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September 3, 2015

**BY EMAIL AND REGULAR U.S. MAIL**

Jeffrey R. Huntsberger, Esq.  
McDonald Hopkins LLC  
600 Superior Avenue, East, Suite 2100  
Cleveland, Ohio 44114

[jhuntsberger@mcdonaldhopkins.com](mailto:jhuntsberger@mcdonaldhopkins.com)

**Re: *Edward Graham, et al, v. City of Lakewood, et al.*  
Cuyahoga County Court of Common Pleas, Case No. CV 15 846212**

Dear Mr. Huntsberger:

As you are aware, the City of Lakewood and Mayor Summers, along with Lakewood Hospital Association, Thomas Gable, Cleveland Clinic Foundation, Dr. Cosgrove, Lakewood Hospital Foundation, Kenneth Haber, and Subsidiary Healthcare, LLC, have been sued by five Lakewood residents in the above-captioned suit.

The Amended and Restated Lease entered into by the city and LHA on or about December 23, 1996 contains an indemnity provision. Section 9.9 of the Lease provides as follows:

The Lessee (i) releases the City from, (ii) covenants and agrees that the City will not be liable for, and (iii) covenants and agrees to indemnify the City against all liabilities, claims, costs, losses and expenses imposed upon or asserted against the City on account of

(a) any loss or damage to property, or injury to, death of or loss by any person, that may be occasioned by any cause whatsoever pertaining to the acquisition, construction, improvement, equipping, maintenance, operation or use of the Leased Premises or occurring otherwise in or about the Leased Premises;

(b) any breach or default on the part of the Lessee in the observance or performance of any covenant, agreement or obligation of the Lessee

under the Lease or arising from the acquisition, construction, improvement, equipping, maintenance, operation or use of the Leased Premises, or from any act or failure to act by the Lessee or any of its agents, contractors, servants, employees or licensees;

(c) ownership or lease of any interest in the Leased Premises; and

(d) any action, claim or proceeding brought in connection with any of the foregoing.

The amended complaint, which was filed on August 5, 2015, is replete with allegations that the plaintiffs have suffered losses due to the lack of maintenance, the lack of equipping, and the operation of Lakewood Hospital. Likewise, the amended complaint is replete with allegations that LHA has breached the amended lease. Finally, the plaintiffs' claims against the city arise out of the city's ownership of and lease of Lakewood Hospital to LHA.

Based on the allegations in the amended complaint, the provisions set forth above from Paragraph 9.9 of the amended lease between the city and LHA require that LHA indemnify the City of Lakewood in the above-captioned suit. Although we are of singular purpose in defending against these claims, the city nevertheless must seek indemnification.

As you are aware, the city and Mayor Summers have retained Brzytwa Quick & McCrystal to defend them in this litigation. Pursuant to Section 9.9 of the amended lease, the city and Mayor Summers request that LHA pay the legal fees and expenses incurred by the city and Mayor Summers in this litigation and indemnify them against any judgment entered against them in this litigation.

A copy of Brzytwa Quick & McCrystal's invoice for services rendered through July, 2015 is attached with the narrative portion of the invoice redacted to preserve the city's and Mayor Summers's attorney-client privilege. If you're able to dispense with the city placing LHA and the Cleveland Clinic on formal notice of this request under the notice provisions of the lease, and of course if LHA agrees with the request, please cause a check, made payable to "Brzytwa Quick & McCrystal LLC," to be sent to me for the full amount of the attached invoice. As I receive additional invoices, I will send them to you requesting further payment unless you direct me toward some other procedure.

I look forward to LHA's response to this request. Please feel free to call me to discuss any questions you may have.

Very truly yours,



Kevin M. Butler

encl.: invoice

copy: Michael J. Meehan, Esq., by email to meehanm@ccf.org

# BRZYTWA QUICK & McCRYSTAL LLC

Attorneys and Counselors at Law

1660 W 2ND ST STE 900

CLEVELAND OH 44113-1411

Telephone (216) 664-6900

FED. I.D. #34-1770590

Kevin M. Butler, Director of Law  
City of Lakewood  
12650 Detroit Road  
Lakewood, OH 44107

07/31/2015

Client 027612

## MATTER STATUS

|        |                                                    | <u>Current<br/>Charges</u> | <u>Past Due<br/>Amount</u> |
|--------|----------------------------------------------------|----------------------------|----------------------------|
| 027612 | Re: Lakewood Hospital Association/Cleveland Clinic | 57,910.56                  | 0.00                       |

