

Letter from Mr Krishnan Anantharamakrishnan, Expert Witness to Instructing Solicitors and Agencies – Setting out Terms and Conditions of Appointment

DISCLAIMER

These draft terms and conditions of appointment and the accompanying notes are intended to be a guide only to assist the expert witness to consider the matters that are most relevant to their contract to provide services and their obligations to the Court.

I am aware of and compliant with the following:

- Protocol for the Instruction of Experts to give Evidence in Civil Claims ('Protocol');
- Civil Procedure Rules Part 35 Experts and Assessors ('CPR35');
- Practice Direction Part 35 Experts and Assessors ('PD35'); and
- Practice Direction Pre-Action Conduct ('PD Pre-Action Conduct').

I have consulted my medical insurance company THEMIS regarding the details set out in this document.

Dear Team

Re: Expert Witness Reports

Following our recent discussions, I set out below the terms and conditions on which I am prepared to accept appointment as an expert witness (the "Appointment") and to write expert reports. These terms will be the only terms which apply to the "Appointment" of writing expert reports and may only be amended by agreement in writing.

Where I am instructed jointly by more than one party, references to 'you' shall be construed as references to any instructing party, and each instructing party acknowledges and agrees that they are jointly and severally liable for complying with the terms of this letter, including without limitation the payment of the Fee and all Disbursements, unless agreed otherwise by me in writing.

1. Fees

1.1. In consideration of the provision of my services as expert witness under the

Appointment, you shall pay a fixed fee of £ 1500 (the "Fee"). You shall pay the Fee by bank transfer to my nominated account, details of which will be contained on the invoice provided to you, which would be the AMSA Private Company

1.2. Whilst it is appreciated that you may require your Client and/or a third party to meet the costs of the Fee, your firm agrees to be [ultimately liable OR jointly and severally liable with other instructing parties] for the Fee and will pay the Fee in accordance with the terms of this Appointment.

1.3. You shall pay all reasonable disbursements that I incur in connection with the Appointment. Disbursements will include (but will not be limited to) travel, printing costs, photocopying and reasonable accommodation and subsistence costs (“Disbursements”). You confirm and agree that I will only be required to travel within the United Kingdom for the purposes of the Appointment. Travel by rail and air will be first class and car mileage charged at £1.50 per mile. [I will seek your written authority before incurring any significant disbursements or expenses over £ [200].

1.4. I will send you invoices on a case-by-case basis, which will include all Disbursements incurred for that month, attaching relevant receipts where possible. You shall pay all Disbursements by bank transfer to the nominated account described in paragraph 1.1 of this letter within 14 days of the date of the invoice. My invoices will also include a breakdown of work done and time spent on any given date. I understand that my invoices may need to be shown to the other side and to the costs judge on the issue of your client’s costs.

1.5. If any payment due to me under the terms of the Appointment is not paid by the due date for payment (the “Due Date”), interest shall accrue on the overdue amount at the statutory rate applicable under the Late Payment of Commercial Debts (Interest) Act, plus any applicable fees. Such interest shall accrue on a daily basis from the Due Date until the date of actual payment, whether before or after judgment.

1.6. You shall provide prompt written notice of the cancellation of any court appearance or hearing, and you agree to pay me a fee in the event of such cancellation, calculated as follows:

Date prior to earliest scheduled court appearance or hearing on which I receive written notice of cancellation	Cancellation fee (Percentage of fees per day booked)
Fewer than 7 days’ notice inclusive	100%
Between 8 and 21 days inclusive	50%
Between 22 and 60 days inclusive	20%
61 days or later	No cancellation fee.

1.7. You shall provide prompt written notice of the cancellation of any consultation or appointment with you and/or your Client. If I receive less than two days’ written notice of any such cancellation (excluding the date on which the consultation or appointment was to take place) [and the consultation or appointment in question is not covered by my fixed fee] you shall pay me the full amount for my attendance at such consultation or appointment had it not been cancelled, calculated using my hourly rate as set out at **Schedule 2** and including any Disbursements actually incurred.

