



DEPARTMENT OF LAW  
CITY OF CHICAGO

**Via Email Delivery**

July 20, 2023

Eve-Lynn Rapp  
Edelson PC  
350 North LaSalle Street  
Suite 14  
Chicago, IL 60606  
erapp@edelson.com

**RE:** *Kia/Hyundai Vehicle-Security Litigation*

Dear Ms. Rapp:

Please be advised that your firm has been designated Special Assistant Corporation Counsel to assist the City in investigating and potentially litigating claims relating to Hyundai and Kia's failure to install immobilizers and other security measures in their vehicles (the "Matter").

This letter will confirm that your firm's retention will be on a contingency-fee basis on the terms identified in the attached Exhibit A, which is incorporated herein.

The firm agrees to comply with the Law Department's Outside Counsel Guidelines, which are attached with this letter as Exhibit B, except insofar as those Guidelines are inconsistent with the terms identified in Exhibit A.

You should coordinate all legal activities with Stephen J. Kane at (312) 744-6934. Please feel free to contact me at (312) 744-0220, if you have any questions or concerns relating to this matter.

All invoices are to be submitted through the LexisNexis CounselLink application. Julie Morgan, Deputy Corporation Counsel – Administrative Services, will coordinate matter set-up and electronic billing procedures with your firm. Your firm's acceptance of this matter through CounselLink constitutes your firm's acceptance of the terms and conditions outlining this engagement.

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Please confirm your agreement to this Engagement Letter by signing below as indicated and returning a copy to us within 5 business days of receipt of this Engagement Letter. Until the City receives an executed copy of this Engagement, we will not open the matter in CounselLink.

Thank you in advance for your attention to this matter.

Sincerely,

Mary B. Richardson-Lowry  
Corporation Counsel

cc: Stephen J. Kane  
Julie Morgan  
Michael Nordello

Agreed to and accepted on  
this 21<sup>st</sup> day of July 2023.

By:

Title:

partner

## **EXHIBIT A**

### **I. EDELSON'S RESPONSIBILITIES AND SCOPE OF REPRESENTATION**

Consistent with Edelson PC's ("Edelson" or "the Firm") duties under the applicable standards of professional responsibility, Edelson will act with commitment and dedication to the City of Chicago's ("the City") interests and with zeal in advocacy on the City's behalf. Depending on a variety of factors, including the outcome of already-pending and/or to-be-filed litigation, Edelson will not necessarily recommend pursuing or actually pursue any legal action as a result of this representation. The City expressly acknowledges that the best course of action for its claims may be to wait for further developments in already-pending or other to-be-filed litigation. The City also expressly acknowledges that, to the extent that the City seeks to take immediate action that conflicts with Edelson's legal advice, Edelson may immediately terminate the representation. Moreover, the City expressly acknowledges that, subject to any and all relevant ethics rules, Edelson may terminate the representation at any time. In the event that Edelson does pursue litigation on the City's behalf, Edelson will use its reasonable best efforts to advance the Matter, and obtain a positive result, although the City understands that Edelson does not guarantee any particular outcome.

The City is aware, and expressly agrees and consents, that Edelson may represent other clients with regard to the Matter, except Edelson will provide notice and obtain the City's consent before representing another government entity in connection with the Matter. By entering into this agreement, the City also waives any right that the City may have to require Edelson to disclose to the City any confidences Edelson has obtained from any other client in connection with the subject matter of this agreement.

The City understands that it is retaining the Firm, and not any particular attorney at the Firm. The attorney services to be provided will not necessarily be performed by any one particular attorney at the Firm. The City understands and agrees that the Firm may use different members of staff or contractors to work on the City's case.

Edelson's representation of the City is strictly limited to the Matter. Unless Edelson has another, separate written agreement with the City or has been appointed to represent the City by a court, Edelson does not represent the City in any other capacity or in relation to any other matters. This Retention Agreement applies only to the Matter.

### **II. CONTINGENT FEE ARRANGMENT, COSTS AND EXPENSES**

Edelson will represent the City on a contingent basis, meaning that the City will not have to pay Edelson any money unless and until Edelson achieves a recovery for the City. Edelson will advance all legal, investigative, and trial costs reasonably necessary for the prosecution of the Matter.

Should Edelson ultimately achieve a settlement, judgment, and/or other recovery on the City's behalf as a result of the Matter (including, for example, a bankruptcy proceeding, an individual action, or an arbitration), the City agrees that Edelson will be entitled to attorneys' fees according to the following schedule:

- 15% after filing suit but before discovery;
- 20% once discovery is issued and/or received through six months before jury selection; and/or
- 25% any point after six months before jury selection.

