

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

MOTION NO. 23-175

APPROVING THE 4TH AMENDMENT TO THE INITIAL 2020 CONTRACT
FOR LEGAL SERVICES WITH KEATING, BUCKLIN & MCCORMACK
REGARDING THE ARADON MATTER

WHEREAS, between February 2013 and 2015, Nylysha Aradon and Corey Allen Hayes were involved in a dependency action with their minor children which resulted in termination of their parental rights, which was overturned by the Court of Appeals based on claimed negligence and due process violations by Snohomish County and Snohomish County Superior Court VGAL employees and volunteers; and

WHEREAS, Nylysha Aradon and Corey Allen Hayes filed a lawsuit on October 28, 2020, in King County Superior Court against, among others, Snohomish County; and individually named County employees, which was removed to the Western District of Washington federal court; and

WHEREAS, the Rules of Professional Conduct preclude the Civil Division from representing Snohomish County, former employees of Snohomish County, and former employees of Snohomish County and volunteers acting on behalf of Snohomish County, and which require outside counsel to provide representation in the civil lawsuit; and

WHEREAS, the Snohomish County Prosecuting Attorney, consistent with his authority under state law, county charter and county code, procured a Contract for Legal Services with Shannon Ragonesi at Keating, Bucklin & McCormack for the purpose representing Snohomish County and Sara Di Vittorio; and

WHEREAS, the initial Contract for Legal Services with Shannon Ragonesi at Keating, Bucklin & McCormack, executed on August 25, 2020, was not to exceed \$50,000; and

WHEREAS, the subsequent 1st Amended Contract for Legal Services with Shannon Ragonesi at Keating, Bucklin & McCormack, executed on April 5, 2021, was not to exceed \$150,000; and

WHEREAS, the subsequent 2nd Amended Contract for Legal Services with Shannon Ragonesi at Keating, Bucklin & McCormack, executed on April 20, 2022, was not to exceed \$250,000; and

WHEREAS, the subsequent 3rd Amended Contract for Legal Services with Shannon Ragonesi at Keating, Bucklin & McCormack, executed on March 22, 2023, was not to exceed \$300,000; and

WHEREAS, litigation is still ongoing and will likely continue for the foreseeable future;

NOW, THEREFORE, ON MOTION, the Snohomish County Council authorizes the County Executive to sign the attached 4th Amendment to the initial 2020 Contract for Legal Services with Shannon Ragonesi at Keating Bucklin and McCormack regarding the Aradon Matter in an amount not to exceed \$400,000.00.


PASSED this 17th day of May, 2023.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington



Council Chair

ATTEST:



Deputy Clerk of the Council

4th AMENDED CONTRACT FOR LEGAL SERVICES
(TORT LITIGATION)

SNOHOMISH COUNTY, through the office of the Prosecuting Attorney (hereinafter referred to as “County”), and SHANNON M. RAGONESI, of the law firm of Keating, Bucklin & McCormack (hereinafter referred to as “Attorney”), in consideration of the mutual promises contained herein agree as set forth below. This 4th amended agreement is entered into between the County and the Attorney for the express and limited purpose of amending Section 3, ¶ 1 (pg. 2) of the original Contract for Legal Services fully executed on August 25, 2020; Section 3, ¶ 1 (pg. 2) of the 1st Amended Contract for Legal Services fully executed on April 5, 2021; Section 3, ¶ 1 (pg. 2) of the 2nd Amended Contract for Legal Services fully executed on April 20, 2022; and Section 3, ¶ 1 (pg. 2) of the 3rd Amended Contract for Legal Services fully executed on March 22, 2023:

I. PURPOSE

On June 19, 2020, Snohomish County Risk Management received a Claim for Damages filed by Nylysha S.B. Aradon and her attorneys Patrick Trudell and Scott Bowen at Kornfeld, Trudell, Bowen & Lingenbrink, PLLC, which including a proposed Complaint Ms. Aradon’s attorney indicated their intent to file in the United States District Court-Western District of Washington in Seattle in the near future (hereinafter referred to as “the Aradon matter”). The claim and subsequent probable litigation arise out of a series of incidents, legal actions, and records requests that began on February 28, 2013.

The Snohomish County Prosecuting Attorney’s Office has determined there may be an actual or perceived conflict of interest in representing the County and Deputy Prosecuting Attorney Sara J. Di Vittorio. As a result, it has become necessary to hire counsel to provide representation of the County and the above-named County employees.

II. SCOPE OF WORK AND DUTY OF THE ATTORNEY

The Attorney shall act as independent counsel for and represent the County and Sara J. Di Vittorio in the Aradon matter.

The Attorney shall advise the Snohomish County Prosecutor and the Snohomish County Executive's Office and/or Snohomish County Risk Manager Sheila Barker in the event Sara J. Di Vittorio fails or refuses to cooperate with representation by Attorney and/or hire an attorney at her own expense to represent her in this lawsuit.

III. FEES AND EXPENSES

The County shall pay Attorney for services provided relating to the above described services at Attorney's standard billing rate for such services, provided such rate does not exceed \$285 for shareholders, \$252 for senior associates and \$246 for junior associates per hour, plus reasonable expenses. The Attorney may delegate services to other counsel in the firm or legal assistants employed by Attorney to assist her in providing legal services under this agreement in a cost effective manner, provided that other counsel and legal assistants shall work at the specific direction and subject to the approval of Attorney. The aggregate fee for Attorney's services shall not exceed **\$400,000.00** without the prior written consent of the County. The term "reasonable expenses" shall include filing fees, witness fees, travel expenses, copying, long distance telephone calls, preparation of transcripts, expenses of depositions, and other incidental expenses at cost to the Attorney, but does not include ordinary overhead such as office, secretary, or paralegal expenses, stationary costs, and other expenses not directly incident to a specific request for services.