1.8. For the avoidance of doubt, in the event any cancellation fee applies, you shall also pay all outstanding Disbursements in connection with the appearance or appointment that has been cancelled.

1.9. In the event of non-payment of any sum due to me under the terms of the Appointment, you shall reimburse all reasonable costs incurred by me in recovering such sums (including but not limited to the appointment of a debt collection agency and all associated costs).

2. Your obligations

2.1. You must:

2.1.1. give adequate and timely instructions, and obtain all relevant notes, records and investigations, and check that all relevant matters are addressed in your instructions and my reports.

2.1.2. pursuant to paragraph 2.1.1 above, provide me with a letter setting out your instructions which shall, as a minimum, cover the areas listed in **Schedule 1** to this letter.

2.1.3. provide me with, or procure the provision of, all information which might reasonably be expected to be relevant in enabling me to fulfil my responsibilities under this Appointment (“Information”) as and when it becomes available to your client and/or to you.

2.1.4. ensure that the Information provided or prepared by your client or on your client’s behalf is complete and accurate in all material aspects, is not misleading and is updated as necessary. You shall inform me immediately if you or your Client discovers or have reason to believe that any of the Information is, or becomes, untrue, incomplete, misleading, or inaccurate in any material respect. You acknowledge that I shall, and am entitled to, rely upon all Information provided to me, that I shall not be responsible for the accuracy or verification of any Information, and that my report will be provided only on the basis of the Information disclosed to me by you.

2.1.5. Confirm to me promptly in writing that my Fees and Disbursements are no higher than reasonably necessary for the purpose of litigation, bearing in mind my professional expertise. You shall obtain any approvals required from the Legal Aid Board or any other third party from whom you may seek contributions in respect of my charges at the required times. If you are seeking contributions in respect of my Fee from the Legal Aid Board or insurers, please provide in writing all relevant details of these arrangements, including policy details

2.1.6. comply with and take all reasonable steps to assist me in complying with the Protocol and the Civil Procedures Rules referred to in Paragraph 3.

3. Duties to the Court

3.1. I confirm that I have read and will comply with the Protocol published by the Civil Justice Council, CPR35, PD35, and PD Pre-Action Conduct. In particular I understand that, although I owe a duty of care to you and your client to exercise reasonable skill and care in carrying out the instructions, my primary duty as an expert witness is to provide independent and unbiased evidence to the Court.

4. Liability

My total liability for professional negligence (excluding any liability for fraud or wilful misconduct) under or in connection with this Appointment shall not exceed £ [£250,000.00 (sub-limit of Medical Malpractice Indemnity Limit)

5. Insurance

I confirm that I hold professional indemnity insurance in respect of the Appointment

6. Right to Terminate

6.1. I may terminate this Appointment immediately by giving you written notice if:

6.1.1. I consider that any of your instructions are not acceptable. Examples of unacceptable instructions may include (but will not be not limited to) instructions that require work that falls outside my expertise, impose unrealistic deadlines, are insufficiently clear, or are or

have become insufficient to complete any work required in connection with the Appointment;

6.1.2. I reasonably consider that I may not be able to fulfil any term of the Appointment; or

6.1.3. I am not satisfied that I can comply with any orders and/or directions that have been made by the Court.

6.2. In the event that I consider it necessary and prudent for me to terminate this Appointment, I will discuss this with you first before providing written notice of termination. Any such notice will specify the relevant ground for termination set out in paragraph 6.1 above.

6.3. Subject to discussions with me in accordance with the Protocol, you may terminate this Appointment by written notice.

6.4. Termination will not affect my entitlement to any sums payable to me under the terms of this Appointment accruing before the date of the termination.

6.5. On termination I will return all documents and materials provided to me for the purpose of this Appointment promptly to you, save for one copy that I may retain for my records. Any copies that I receive or retain shall be held in accordance with my privacy policy, a copy of which is attached.

7. Intellectual Property

I will own the copyright in all reports and/or materials produced by me. Additionally, I will retain the title to all reports and/or materials produced by me until I have received full payment in accordance with the terms of the Appointment. Subject to receipt of all payments due under the Appointment, your Client is authorised to use the same for the purposes of the matters contained in my instructions only.

