

TOM FOCHS - OWCP LAWYER - RETAINER AGREEMENT

THOMAS P. FOCHS - ATTORNEY AT LAW - Admitted in Colorado

Date _____

Practice Before OWCP, OPM & The SSA Only

Ph. 202-765-3122 - Fax. 888-527-2809

www.owcp.com - owcpattorney@gmail.com

Please Fill In This Information

First & Last Name

Home Phone

Street Address

Alternate Phone

City, State Zip

Email

DOB: MM/DD/YYYY

Claim # (9 Alphas / Digits)

Date of Injury: MM / DD / YYYY

Your Claim Under The Federal Employees' Compensation Act (the FECA) And / Or Before the U.S. Office of Personnel Management (OPM).

You have asked to retain me for claim/s before the Office of Workers' Compensation Programs (OWCP) under the for Federal Workers' Compensation Act (FECA):

OWCP Claim #: _____

Note: For more than one claim number, you must complete a separate appointment letter as found at the end of this Retainer Agreement.

and/or before the US OPM, for an Application For Disability Retirement Benefits:

CSA #: _____

Note: OWCP claim numbers, or an OPM CSA number may not be assigned at this time.

1. Others who work on this / these matters will be billed at the same rate as I for all time spent on your claim/s.

This representation is before the US Department of Labor, Office of Workers' Compensation Programs (OWCP) and/ or the OPM only. I will be the lawyer with primary responsibility for your matter. Other lawyers, law clerks or assistants may also work on this /these matters.

Initials _____

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2. A. You certify that you do not currently have any other appointed representative before the OWCP, the ECAB or the OPM.
B. You agree to not denigrate OWCP, Claims Examiners, or prior representatives related to your OWCP/OPM claim. Initials_____
- C. You agree to consult me **before** you contact OWCP/OPM, political entities or other legal counsel regarding your OWCP/OPM claim.
3. I am NOT representing or advising you for any other administrative or personnel matter, action, grievance, EEO, MSPB, money owed to your employing agency, Bankruptcy or any other Federal or State action whatsoever. Initials_____
4. I undertake this representation for an initial claim for benefits. This agreement does **not** obligate me to institute or file any **Request for Reconsideration, Review of the Written Record, Request for an Oral Hearing, Appeal to the Employees Compensation Appeals Board (ECAB)**, or before the OPM or appeal to the MSPB (for OPM benefits) unless agreed. If your claim is denied at any level you may need to institute an appeal within certain time limits. Failure to initiate an appeal within the applicable time limits may cause you to permanently lose valuable rights. Initials_____
5. I am not responsible for the timely filing of any Notice of Appeal. Should you wish to institute or file any other claim, file a Request for Reconsideration, Review of the Written Record, Request for an Oral Hearing, or Appeal to the Employees Compensation Appeals Board, new arrangements must be made before I will be responsible for that work. Initials_____
6. **You** are responsible for the legal fees, and expenses incurred under this agreement. Neither the OWCP, OPM, nor your employing agency will pay your legal fees or expenses related to my work. Although the OWCP, or the Employees Compensation Appeal Board may review and/or approve the amount of my legal fee, **they will not pay my fee on your behalf.** Initials_____
7. Under the FECA you are required to demonstrate not only that you suffered a disabling injury, but also that your federal employment work activities contributed to your disability, that is, the injury event or other conditions of your federal employment caused, aggravated, accelerated or precipitated your disability. This is known as the “causal connection” between the disabling injury and your federal work activities. Initials_____
8. The reasons and evidence you believe support your claim may not be sufficient to win your claim before the OWCP. For example, settlements, even winning decisions of grievances, MSPB actions, EEO complaints, or actions in any other forum do not **require** the OWCP to accept those events as compensable. OWCP is not required to accept testimony, documents or witness statements that supported a winning decision in another forum as proof that the claimed event/s contributed to your disabling condition. The OWCP decides for itself if the events you claim contributed to your disabling condition are compensable factors under the FECA – and no other entity can force the OWCP to accept that any event contributed to your disabling condition. Initials_____

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09. **It is your responsibility** to establish the “causal connection” before you receive any benefits from OWCP. **WITHOUT THIS CAUSAL CONNECTION, YOU ARE NOT ENTITLED TO ANY BENEFITS UNDER THE FECA.**

- **OPM DOES NOT REQUIRE THAT YOUR FEDERAL WORK ACTIVITIES HAVE CONTRIBUTED TO YOUR DISABLING CONDITION/S.**

- **TO RECEIVE OPM BENEFITS YOUR PHYSICIANS MUST OPINE THAT YOU ARE UNABLE TO PERFORM YOUR USEFUL OR EFFICIENT FEDERAL WORK DUTIES FOR ONE (1) CALENDAR YEAR.**

Initials_____

10. **It is your responsibility** to establish, once a claim has been accepted, that you are unable to work because of a “continuing disability” caused by YOUR ACCEPTED CONDITION in order to receive continuing FECA benefits. If you do not demonstrate this “continuing disability” you are not entitled to continuing benefits from OWCP.