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IV. PAYMENT

All fees and expenses shall be billed monthly. Billings shall be directed to Snohomish County Risk Manager Sheila Barker, and reference the claim by name and by the Snohomish County Prosecuting Attorney's file number R13-001656.

V. DURATION OF CONTRACT

This contract shall be in effect as of the date it is executed, and shall continue, unless terminated, until the conclusion of litigation.

VI. NON-DISCRIMINATION

The Attorney shall comply with the Snohomish County Human Rights Ordinance, Chapter 2.460 SCC, which is incorporated herein by this reference. Execution of this contract constitutes a certification by the Attorney of the Attorney's compliance with the requirements of Chapter 2.460 SCC. If the Attorney is found to have violated this provision, or furnished false or misleading information in an investigation or proceeding conducted pursuant to Chapter 2.460 SCC, this contract may be subject to a declaration of default and termination at the County's discretion. This provision shall not affect the Attorney's obligations under other federal, state, or local laws against discrimination.

VII. TERMINATION

The County may terminate this contract as to any Attorney providing service under this contract who violates any provision of this contract, or any rule of professional conduct or other law, or is subject to discipline under the Rules for Lawyer Discipline. In case of termination, the County shall pay Attorney for all services provided in accordance with this contract through the date of termination. Upon notice of termination, no further fees or expenses may be incurred

except to the extent necessary to safeguard the interest of the County as authorized by Snohomish County Risk Manager Sheila Barker.

Pursuant to SCC 2.90.085, this contract may also be terminated as to representation of Sara J. Di Vittorio upon the following conditions:

1. Sara J. Di Vittorio fails or refuses to cooperate with representation by Attorney; or
2. Sara J. Di Vittorio hires an attorney at her expense to represent her in this lawsuit.

VIII. RELATIONSHIP OF PARTIES

Attorney agrees that Attorney will perform services under this agreement as independent contractors and not as an agents, employees, or servants of County. Attorney and her employees are not entitled to any benefits or rights enjoyed by employees of the County.

IX. NON-ASSIGNMENT

Attorney shall not subcontract, assign, or delegate any of their rights or duties under this agreement except as provided in this agreement.

X. GOVERNING LAW AND VENUE

This agreement shall be governed by the laws of the State of Washington and the parties stipulate that any lawsuit regarding this agreement must be brought in Snohomish County, Washington.

XI. CHANGES

No changes or additions shall be made in this contract except as agreed to by both parties and reduced to writing and executed with the same formalities as are required for the execution of this agreement.

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XII. WARRANTY, HOLD HARMLESS, AND INSURANCE REQUIREMENTS

1. Attorney represents and warrants that each Attorney providing services under this contract is a member in good standing of the Washington State Bar Association, that no disciplinary proceedings are pending against them, that all necessary investigations have been made to identify conflicts, and that all conflicts have been disclosed and will continue to be disclosed to County. Attorney further warrants that she carries and will maintain adequate professional liability insurance for work performed under this agreement during the term of this agreement. Attorney shall disclose such insurance coverage to County upon request.

2. Attorney shall protect, save harmless, indemnify, and defend, at her own expense, Snohomish County, its elected and appointed officials, officers, employees, and agents, from any loss or claim for damages of any nature whatsoever arising out of Attorney's negligence, intentional, tortious, or wrongful acts in the performance of this agreement, including claims by Attorney's employees or third parties. This provision shall not include claims or judgments for professional negligence, which are addressed in paragraph 3 below.

3. Attorney shall protect, save harmless, and indemnify, at her own expense, Snohomish County, its elected and appointed officials, officers, employees, and agents, from any loss or claim for damages of any nature whatsoever arising out of Attorney's professional negligence, which shall include, but is not limited to, any act covered by professional liability insurance maintained continuously by Attorney for the duration of this contract. Claims based on legal malpractice will only be reimbursed after being reduced to judgment or settlement, but Attorney agrees that reimbursement shall include any judgment or settlement amount and all costs incurred by the County in defending the action, including but not limited to reasonable Attorney's fees and other costs of litigation.

4. Attorney's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days' prior written notice has been given to the County. Attorney shall give the County thirty (30) days' written prior notice of a reduction to or cancellation of coverage, and ten (10) days' notice of cancellation due to non-payment of premium, which the Attorney shall fax to Snohomish County Risk Management at (425) 388-3499.

5. All deductibles or self-insured retentions shall be the responsibility of the Attorney. Deductibles or self-insured retentions in excess of Fifty Thousand Dollars (\$50,000.00) must be disclosed and are subject to approval by the County's Risk Manager.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed as follows:

SNOHOMISH COUNTY

Snohomish County, a political subdivision of the State of Washington

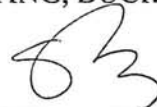
Ken Klein

Digitally signed by Ken Klein
Date: 2023.05.17 13:22:44 -07'00'

Dave Somers
Snohomish County Executive
Date
Ken Klein
Executive Director

ATTORNEY

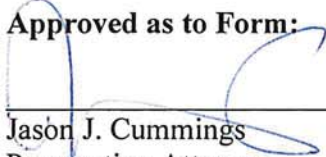
KEATING, BUCKLIN & MCCORMACK




4/17/2023

Shannon M. Ragonesi
Date

Approved as to Form:


Jason J. Cummings
Prosecuting Attorney

4/17/23
Date


Geoffrey A. Enns
Deputy Prosecuting Attorney

4/17/23
Date

COUNCIL USE ONLY

Approved 5/17/2023
ECAF # 2023-0453
MOT/ORD Motion 23-175