8. Confidentiality

I will treat all information, facts, matters, documents and all other materials of a confidential nature which I receive or create as a result of this Appointment as confidential (except insofar as I have to refer to them when setting out the substance of my instructions in your report or as required by law).

9. Responsibility

I confirm that the work which is carried out in relation to this retainer will be my own and will not be delegated or sub-contracted to someone else.

10. Conflict

You have notified me in writing of all parties who have some limited involvement in this matter including Counsel and solicitors and other experts already instructed in this case. I confirm that I do not have an actual or potential conflict of interest in accepting this Appointment in respect of any parties so named and that I will let you know without delay if I become aware of such a conflict.

11. Joint Instructions

In circumstances where I am jointly instructed by Instructing Solicitors, both sets of Instructing Solicitors must sign and return a copy of this letter and completed schedule within seven days and ensure it is copied to all Instructing Solicitors. It is for Instructing Solicitors to resolve any disagreements the parties may have in relation to instructions. Instructing Solicitors should note that Paragraph 17 of the Protocol will apply.

12. Governing Law

This letter and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and

construed in accordance with, the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this letter or its subject matter or formation.

13. Force Majeure

I shall not be liable for any delay in the performance of any obligations under this Appointment (and the time for the performance of any obligations under this Appointment shall be extended accordingly) if such delay arises from or is attributable to acts, events, omissions or accidents beyond my reasonable control including but not restricted to, ill health, acts of God or of the public enemy, fires, floods, epidemics, riots, quarantine restrictions, strikes, freight embargoes, earthquakes, electrical outages, computer or communications failures, severe weather, and acts or omissions of subcontractors or third parties.

Please sign and return a copy of this letter to me. Please note that the Appointment will only be confirmed when I have received your letter of instruction pursuant to paragraph 2.1.2 above and I have confirmed my acceptance of the Appointment to you in writing.

In signing these terms for your client, you warrant that you have all requisite full power and authority to do so both as agent for your Client(s) and in your own capacity to the extent that you undertake direct obligations.

Fee Arrangement and Contact Information

Fee.Details.and.Negotiation

If you require further information regarding fees, please do not hesitate to contact me. I am happy to discuss your specific instructions and provide a detailed breakdown of the fees associated with your requirements.

Once your instructions are clarified, I will ensure that a definitive fee arrangement is established. This arrangement will be straightforward, nominal, and open to negotiation to suit your particular needs.

I am easily available on 07857 449 351 or ananthurologist@yahoo.com

Signed by [NAME OF EXPERT]

Signed by [NAME OF INSTRUCTING PARTY]
for and on behalf of [NAME OF INSTRUCTING FIRM OR AGENCY]

[TITLE OF INSTRUCTING PARTY AND AGENCY]

Schedule 1 (Scope of Instructions)

1. Capacity (i.e. area of expertise for expert witness)
2. Services required
3. Background Facts
4. Issues to be addressed in advice/report
5. Timing
 - 5.1. Delivery of full information to expert
 - 5.2. Delivery of report
 - 5.3. Court Dates (if known) (Expert to specify dates upon which they will not be available)
6. Details of other parties (see paragraph 10).

Schedule 2 (Fees)

Fixed Fee

The Fee includes the work specified below. Where there is no figure next to an item, or where I undertake any work outside of the scope of work below, my standard hourly rate of £ 275 will apply. You shall pay the Fee as soon as you received the invoice as discussed elsewhere.

Scope of Work

Reports

1. Professional reports of facts for uncontested personal injury cases, fast track, value under £10,000: £ 1500
2. Expert medical reports in more complex cases involving opinion as to injuries, causation, and prognosis: £ 2500
3. Further reports, reviews, joint consultations: to be charged at my hourly rate
4. Medical and Clinical Negligence: CPR compliant consultation reports: £[INSERT AMOUNT] plus VAT
5. Advisory reports based on records: £[INSERT AMOUNT] plus VAT
6. Capacity reports: £[INSERT AMOUNT] plus VAT
7. Court of Protection reports: £[INSERT AMOUNT] plus VAT