Initials_____

11. A. Claims may take months, or longer, to reach a conclusion.

B. Claims may have the potential for a million+ dollars in lifetime benefits.

C. This is a deliberative and lengthy process – **no one awards a million dollars without lengthy deliberation!**

D. Due process applies to OWCP/OPM & employing agencies as well as to you.

E. We may need several weeks or months to obtain and review your file and gather testimony (even your own), documents, medical reports, and witness statements to support your claim – before we file any documentation with the OWCP – especially if your claim has been ongoing for several years, or was previously denied.

F. This office, like OWCP, requires testimony, a copy of the official OWPC file/s, as well as documentation, medical reports and specific, detailed and on-point witness statements to support your claim/s.

G. You do not win a claim on vague statements of discrimination, retaliation or harassment – you win based on specific events that what you can prove.

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12. OWCP'S definition of disability is "the inability to earn wages." Consequently, if you continue to go to work and receive a paycheck, by definition, you are not disabled for work, and not entitled to wage loss compensation. This is not a system in which you file a claim, continue to go to work while receiving a paycheck, and then, when your claim is approved, leave work and start collecting wage loss compensation from OWCP.

IT DOES NOT WORK THAT WAY!

Initials_____

13. IT IS YOUR RESPONSIBILITY TO PROVIDE MEDICAL REPORTS, WITNESS STATEMENTS, OR OTHER PROOF OF COMPENSABLE FACTORS TO ESTABLISH A DISABLING PHYSICAL INJURY OR DISABLING EMOTIONAL DISTRESS CONDITION.

Initials_____

14. It is your responsibility to ensure that your treating physician, is ready, willing and able to draft a well reasoned and rationalized medical opinion, BASED ON OBJECTIVE MEDICAL EVIDENCE explaining the CAUSAL CONNECTION between your work activity/ies and your disability, the extent of your disability, the time frame of your disability for work, the history AND the mode of injury or disease in light of your medical history.

Initials_____

15. I cannot force your doctor to write this critical narrative, but without this narrative your claim may be denied or benefits terminated.

Initials_____

16. It is your treating physician's responsibility to complete this narrative, BASED ON OBJECTIVE MEDICAL EVIDENCE. **This requires your physician's medical opinion, based on a "51/49" weighing of the medical evidence that work factors contributed to your disability.** Without this narrative, in clear and unequivocal terms, your claim may well be denied, or benefits terminated or modified TO YOUR DETRIMENT.

Initials_____

17. A medical opinion regarding injury or disability for work can only support the fact of injury or disability from the date of first examination by the physician rendering that opinion. Your doctor cannot look back in time to find you disabled before the date of your first examination by that doctor. An opinion regarding time before your first examination is considered speculative, and of no value to OWCP because it is not **well-reasoned** or **rationalized** evidence for determining the fact of injury and its causal connection to your federal work activities.

Initials_____

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18. In the OWCP system, treatment by chiropractors*, physician’s assistants, therapists, nurses, counselors, social workers, providers of “alternative,” “holistic” or “herbal” medicine or any non-licensed care providers have no evidentiary value whatsoever in determining your disability and its causal connection to your work activities. Initials_____

* Chiropractors may opine upon and treat a subluxation (dislocation) of the spine - demonstrated by X-ray - each and every time treatment is rendered.

19. Only opinions by U. S. licensed Doctors, Psychiatrists and Psychologists have probative, evidentiary weight in these systems. Initials_____

20. OWCP often accepts condition that are not the true diagnosed or disabling condition, e.g., you have a ruptured disc, but your claim is accepted for “back sprain.” Initially, this may be acceptable to you because you receive medical treatment and wage loss compensation, however, several months or even decades later, when you are disabled because of the ruptured disc, but not because of a “back sprain,” you may be denied benefits because the rules state you must be disabled on a continuing basis because of the “accepted condition,” which, as is often the case, not your true disabling condition. Initials_____

21. If the OWCP finds the medical evidence demonstrates you are able to perform light duty work, OWCP may find you suitable work, either with your former federal employer, or a “civilian” sector employer. OWCP is not required to find you work with any employer – federal or private. Initials_____

20. RETURNING TO WORK WITHOUT A WRITTEN LIGHT DUTY JOB OFFER AND A FORMAL SUITABILITY DETERMINATION FROM OWCP MAY BE EXTREMELY DETRIMENTAL TO ANY CLAIM FOR INJURY, AGGRAVATION OR ACCELERATION OF YOUR PAST INJURY AND ANY CLAIM FOR WAGE LOSS COMPENSATION. IF YOU RETURN TO WORK UNDER THESE CIRCUMSTANCES YOU MAY GREATLY COMPLICATE YOUR CLAIM, OR ANY FUTURE CLAIM, UNDER THE F.E.C.A. Initials_____

YOU WILL HAVE AN OPPORTUNITY TO CHALLENGE A SUITABILITY DETERMINATION BY OWCP - II YOU TIMELY REQUEST SUCH A DETERMINATION IN THE FIRST PLACE.

