY SUPERIOR COURT

I will make myself available, upon request, to attend Tribal Council meetings to answer questions or discuss the work I am doing for the NITHPO. I will also be available by phone and email to answer questions from the Tribal Chief, Tribal Council and other members of the NITHPO regarding the work I am doing for the NITHPO.

ON GOING PAYMENTS

NITHPO agrees to establish an escrow account for legal fees related to work done in conjunction with, and in support of, NITHPO/EAC Capital Partners (EAC) economic development projects. Such escrow account shall be funded by economic development funds received from EAC /NITHPO economic development projects. This office and NITHPO will mutually agree on the selection of an escrow agent and thereafter, statements for work done on all EAC /NITHPO economic development projects will be tendered to the escrow agent for payment. Nothing in this Agreement precludes payment by NITHPO from sources other than the escrow account.

PAST DUE AMOUNTS

As of January 27, 2007, the NITHPO owes this Law Office \$87,133.25. (\$80,883.25 past due December 2006 plus \$6,250.00 for work in January 2007) The NITHPO agrees to pay this amount from funds received from Eugene Cam and EAC Capital Partners, either through a donation to the NITHPO arranged by Mr. Cam or from other economic development funds, within 30 days of executing this Agreement or as soon as the funds are received by the NITHPO. Any outstanding funds will be assessed an interest rate of 1.5 per cent per month.

I look forward to working with you and the NITHPO. Please signify the NITHPO's agreement with the above terms and conditions by signing and returning one copy of this letter to me either by fax or regular mail. Please retain one copy for you records.

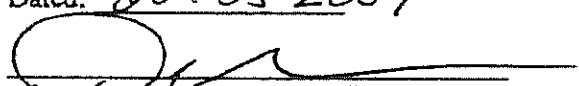
Thank you for placing your confidence in me. I look forward to working with the NITHPO and to providing you with high quality legal services.

Very truly yours,


Douglas J. Luckemman, Esq.

I, John Brown, NITHPO Tribal Hist. Pres. Officer, have read and understand the above letter, have received a copy, and accept all of its terms:

Dated: 20 Feb 2007


John Brown, Narragansett Indian Tribal Historic Preservation Officer

NOTE: THIS IS YOUR AGREEMENT. IT PROTECTS BOTH YOU AND YOUR ATTORNEY. IT IS DESIGNED TO PREVENT MISUNDERSTANDING. IF YOU DO NOT UNDERSTAND IT OR IF IT DOES NOT CONTAIN ALL THE AGREEMENTS WE DISCUSSED, PLEASE NOTIFY ME.

COPY ATTEST

EDWARD MORRONE, CLERK
WASHINGTON COUNTY SUPERIOR COURT