## ACCOUNT SUMMARY

|                  | <u>Amount</u> |
|------------------|---------------|
| Past Due:        | <u>\$0.00</u> |
| Current Charges: |               |
| Total Fees       | \$57,441.00   |
| Total Costs      | \$469.56      |
| Total            | \$57,910.56   |
| Balance Due:     | \$57,910.56   |

# BRZYTWA QUICK & McCRYSTAL LLC

Attorneys and Counselors at Law

1660 W 2ND ST STE 900  
CLEVELAND OH 44113-1411  
Telephone: (216) 664-6900  
FED I.D. #34-1770590

Bill Date July 31, 2015  
Billed through 07/31/15  
Client - Matter 027612-00003  
Bill number 45265 REC

Kevin M. Butler, Director of Law  
City of Lakewood  
12650 Detroit Road  
Lakewood, OH 44107

RE: Re: Lakewood Hospital Association/Cleveland Clinic

|                                                 |            |            |
|-------------------------------------------------|------------|------------|
| Balance forward as of bill dated                | 11/30/2014 | \$4,998.00 |
| Payments received since last bill: last payment | 02/02/2015 | \$4,998.00 |
| Net balance forward                             |            | \$0.00     |

## FOR PROFESSIONAL SERVICES RENDERED

|          |     |                                                    |          |            |         |
|----------|-----|----------------------------------------------------|----------|------------|---------|
| 05/28/15 | EJB | Re: Lakewood Hospital Association/Cleveland Clinic | 4.50 hrs | 265.00 /hr | 1192.50 |
|----------|-----|----------------------------------------------------|----------|------------|---------|

Redacted – Attorney  
Client Privilege

|          |     |  |          |            |         |
|----------|-----|--|----------|------------|---------|
| 05/28/15 | REC |  | 8.10 hrs | 210.00 /hr | 1701.00 |
|----------|-----|--|----------|------------|---------|

Redacted – Attorney  
Client Privilege

05/29/15 REC

7.80 hrs

210.00 /hr

1638.00

|          |     |                                         |          |            |         |
|----------|-----|-----------------------------------------|----------|------------|---------|
| 05/30/15 | EJB |                                         | 3.70 hrs | 265.00 /hr | 980.50  |
| 05/31/15 | EJB | Redacted – Attorney<br>Client Privilege | 0.90 hrs | 265.00 /hr | 238.50  |
| 05/31/15 | REC |                                         | 4.40 hrs | 210.00 /hr | 924.00  |
| 06/01/15 | EJB |                                         | 0.80 hrs | 265.00 /hr | 212.00  |
| 06/01/15 | REC |                                         | 5.60 hrs | 210.00 /hr | 1176.00 |
| 06/02/15 | EJB |                                         | 0.70 hrs | 265.00 /hr | 185.50  |

|          |     |  |          |            |         |
|----------|-----|--|----------|------------|---------|
| 06/02/15 | REC |  | 5.80 hrs | 210.00 /hr | 1218.00 |
|----------|-----|--|----------|------------|---------|