22. OWCP may require you to participate in a VOCATIONAL REHABILITATION program. Failure to co-operate with an OWCP sponsored Vocational Rehabilitation program may cause benefits to be suspended or terminated. The decision as to whether or not you have co-operated with the Vocational Rehabilitation program rests with OWCP. Initials_____

23. OWCP may reduce your wage loss compensation by finding you work in the civilian sector, work you may not wish to accept. If you do not accept work in either the federal system or the civilian sector that has been found **suitable by OWCP**, your monetary benefits may be permanently reduced by the amount OWCP determines you could have earned had you taken that work. This is known as a Loss of Wage Earning Capacity Determination, an LWEC. Initials_____

24. Any wages or any form of income you receive while receiving OWCP benefits must be reported to OWCP ASAP. OWCP may reduce its benefits by the amount YOU received. This includes something as innocent as a \$1.00 gratuity for clearing snow from your 80-year-old Initials_____

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neighbors' driveway with your pick-up-mounted snowplow.

[One person actually went to prison for this very activity, and lost wage loss benefits for life. So don't do stupid things, and don't get into a nasty divorce.]

25. If you perform volunteer work, e.g., with a church or civic organization, OWCP may **impute** a wage for that work, and permanently reduce your wage loss benefits based on the "imputed" wages had that entity been required to pay someone for that work – even though you were not paid for your efforts. Initials_____

26. You must report any and all money received for your efforts, no matter how small the amount. OWCP will send you Form CA-1032 and/or EN-1032 for this purpose. Any misrepresentation or failure to report any income from any source, including but not limited to, work activities of whatever nature, VA benefits, rail road retirement, OPM retirement or Social Security benefits can cause you to be charged with a crime, subjecting you to imprisonment and forfeiture of all future government-sponsored benefits from all sources. Initials_____

WHEN IN DOUBT – REPORT IT & CALL THIS OFFICE BEFORE COMPLETING ANY RELATED REPORT

27. Wages for work you perform after your injury, whether at your previous job, from a part time job, from a project as a "contract" employee, or "imputed wages" from a "constructed position," may be used by OWCP to implement a Loss of Wage Earning Capacity (LWEC) determination to PERMANENTLY REDUCE the wage loss compensation paid to you. Initials_____

28. After your doctor has placed restrictions on your physical work activities, returning to work without a written light duty job offer AND a formal suitability determination by OWCP may cause you further medical harm.

A FORMAL JOB SUITABILITY DETERMINATION BEFORE YOU RETURN TO WORK IS CRITICAL TO YOUR HEALTH AND FUTURE MONETARY BENEFITS. Initials_____

RETURNING TO WORK WITHOUT A WRITTEN LIGHT DUTY JOB OFFER, AND A FORMAL SUITABILITY DETERMINATION FROM OWCP OF THAT JOB OFFER MAY WELL JEOPARDIZE YOUR FUTURE WELL-BEING, BOTH MEDICALLY AND FINANCIALLY.

29. State workers' compensation systems operate differently from the FECA. **You and your doctor** should not anticipate that the process, benefits, medical treatment or return to work rules applicable to a state compensation system are the same as those under the FECA. Initials_____

30. It has been the case that one claims examiner has denied a claim, whereas another has accepted the same claim on exactly the same factual and medical evidence already in the claimant's OWCP file. You acknowledge this occurs in this system, for which there is no explanation. Initials_____

31. We may encounter unexplainable delays, vagueness, misapplications of rules, regulations, policies, procedures, distorted arguments, and distortions of the FECA, the OWCP procedure manual and ECAB case law by your employing agency or OWCP, and these factors may cause you greater medical injury, up to and including permanent medical disability, and / or financial harm, up to and including bankruptcy. Initials_____

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32. I cannot provide you with any reliable estimate of when your claim will be reviewed and decided by a claims examiner, or whether or not a particular claims examiner will accept your claim. Initials_____

33. I have not provided you with a binding fee estimate. Initials_____

34. When faced with a denial, you will have appeal options that we can discuss at that time, but to speculate what will happen in a given set of circumstances is of no substantive value at this time. Initials_____

35. **AS REQUIRED BY LAW, this is a straight hourly fee agreement.**

* "Contingency" and "percentage" fee arrangements are forbidden in the OWCP system.
You agree to pay an initial retainer fee of Three Thousand Five Hundred Dollars (\$3,500.00). You also agree to pay Three Hundred Fifty Dollars (\$350.00) per hour for all time I spend working on your claim/s, whether before the OWCP or the OPM. Initials_____

36. **I am not responsible to work on your behalf until I receive the specified retainer fee and an executed copy of this agreement, at least 30 days before any deadline or response due date.** Initials_____

37. The retainer fee is **not** the maximum amount that you may be liable for under this agreement. You may incur further legal fees and expenses. You will be billed on a periodic basis for any outstanding balance. Any outstanding balance will be due upon your receipt of my bill. My failure to bill you on a monthly basis shall not be a basis for a claim for breach of contract by you. Initials_____