Edelson's compensation will not exceed any limits on compensation imposed by law. The City also agrees that, to the extent there is a recovery, the City will reimburse all reasonable out-of-pocket costs incurred

by Edelson, so long as they comply with the City's Outside Counsel Guidelines and a court does not direct otherwise. The Firm will not incur any such cost that exceeds \$5,000 without prior express approval. If unsuccessful or if no recovery is made, the City will not be responsible for any costs. In no event will the Firm's attorneys' fees and costs exceed any total recovery by the City in the Matter. Costs and expenses will be deducted following the deduction of attorney's fees, unless a court directs otherwise.

The City acknowledges that this contingent fee agreement was not fixed by statute or other law but instead was negotiable. The City further acknowledges that it was permitted to consult outside counsel regarding the reasonableness of the fee, which is the result of an arm's-length transaction between the City and the Firm.

If Edelson does not obtain a settlement, judgement, and/or other recovery on the City's behalf, the City will not be responsible for the payment of any attorneys' fees, costs, expenses, or any amount whatsoever.

### **III. PRIVILEGE AND CONFIDENTIALITY**

The Firm has a duty to preserve the confidentiality of information relating to its representation of the City, including communications with the City. The Firm advises, and the City understands, that no means of communication is perfectly secure, and all means of communications are, to varying degrees, susceptible to misdirection, interception, or other unauthorized access. Because of the speed, convenience, and increased efficiency offered by email and telephone communications in particular, including text messages, by entering this agreement the City agrees to the Firm's use of email and telephone communications, including text messages, in representing the City.

### **IV. OBLIGATION TO PRESERVE EVIDENCE**

The City understands that it has an obligation to preserve evidence, including electronic evidence such as the City's electronic communications. The City must preserve any evidence that common sense suggests is potentially relevant to the City's claims. This means that the City needs to preserve emails, social-media posts and messages, text messages, and any other electronically stored information or communications relating to the facts or issues in the City's case. The City understands and agrees that preserving this data may entail creating a secure backup of the relevant devices, drives, or accounts, to guard against data loss. The City agrees to undertake all measures reasonably required to ensure that any potentially relevant documents or information, including electronically stored documents or information, are not destroyed. The City must communicate with Edelson before destroying any evidence the City believes might be relevant to its claims. The City agreed to tell Edelson before replacing a phone, computer, tablet, or other electronic device that may contain information relevant to the Matter so that Edelson can take appropriate action to preserve the data on it.

### **V. AUTHORITY**

The Firm shall be designated as "Special Assistant Corporation Counsel." The City will maintain control of the litigation and will make all key decisions, including whether and how to proceed with the litigation, which claims to advance, what relief to seek, and whether and on what terms to settle the litigation. The Firm will be responsible for carrying out the litigation and for making day-to-day decisions regarding court filings, court appearances, discovery matters, trial, and any appeal. EPC will provide regular reports to the City on the status of, and any significant developments in, the Matter. The City retains veto power over any decisions made by Edelson. The City has designated Stephen Kane, Deputy Corporation Counsel in the City's Department of Law, as the point of contact who will supervise the litigation and who will be available directly to Edelson in the Matter as needed. Hyundai and/or Kia may contact Mr. Kane directly to discuss the Matter, without involving the Firm.

## **VI. TERMS OF ENGAGEMENT**

The Firm will endeavor to represent the City promptly and efficiently, and we anticipate a mutually satisfactory relationship. The City, however, has the right to terminate the Firm's services upon written notice at any time. The Firm also has the right to terminate its services upon written notice, if it discovers that the City has misrepresented or failed to disclose material facts to the Firm, if the City fails to cooperate with a reasonable request, or in the event the Firm determines, in its sole discretion, that continuing services on behalf of the City would create a conflict of interest or be illegal, unethical, impractical, improper or otherwise inappropriate. Following such termination, any otherwise non-public information the City has supplied to the Firm that is retained by the Firm will be kept confidential in accordance with applicable rules of professional responsibility or returned to the City as the parties may agree.

## **VII. CHOICE OF LAW**

This Retention Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without reference to the conflicts of law provisions thereof.

## **VIII. DISCLOSURE OF INSURANCE INFORMATION**

The Firm hereby confirms that they have Professional Liability insurance coverage which applies to and covers the legal services to be provided to the City in this Case.

## **IX. ENTIRE AGREEMENT**

This document and the accompanying cover letter contain the entire agreement between the City and the Firm and takes place of any prior agreements related to this Matter. Other than with respect to termination of the Firm's representation of the City, this agreement may be changed or modified only by a separate written agreement signed and dated by the City and the Firm.