Redacted – Attorney  
Client Privilege

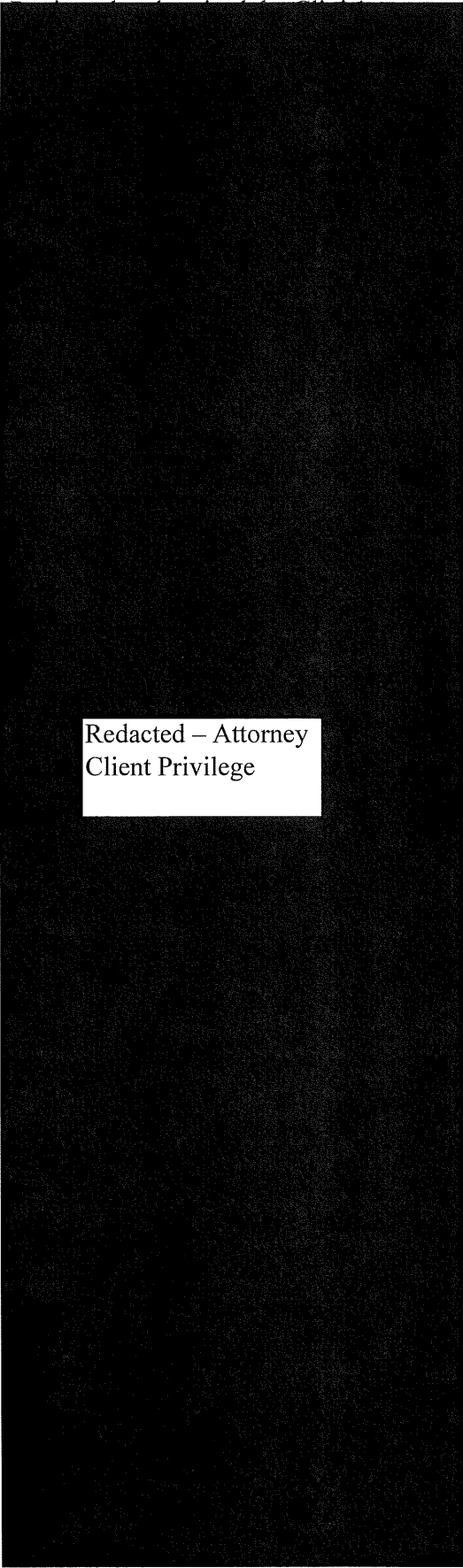
|          |     |  |          |            |        |
|----------|-----|--|----------|------------|--------|
| 06/03/15 | EJB |  | 2.50 hrs | 265.00 /hr | 662.50 |
|----------|-----|--|----------|------------|--------|

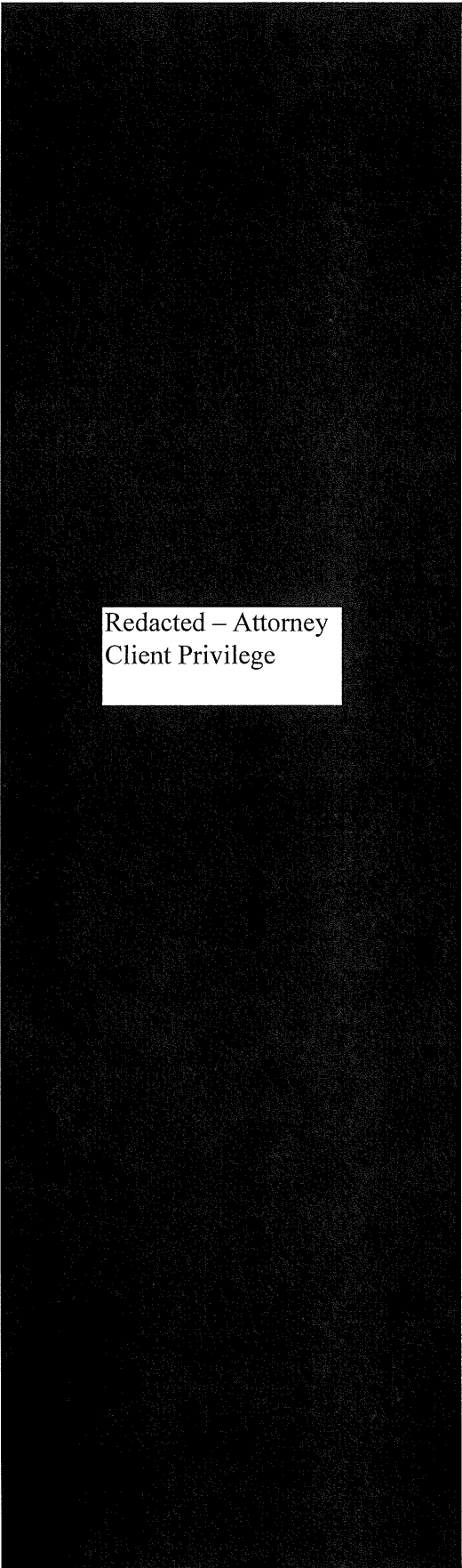
|          |     |  |          |            |         |
|----------|-----|--|----------|------------|---------|
| 06/03/15 | REC |  | 6.90 hrs | 210.00 /hr | 1449.00 |
|----------|-----|--|----------|------------|---------|

|          |     |  |          |            |        |
|----------|-----|--|----------|------------|--------|
| 06/04/15 | REC |  | 4.60 hrs | 210.00 /hr | 966.00 |
|----------|-----|--|----------|------------|--------|