38. If the attorney-client relationship under this agreement is terminated for any reason all legal fees, costs and expenses shall immediately become due and payable to me, regardless of the status of your claim. If you fail to pay any bill within five (5) days of receiving the bill, all fees, costs and expenses shall immediately become due and payable. You agree to pay all fees, costs and expenses of collection, if I incur any. Initials_____

39. You agree to pay me the legal fee approved by, or deemed approved by, the OWCP or the Employees Compensation Appeals Board, if such approval is required by either of those entities. Initials_____

40. Under the FECA you are required to review my fee approval request and provide your written comments as to:

- (1) The services provided,
 - (2) The reasonableness of the fee, and
 - (3) Your understanding OWCP will not pay the fee on your behalf.
- Initials_____

Your written comments are to accompany my fee documentation to be sent to OWCP or the ECAB. You agree to make a timely and good faith review of any bill or fee request and to

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make a good faith written statement as to the services and reasonableness of the fee so that your statement will accompany the fee documentation. You agree to provide this statement within five (5) calendar days of receiving my bill, and that your failure to provide your signed statement within five (5) calendar days of receiving my bill shall constitute a breach of this contract, for which, I may withdraw from representing you. I shall provide you with a "form" letter that addresses all the specific points OWCP wants addressed for this purpose.

41. A fee approval, or deemed fee approval by OWCP or the ECAB shall serve as uncontested authorization for the release of funds for payment of my fees. Initials_____

42. **OPM HAS NO SIMILAR FEE APPROVAL PROCESS.** Initials_____

43. **Unlike legal fees, costs and expenses are a private matter between you and I, and neither OWCP nor the ECAB will rule on costs and expenses.** I will debit your account as costs and expenses become due. Initials_____

44. In representing you, I may incur costs and expenses and make disbursements on your behalf for such things as deposition, witness statements, mailing costs, computer research, service of process, travel, meals, lodging, and the services of expert consultants and witnesses. **You are responsible for these expenses.** Initials_____

45. You authorize me to pay expenses on your behalf as necessary, and you agree to reimburse me promptly for expenses when billed. Any outstanding balance for expenses will be due upon your receipt of my bill. Initials_____

46. If you need to engage experts to assist in your claim, you must advance funds to cover such charges ten (10) working days before an expert's charge is due, or immediately upon notification when ten (10) days notice is not possible. Initials_____

47. I will not exceed \$500.00 for expenses without authorization from you. I am not obligated to pay any expense without sufficient funds on account. Initials_____

48. You grant me the authority to incur expenses on your behalf up to five hundred dollars (\$500.00). This estimate does not include travel expenses or fees for expert witnesses or physician's reports. Initials_____

49. Past due bills incur a late charge of 1.5% per month of the total unpaid balance. Late charges continue to accrue at the same rate on any unpaid balance during any collection efforts - until the entire bill is paid in full. If I need to seek collection of any past due bill, you must pay all reasonable costs of collection, including reasonable attorneys fees and all legally allowable interest. Initials_____

50. You grant me any lien rights that I may have under this agreement or any applicable law, against any property whatsoever, real, personal, financial, or otherwise, owned or controlled by you in any effort to recover fees or expenses owed to me under this agreement. Initials_____

51. Because clients and attorneys live, work and move across state lines, you agree that all claims brought in connection with this agreement shall be in the Colorado State District Initials_____

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Court, City and County of Denver, Colorado, to the exclusion of all other courts, forums or venues, no matter where either party resides at the time such complaint arises, or where the claimed violation occurred. You hereby waive any and all rights to bring a claim or suit for relief, or to make a defense of any such suit or claim for relief, under this agreement in any other forum, be it, city, county, state, federal or otherwise. The laws of the State of Colorado shall govern this agreement.

52. I may withdraw from representing you if:

- (1) You do not pay any bill on time and in full,
- (2) You fail to cooperate with me in representing you,
- (3) You fail to timely review & respond to documents I provide to you,
- (4) You fail to comply with the arrangements in paragraphs 35 & 40
- (5) You make false or misleading statements in any matter,
- (5) For any reason permitted by the lawyer's Code of Professional Responsibility, or any relevant law, act, rule or regulation.

Initials_____

53. If I withdraw under the terms of paragraphs 38 or 52, all costs, all fees and expenses shall immediately become due and payable.

Initials_____

54. You agree that none of the lawful claims, demands or rights arising under this agreement shall be subrogated or assigned to any third parties without the written permission of both of us. However, I may assign uncollected fees to a collection entity of my choice.

Initials_____

55. This agreement shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the parties.

Initials_____

56. Any claim or lien asserted against proceeds collected on your behalf will remain your obligation, and will not be paid by me out of client trust proceeds.

Initials_____

57. I dispose of files after services for a client are completed two (2) years after I close a file. I strongly recommend that you pick up your file within the two (2) years following my closure of your case, or make other arrangements to retrieve your file.

Initials_____

58. You must inform me by e-mail, fax, or certified mail of any change in your address or telephone number - within twenty-four hours of any change. Your failure to comply with this requirement may be cause for my withdrawal from representation. If I withdraw under the terms of this paragraph, any costs, expenses or fees due me shall immediately become due and payable. If I withdraw under these circumstances, your claim may be denied or dismissed - possibly causing you to lose valuable benefits.

Initials_____

59. By pursuing a claim for benefits under the FECA, you may be barred from bringing the same or similar claims under other laws, such as the Federal Torts Claim Act, Civil Rights Laws, Personal Injury Claims, Tort Claims or other laws, or in other forums, such as before the M.S.P.B., the E.E.O.C., Federal Court, State Court, or other forums not mentioned here.

Initials_____

60. I will **not** advise you regarding bars to similar claims in other forums.

Initials_____

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61. YOU MAY APPLY FOR OWCP BENEFITS, DISABILITY RETIREMENT BENEFITS FROM THE U.S. OFFICE OF PERSONNEL MANAGEMENT, SOCIAL SECURITY BENEFITS AND VETERAN'S BENEFITS AT THE SAME TIME. YOUR CLAIM/S FOR BENEFITS MAY BE APPROVED BY ALL THESE ENTITIES AT THE SAME TIME. HOWEVER, THESE SYSTEMS MAY HAVE OFFSETS ESTABLISHED BY CONGRESS. YOU MAY HAVE THE OPPORTUNITY TO CHOOSE WHICH BENEFIT/S TO RECEIVE. YOU MAY BE ABLE TO RECEIVE SOME BENEFITS FROM MORE THAN ONE OF THESE ENTITIES AT THE SAME TIME. YOU MUST ADVISE ME OF ANY ALL BENEFITS THAT YOU HAVE APPLIED FOR, ESPECIALLY IF YOU HAVE BEEN AWARDED OR ARE RECEIVING BENEFITS FROM ANY OF THESE ENTITIES.

Initials_____

62. FAILURE TO REPORT YOUR RECEIPT OF ONE OF THESE BENEFITS TO ANY OTHER BENEFIT PROGRAM MAY SUBJECT YOU TO COLLECTION OF ANY OVERPAYMENT, INTEREST, CRIMINAL PENALTIES, INCARCERATION AND FORFEITURE OF ALL FUTURE BENEFITS.

Initials_____

63. If you receive a denial of benefits, and we continue working together to obtain an approval of your claim without executing a new agreement for that work, the terms of this agreement shall continue in full force and effect.

Initials_____

64. **YOU MUST FILE FOR C.S.R.S. OR F.E.R.S. RETIREMENT WITH THE U.S. OFFICE OF PERSONNEL MANAGEMENT [OPM] WITHIN ONE (1) YEAR OF SEPARATION FROM FEDERAL EMPLOYMENT OR YOU WILL LOSE VALUABLE LIFE-LONG RIGHTS AND MONETARY BENEFITS.**

THIS IS EXTREMELY IMPORTANT TO YOUR FINANCIAL WELL-BEING!

CLIENTS HAVE FAILED TO HEED THIS WARNING AND HAVE LOST VALUABLE, LIFE-LONG MONETARY BENEFITS.

HEED THIS WARNING!

Initials_____

65. You have the right to receive CSRS or FERS benefits while receiving a Schedule Award from OWCP. [5 U.S.C.A. §8337 (f)]

Initials_____

66. If you receive a schedule award from OWCP for a time frame that overlaps your receipt of Social Security benefits, Social Security has the legal right to recoup the monetary amount of that schedule award from you.

Initials_____

67. OWCP may contact Social Security to determine your eligibility for Social Security benefits, and reduce its payments by any amount that you are eligible to receive from Social Security, even though you may not wish to apply for your retirement benefits at that time. This may cause you to lose monetary OWCP benefits and incur a tax liability for the Social Security benefits you may be required to accept.

Initials_____

68. OWCP administers a "fix you up and return you to work program" – it is NOT a retirement program. An employee who refuses suitable work or neglects to work after suitable work is offered is not entitled to wage loss compensation or a schedule award. **Your refusal to perform work found suitable by OWCP may cause you to lose ALL future wage loss compensation benefits and ALL future Schedule Award benefits.**

Initials_____

69. I may keep copies of all documentation related your claim/s, not only on computers controlled by me, but also on other computers, with on-line data storage services, on-line contact database services or on-line billing services. I am not responsible for the loss or exposure of data stored with those entities.

Initials_____

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70. OWCP, OPM, Social Security, employing or law enforcement agencies may access any social media accounts, statements, pictures or videos and use any information gained to challenge your claim/s. Video of you playing volleyball at your family reunion when you are receiving benefits for your "back injury" will be USED TO CHARGE YOU WITH FRAUD - AND PUT YOU IN PRISON !

Initials_____

70.A If you are receiving OWCP benefits, and have OWNERSHIP OF ANY PART OF A BUSINESS ENTITY, e.g., a sole proprietorship, general partnership (GP), Limited Partnership (LP), Limited Liability Partnership (LLP), Limited Liability Limited Partnership (LLLL), Limited Liability Company (LLC), Professional Limited Liability Company (PLLC), a Corporation of any sort, Professional Corporation (PC), or a "Doing Business As" (DBA), or any other form of business entity of whatever nature, and do not immediately report it to the OWCP, especially via Forms EN-1032 or CA-1032, you may be charged with fraud and convicted of a crime and sentenced to prison. If convicted, you may lose all future OWCP benefits - for the rest of your life.