|          |     |                                         |          |            |         |
|----------|-----|-----------------------------------------|----------|------------|---------|
| 06/04/15 | EJB |                                         | 3.20 hrs | 265.00 /hr | 848.00  |
| 06/05/15 | REC |                                         | 0.80 hrs | 210.00 /hr | 168.00  |
| 06/07/15 | EJB | Redacted – Attorney<br>Client Privilege | 0.90 hrs | 265.00 /hr | 238.50  |
| 06/08/15 | EJB |                                         | 1.60 hrs | 265.00 /hr | 424.00  |
| 06/08/15 | REC |                                         | 5.30 hrs | 210.00 /hr | 1113.00 |
| 06/09/15 | EJB |                                         | 0.50 hrs | 265.00 /hr | 132.50  |
| 06/09/15 | EJB |                                         | 0.50 hrs | 265.00 /hr | 132.50  |
| 06/09/15 | REC |                                         | 1.50 hrs | 210.00 /hr | 315.00  |
| 06/10/15 | EJB |                                         | 0.40 hrs | 265.00 /hr | 106.00  |
| 06/10/15 | EJB |                                         | 0.10 hrs | 265.00 /hr | 26.50   |
| 06/10/15 | REC |                                         | 0.40 hrs | 210.00 /hr | 84.00   |

|          |     |                                         |          |            |         |
|----------|-----|-----------------------------------------|----------|------------|---------|
| 06/11/15 | EJB |                                         | 0.30 hrs | 265.00 /hr | 79.50   |
| 06/11/15 | REC |                                         | 4.70 hrs | 210.00 /hr | 987.00  |
| 06/12/15 | EJB |                                         | 1.40 hrs | 265.00 /hr | 371.00  |
| 06/12/15 | REC | Redacted – Attorney<br>Client Privilege | 5.80 hrs | 210.00 /hr | 1218.00 |
| 06/15/15 | REC |                                         | 1.10 hrs | 210.00 /hr | 231.00  |
| 06/16/15 | EJB |                                         | 0.60 hrs | 265.00 /hr | 159.00  |
| 06/16/15 | REC |                                         | 0.90 hrs | 210.00 /hr | 189.00  |
| 06/17/15 | EJB |                                         | 0.70 hrs | 265.00 /hr | 185.50  |

|          |     |                                                                                                                                                                     |          |            |        |
|----------|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|------------|--------|
| 06/17/15 | REC |  <div data-bbox="440 980 709 1089">Redacted – Attorney<br/>Client Privilege</div> | 2.20 hrs | 210.00 /hr | 462.00 |
| 06/18/15 | REC |                                                                                                                                                                     | 3.20 hrs | 210.00 /hr | 672.00 |
| 06/19/15 | EJB |                                                                                                                                                                     | 0.60 hrs | 265.00 /hr | 159.00 |
| 06/19/15 | REC |                                                                                                                                                                     | 2.40 hrs | 210.00 /hr | 504.00 |
| 06/22/15 | EJB |                                                                                                                                                                     | 0.20 hrs | 265.00 /hr | 53.00  |

|          |     |                                                                                    |          |            |         |
|----------|-----|------------------------------------------------------------------------------------|----------|------------|---------|
| 06/23/15 | EJB |  | 0.80 hrs | 265.00 /hr | 212.00  |
| 06/23/15 | REC |                                                                                    | 4.80 hrs | 210.00 /hr | 1008.00 |
| 06/24/15 | EJB |                                                                                    | 1.40 hrs | 265.00 /hr | 371.00  |
| 06/24/15 | REC |                                                                                    | 6.20 hrs | 210.00 /hr | 1302.00 |
| 06/25/15 | EJB |                                                                                    | 0.60 hrs | 265.00 /hr | 159.00  |
| 06/25/15 | REC |                                                                                    | 7.60 hrs | 210.00 /hr | 1596.00 |
|          |     |                                                                                    |          |            |         |

Redacted – Attorney  
Client Privilege

|          |     |  |          |            |         |
|----------|-----|--|----------|------------|---------|
| 06/26/15 | REC |  | 6.70 hrs | 210.00 /hr | 1407.00 |
|----------|-----|--|----------|------------|---------|

|          |     |  |          |            |        |
|----------|-----|--|----------|------------|--------|
| 06/29/15 | EJB |  | 2.60 hrs | 265.00 /hr | 689.00 |
|----------|-----|--|----------|------------|--------|