It does not matter if you perform no work activity, ownership must be reported.

If you help a business entity with something as minor as making photocopies for a your spouses business, going to the Post Office to drop off a single letter for a business (even if you are going for your personal mail), you wipe down a counter top or a window for your parent's restaurant, you go to the bank to deposit a business's money or to get change for use in that business, you answer the phone for a family business - even if you sweep the floor for a few minutes - OWCP can determine that you were performing work activities and you could be charged with a crime. Again, if convicted, you may lose all future OWCP benefits - for the rest of your life.

Remember, there are people who want to put you in jail so that you lose your benefits for the rest of your life. Those people don't care how minor your "work activity" or how it may destroy your life - they simply want to stop paying your wage loss compensation or schedule award.

Initials_____

70.B. Once you apply for OWCP benefits, you have entered into a very adversarial system – despite claims to the contrary. Remember, the total value of your claim may well exceed one million (\$1,000,000.00) dollars over your lifetime. The money to pay you comes from the budget of your employing agency – and they don't want to spend any money on you and your injury.

You should assume your employing agency will use any and all means within its power to undermine your claim or to get OWCP to terminate or reduce your benefits. In the past Supervisors have failed to file and process claim forms, lied, "lost" documents, destroyed documents, altered records, pressured co-workers to not make witness statements that might support your claim, locked people out of computer systems and used other means to deny clients access to information that might support their claim/s.

At all times you should expect to be followed, subjected to video monitoring, befriended by "undercover" law enforcement agents who are trying to get you to incriminate yourself and have undercover agents interview co-workers, friends and family members in their search for evidence to undermine your claim (and put you in jail if possible). You should expect to have friends inform your employer of any activity that you undertake that might be construed as showing that you are not disabled, have friends tell your employer about a business that your spouse has started, or otherwise cause you difficulty with the OWCP or other law enforcement entities.

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You may want to tell your doctor that they do not have permission to speak to your employer – that all communication with your employing agency must be in writing (as required by the OWCP), and that a copy of any writing should be provided to you at the same time it is provided to the OWCP or your employer. You may want to advise your doctor that employing agencies may have Undercover Agents try to gain access to the doctor's office (sometimes by flashing a badge) in an attempt to have the doctor divulge confidential doctor/patient information – in violation of your Constitutional rights and the FECA. Your doctor should reject these attempts and immediately report the attempt to you and to the OWCP.

Standard advice is for you to never speak to any law enforcement personnel regarding your OWCP claim – no matter how sincere and helpful they may sound. If you think (for example) the US Postal Inspectors are trying to help you – you are completely wrong! Agents from your employer's Office of Inspector General may tell you that if you simply switch from OWCP benefits to OPM benefits, all will be forgotten.

DO NOT FALL FOR THIS LIE.

The OIG is on your doorstep to obtain a confession of wrongdoing, and to put you in jail. They want to charge you with a crime, and get a confession or conviction so they can terminate your OWCP claim – because they want to save your employer \$1,000,000.00 over your lifetime.

They do not care about your wellbeing or that of your family.

Initials_____

DO NOT SPEAK TO THESE PEOPLE.

THEY MAY NOT HAVE ANSWERS BEFORE THEY ASK THEIR QUESTIONS – AND THEY ARE COUNTING ON THE ELEMENT OF SURPRISE TO GET YOU TO SAY SOMETHING THAT MAY HELP THEM INDICT YOU FOR A CRIME – EVEN THOUGH YOU HAVE NOT COMMITTED A CRIME. EVEN A FALSE CRIMINAL INDICTMENT WILL COST YOU THOUSANDS OF DOLLARS IN LEGAL FEES.

KEEP YOUR MOUTH SHUT, AND DO NOT SPEAK TO THEM WITHOUT A CRIMINAL LAW ATTORNEY PRESENT.

IF YOU SPEAK TO THEM BY YOURSELF, CALL A CRIMINAL LAW ATTORNEY FIRST, YOU WILL PROBABLY NEED THAT ATTORNEY MORE THAN YOU NEED ME.

71. It is very important to have full and open communication between us, and that I clearly understand any concerns you have about your claim/s. Consequently, please let me know immediately, in writing, if you have any concerns regarding your case. If you delay informing me of your concerns, I may not be able to take meaningful steps to address them. Initials_____

71.A. CELL PHONES, TEXT MESSAGES OR PHOTOGRAPHIC TRANSMISSIONS.

Because cell phone transmissions, text messages and photographic transmissions come in many different forms and formats, they present unique problems making them suitable for uploading via the OWCP's ECOMP portal.

You acknowledge and agree that I do not accept, acknowledge, read or respond to text messages or photographs sent to any phone number related to me.

You acknowledge and agree that if you send any text message or photograph to a phone owned by me, it may be deleted without being read or reviewed, and I shall not be responsible for its contents or any reply to its contents.

TOM FOCHS - OWCP LAWYER - RETAINER AGREEM

You acknowledge and agree that all of our communications shall be in the form of written letters, E-mail, or spoken form - either in person or via the telephone. If you are using a cell phone, you must send any written or photographic transmission to me via Email.

You acknowledge and agree that if you transmit a text message or a picture [including a picture of a document] to me from a cell phone, via Email, fax or any method whatsoever, it may need to be graphically manipulated before being suitable for upload to OWCP via the ECOMP portal. You specifically acknowledge and agree to pay for all time spent graphically manipulating such a transmission, whether or not the transmission is ultimately able to be made suitable for upload via the ECOMP portal.

Initials_____

72. I am your attorney for OWCP and/or OPM purposes ONLY.

I am not representing you for any other administrative or personnel action, or for any complaint or grievance with your employing agency, or in any other forum against any entity, be it Administrative, City, County, State, Federal or otherwise. I do not represent clients in Bankruptcy actions.

I am not in charge of your life.

I shall explain the FECA/OPM systems, possible consequences of your actions, and those by other people connected to your claim.

- I do not choose your doctor.
- I do not order you to go to work.
- I do not order you to stay home.
- I do not order you to have a specific medical treatment.
- I do not order you to forego a specific medical treatment.
- I do not order you to apply for Disability Retirement, Social Security, Veterans or any other benefit whatsoever.
- I do not order you to forego applying for Disability Retirement, Social Security, Veterans or any other benefit whatsoever.

Initials_____

Those are your decisions – not mine.

73. This is the entire agreement between us concerning my representation for the captioned claim/s. This agreement shall not be modified except by another written agreement between you and I.

Initials_____

74. I encourage you to review this Agreement with others, including another attorney if you wish, before signing it. If you agree with its statements, terms and conditions, please initial and sign where indicated and return one signed copy along with the retainer fee to me. If you have any questions, please contact me so that I can answer your questions before you sign. This agreement will govern our relationship until changed in writing and signed by both of us.

Initials_____

TOM FOCHS - OWCP LAWYER - RETAINER AGREEMENT

75. If I do not receive this signed agreement, with initials where indicated, along with the Initials _____ specified retainer fee within ten (10) calendar days of the date above, this agreement shall be rescinded. If you wish to retain me after that ten (10) day period, new and possibly different arrangements must be made.

As I represent you and your claim, one of the things that I need for you to know that when you make a claim for any kind of benefit you should be aware the fact that the people who decide whether or not you're entitled to the benefit are trained to have a healthy skepticism.

Some of them immediately enter your name into internet web searches. Whenever they detect anything that runs contrary to what we report to them about you, it is natural for them to become energized by the notion that they are preventing "fraud".

I don't want you to accidentally cause false impressions about yourself that could create unnecessary opposition and delay in your claim. I've attached a list of ten things you should avoid in your social media.*

If you have any questions about this information please give me a call.

**This information comes from a January 2016 article in the American Association of Justice' Trial magazine entitled "Alert! Ten Social Media Warnings for Clients" by Ken Shigley and Michael Wilensky.*

- 1. Archive the content of current accounts.** Destruction of potential evidence may create bigger problems than the information itself, so it is important that you preserve the current content of any social media accounts. Most social media sites include directions for archiving. Consider obtaining help from a qualified technical person to assist you with this.
- 2. Deactivate your social media accounts.** Please consider deactivating your Facebook profile and other social media accounts. If deactivation is impossible, you should, after archiving, remove any information that could touch upon your injury or activities and avoid future posts.
- 3. Turn on the highest privacy settings.** If you won't stop using social media, you should set your privacy settings to the highest level. This means making sure that only friends can see the information, rather than friends of friends or the general public. Facebook's "view as" feature is a useful tool that allows users to view their profile as it appears to someone else, whether a stranger or a Facebook friend. Facebook publicly displays your "interests", even if your accounts are otherwise private.
- 4. Beware of "friends".** Create "friend lists" so that only certain friends can see their photo albums and status updates. You should remove any "friends" you did not know well - or not at all - and accept friend requests only from people you trust.
- 5. Make yourself invisible.** You can remove yourself from Facebook search results by selecting "only friends" under the "search visibility" option in your profile settings. You can also remove yourself from Google by unchecking the box for "Public Search Listing" in the Internet privacy settings. You should make comparable changes to privacy settings on all other social media accounts.
- 6. Take down photos.** After archiving current content, remove and untag all photos of yourself that are not simple head shots.
- 7. Be cautious.** Assume that anything that you write on your social media account – including status updates, messages, and wall postings – will at some point be seen by people making judgments about you. You should think about how such things might be perceived, especially when taken out of context.
- 8. Preserve all computers, tablets, and cell phones.** If you lose or destroy an electronic communication device, your opponents could interpret that as a deliberate destruction of evidence. It is better to fight a battle over access to your devices than a presumption that some false thing they think they learned about you is true.
- 9. Don't send messages or information about your case.** You should never send emails, text messages, or private social media messages about your claim, health, or activities to anyone except your lawyers. These types of careless communications can destroy a case.