Redacted – Attorney  
Client Privilege

|          |     |  |          |            |        |
|----------|-----|--|----------|------------|--------|
| 06/29/15 | REC |  | 3.40 hrs | 210.00 /hr | 714.00 |
|----------|-----|--|----------|------------|--------|

|          |     |  |          |            |        |
|----------|-----|--|----------|------------|--------|
| 06/30/15 | EJB |  | 0.90 hrs | 265.00 /hr | 238.50 |
|----------|-----|--|----------|------------|--------|

|          |     |  |          |            |         |
|----------|-----|--|----------|------------|---------|
| 06/30/15 | REC |  | 5.90 hrs | 210.00 /hr | 1239.00 |
|----------|-----|--|----------|------------|---------|

|          |     |  |          |            |         |
|----------|-----|--|----------|------------|---------|
| 07/01/15 | EJB |  | 4.90 hrs | 265.00 /hr | 1298.50 |
|----------|-----|--|----------|------------|---------|

|          |     |  |          |            |         |
|----------|-----|--|----------|------------|---------|
| 07/01/15 | REC |  | 6.80 hrs | 210.00 /hr | 1428.00 |
|----------|-----|--|----------|------------|---------|

|          |     |  |          |            |        |
|----------|-----|--|----------|------------|--------|
| 07/02/15 | EJB |  | 0.40 hrs | 265.00 /hr | 106.00 |
|----------|-----|--|----------|------------|--------|

|          |     |  |          |            |         |
|----------|-----|--|----------|------------|---------|
| 07/02/15 | REC |  | 6.90 hrs | 210.00 /hr | 1449.00 |
|----------|-----|--|----------|------------|---------|

|          |     |  |          |            |       |
|----------|-----|--|----------|------------|-------|
| 07/06/15 | EJB |  | 0.30 hrs | 265.00 /hr | 79.50 |
|----------|-----|--|----------|------------|-------|

|          |     |  |          |            |        |
|----------|-----|--|----------|------------|--------|
| 07/06/15 | REC |  | 2.50 hrs | 210.00 /hr | 525.00 |
|----------|-----|--|----------|------------|--------|

|          |     |  |          |            |        |
|----------|-----|--|----------|------------|--------|
| 07/07/15 | EJB |  | 1.50 hrs | 265.00 /hr | 397.50 |
|----------|-----|--|----------|------------|--------|

|          |     |  |          |            |         |
|----------|-----|--|----------|------------|---------|
| 07/07/15 | REC |  | 7.90 hrs | 210.00 /hr | 1659.00 |
|----------|-----|--|----------|------------|---------|

|          |     |                                         |          |            |         |
|----------|-----|-----------------------------------------|----------|------------|---------|
| 07/08/15 | EJB | Redacted – Attorney<br>Client Privilege | 0.50 hrs | 265.00 /hr | 132.50  |
| 07/08/15 | REC |                                         | 8.20 hrs | 210.00 /hr | 1722.00 |

|          |     |          |            |         |
|----------|-----|----------|------------|---------|
| 07/09/15 | EJB | 0.40 hrs | 265.00 /hr | 106.00  |
| 07/09/15 | REC | 6.10 hrs | 210.00 /hr | 1281.00 |

|          |     |  |          |            |        |
|----------|-----|--|----------|------------|--------|
| 07/10/15 | EJB |  | 0.50 hrs | 265.00 /hr | 132.50 |
|----------|-----|--|----------|------------|--------|

|          |     |  |          |            |        |
|----------|-----|--|----------|------------|--------|
| 07/10/15 | EJB |  | 0.40 hrs | 265.00 /hr | 106.00 |
|----------|-----|--|----------|------------|--------|

|          |     |  |          |            |        |
|----------|-----|--|----------|------------|--------|
| 07/10/15 | REC |  | 4.20 hrs | 210.00 /hr | 882.00 |
|----------|-----|--|----------|------------|--------|