TOM FOCHS - OWCP LAWYER - RETAINER AGREEMENT

You don't own the information you post online. That information is highly searchable. You should not enter any information on dating websites, post any message on any message boards, participate or comment on social media private groups or blogs, or use chat rooms.

Yours very truly,

Electronically signed

Thomas P. Fochs
Attorney at Law

CLIENT'S ACKNOWLEDGEMENT AND AGREEMENT TO TERMS

I have received a complete copy of the foregoing Fee Agreement For A Claim For Benefits Under The Federal Employees' Compensation Act (the FECA) and / or before the US Office of Personnel Management, (OPM)

I have carefully read that document.

I have had ample opportunity to have that document reviewed by another person of my choosing – including legal counsel.

I have been afforded ample opportunity to have any questions regarding that document, its statements,

terms and conditions answered to my full satisfaction.

I acknowledge, understand and agree to the statements, circumstances, terms and conditions set forth in that document and I agree to comply with, and to be bound by, them.

I understand and agree that Attorney Fochs is not responsible to perform any work on my behalf until he has received the entire retainer fee specified above.

Signatures

Signature

First & Last Name
Claimant / Client

Date - MM/DD/YYYY

TOM FOCHS - OWCP LAWYER - RETAINER AGREEMENT

COMPLETE ONE APPOINTMENT LETTER FOR EACH CLAIM NUMBER

Please Fill In This Information

First & Last Name

DOB: MM/DD/YYYY

Address

Claim # (9 Alphas / Digits)

Date of Injury: MM / DD / YYYY

To: US DOL / OWCP
Washington, D.C. 20211

Re: Appointment of Representative before the US DOL / OWCP

I HEREBY REVOKE ALL PRIOR APPOINTMENTS OF REPRESENTATIVES BEFORE THE OWCP AND DIRECT THE OWCP TO RECOGNIZE ONLY THE APPOINTED REPRESENTATIVE DELINEATED BELOW EFFECTIVE THIS DATE.

I hereby appoint:

Thomas P. Fochs
Attorney at Law*
P.O. Box 1835
Victorville, California 92395
*Admitted in Colorado

Ph. 202-765-3122
Fax. 888-527-2809
Email: owcpattorney@gmail.com

as my only representative for the referenced claim BEFORE THE OWCP.

I request the OWCP immediately forward a copy of the captioned file, a written, detailed summary of the claim to date and all future correspondence to my appointed representative. I request to be involved with the selection of any second or referee medical opinion provider, AND to be provided the Statement of Accepted Facts at least thirty (30) calendar days prior to such examination. I am asserting these rights under the FECA. Any abrogation of my rights may be grounds for reversal of any related adverse decision.

Thank you.

Signatures

Print Name :

Date signed:

TOM FOCHS - OWCP LAWYER - RETAINER AGREEMENT

Please Fill In This Information

First & Last Name

DOB: MM/DD/YYYY

Street Address

CSA # _____

City, State Zip

To: U.S Office of PERSONNEL MANAGEMENT
Retirement Operations Center
P.O. Box 45
Boyers, PA
16017-0045

Re: CSA # Listed Above

hereby appoints;

Thomas P. Fochs
Attorney at Law*
P.O. Box 1835
Victorville, California 92395
*Admitted in Colorado

Ph. 202-765-3122
Fax. 888-527-2809
Email: owcpattorney@gmail.com

as the authorized representative for the referenced claim/s.

Please provide the authorized representative with a full and complete copy of my file as soon as possible.

Please direct copies of all correspondence for to the appointed representative.

Thank you,

Signatures

Signature

First & Last Name
Claimant / Client

Date - MM/DD/YYYY

TOM FOCHS - OWCP LAWYER - RETAINER AGREEMENT

AUTHORIZATION FOR RELEASE OF MEDICAL, COUNSELING AND THERAPY RECORDS

TO:

YOU ARE HEREBY AUTHORIZED to release to:

Thomas P. Fochs Attorney at Law* P.O. Box 1835 Victorville, California 92395 *Admitted in Colorado	Ph. 202-765-3122 Fax. 888-527-2809 Email: owcpattorney@gmail.com
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any and all records, concerning any hospitalization, treatment, care, examination, counseling and/or therapy of:

Please Fill In This Information

First & Last Name

DOB: MM/DD/YYYY

THIS AUTHORIZATION is intended to include any and all office notes, records, charts, laboratory reports, medical records, clinical abstracts, MRI, CAT scan and x-ray reports, narrative medical reports, employee health records, rehabilitation records and bills and statements. The cost of producing copies of any such documents shall be borne by the requesting party.

You may treat a photocopy of this authorization as a duly executed original for all purposes. This authorization shall remain in effect until revoked by the undersigned.

Signatures

Signature	
First & Last Name Claimant / Client	
Date - MM/DD/YYYY	