Redacted – Attorney  
Client Privilege

|          |     |  |          |            |        |
|----------|-----|--|----------|------------|--------|
| 07/13/15 | REC |  | 1.50 hrs | 210.00 /hr | 315.00 |
|----------|-----|--|----------|------------|--------|

|          |     |                                            |          |            |         |
|----------|-----|--------------------------------------------|----------|------------|---------|
| 07/14/15 | EJB |                                            | 0.50 hrs | 265.00 /hr | 132.50  |
| 07/14/15 | EJB |                                            | 0.30 hrs | 265.00 /hr | 79.50   |
| 07/15/15 | EJB |                                            | 0.90 hrs | 265.00 /hr | 238.50  |
| 07/15/15 | EJB |                                            | 0.30 hrs | 265.00 /hr | 79.50   |
| 07/15/15 | REC | Redacted –<br>Attorney Client<br>Privilege | 5.50 hrs | 210.00 /hr | 1155.00 |
| 07/16/15 | REC |                                            | 5.00 hrs | 210.00 /hr | 1050.00 |

|          |     |                                         |          |            |         |
|----------|-----|-----------------------------------------|----------|------------|---------|
| 07/17/15 | EJB |                                         | 0.50 hrs | 265.00 /hr | 132.50  |
| 07/17/15 | REC |                                         | 4.10 hrs | 210.00 /hr | 861.00  |
| 07/18/15 | EJB |                                         | 0.20 hrs | 265.00 /hr | 53.00   |
| 07/20/15 | EJB |                                         | 2.90 hrs | 265.00 /hr | 768.50  |
|          |     | Redacted – Attorney<br>Client Privilege |          |            |         |
| 07/20/15 | REC |                                         | 7.30 hrs | 210.00 /hr | 1533.00 |

07/21/15 EJB

1.10 hrs

265.00 /hr

291.50

07/21/15 REC

3.60 hrs

210.00 /hr

756.00

Redacted – Attorney  
Client Privilege

07/22/15 REC

2.90 hrs

210.00 /hr

609.00

07/23/15 EJB

0.40 hrs

265.00 /hr

106.00

07/23/15 EJB

0.70 hrs

265.00 /hr

185.50

07/23/15 REC

2.90 hrs

210.00 /hr

609.00

Redacted – Attorney  
Client Privilege

07/24/15 EJB

3.30 hrs

265.00 /hr

874.50

07/24/15 REC

5.90 hrs

210.00 /hr

1239.00

07/28/15 EJB

2.60 hrs 265.00 /hr

689.00

Redacted – Attorney  
Client Privilege

07/28/15 REC

5.30 hrs 210.00 /hr

1113.00

07/29/15 EJB

0.50 hrs 265.00 /hr

132.50

07/29/15 REC

3.90 hrs 210.00 /hr

819.00

Redacted – Attorney  
Client Privilege

07/30/15 EJB

1.20 hrs 265.00 /hr

318.00

07/30/15 REC

0.80 hrs 210.00 /hr

168.00

07/31/15 EJB

2.30 hrs 265.00 /hr

609.50

07/31/15 REC

Redacted – Attorney  
Client Privilege

4.20 hrs 210.00 /hr

882.00

Total fees for this matter

258.60 hrs

\$57,441.00

DISBURSEMENTS

06/12/15

A + Conferencing; Invoice # 3744805; Conference Call

44.81

06/12/15

Kerri Nestor; Invoice # 06122015; Transcripts

120.90

06/29/15

A + Conferencing; Invoice # 3751263; Conference call to  
discuss case.

94.49

07/14/15

A + Conferencing; Invoice # 3763494; Conference call to  
discuss case.

33.32

07/16/15

Jennifer Tokar; Invoice # 07162015; Transcripts

132.75

07/27/15

A + Conferencing; Invoice # 3774499;  
Conference Call

43.29

Total Disbursements

\$469.56

## BILLING SUMMARY

|                             |            |            |                           |
|-----------------------------|------------|------------|---------------------------|
| E. JOHN BRZYTWA             | 57.00 hrs  | 265.00 /hr | 15,105.00                 |
| ROBERT E. CAHILL            | 201.60 hrs | 210.00 /hr | 42,336.00                 |
| TOTAL FEES                  | 258.60 hrs |            | \$57,441.00               |
| TOTAL DISBURSEMENTS         |            |            | \$469.56                  |
| TOTAL CHARGES FOR THIS BILL |            |            | <u>\$57,910.56</u>        |
| TOTAL BALANCE NOW DUE       |            |            | <u><u>\$57,910.56</u></u> |