



**NOTICE AND ACKNOWLEDGMENT OF RECEIPT
OF SUMMONS AND COMPLAINT BY MAIL**

United States District Court

for the

_____ District of _____

TO: []

Civil Action, File Number _____

_____ V. _____

The enclosed summons and complaint are served pursuant to Rule 4(c)(2)(C)(ii) of the Federal Rules of Civil Procedure.

You **MUST COMPLETE** the acknowledgment part of this form below, **AND RETURN COPIES 1 AND 2** to the sender within 20 days. An envelope has been enclosed for this purpose. Keep copy 3 for your records.

YOU MUST SIGN AND DATE THE ACKNOWLEDGMENT ON ALL COPIES. If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

If you do not complete and return copies 1 and 2 of this form to the sender within 20 days, you (or the party on whose behalf you are being served) may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law.

If you do complete and return copies 1 and 2 of this form, you (or the party on whose behalf you are being served) must answer the complaint within 20 days. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

Date of Signature

Signature (USMS Official)

ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at

Street Number and Street Name or P.O. Box No.

City, State and Zip Code

Signature

Relationship to Entity/Authority to Receive
Service of Process

Date of Signature

REQUEST FOR LEGAL REPRESENTATION

FORM LETTER

Assistant Attorney General
Supervising Attorney, Correctional Litigation Unit
200 St. Paul Place
St. Paul Plaza Building-19th Floor
Baltimore, Maryland 21202

RE:

Dear

In accordance with the Maryland State Government Article of the Annotated Code of Maryland, I hereby request representation from the Office of the Attorney General so as to provide me with a defense in the above-mentioned case.

I was served with the attached papers on and I enclose an executed Representation Agreement setting forth the applicable terms and conditions for the provision of defense.

Sincerely,

Enclosure

LEGAL REPRESENTATION AGREEMENT

WHEREAS, pursuant to Maryland State Government Code Ann. Sections 12-304 - 12-310, _____ had made, in writing, a request that the Attorney General of Maryland prepare and defend on his/her behalf a civil action alleging violation of civil rights, said civil action captioned _____ and filed in the United States District Court for the District of Maryland, and

WHEREAS, the Attorney General of Maryland, by authority of Section 12-304, Annotated Code of Maryland, has caused to be conducted an investigation of the facts on which the civil action is based and, on the basis that the information provided by said employee is complete and neither false nor misleading, and employee so warrants, has determined to his satisfaction that the said employee was at all relevant times acting within the scope of his/her employment, without malice or gross negligence.

NOW, THEREFORE, this Agreement is entered into and made this _____ day of _____, 19____, by and between the Attorney General of Maryland (hereinafter "Attorney General") and _____, (hereinafter "Defendant"), in consideration for the mutual promises, covenants, and agreements set forth below.

1. The Attorney General shall undertake to furnish counsel concerning said civil action on behalf of the Defendant in accordance with the provisions of the State Government Article, Sections 12-304 - 12-310, Annotated Code of Maryland.
2. The Defendant shall cooperate with the Attorney General in the defense of said civil action, including but not limited to disclosure of all facts, documents, papers, items or other matters which he/she knows or should reasonably know are relevant to said civil action; prompt disclosure and transmittal of all insurance policies under the terms of which the insurance carrier may be required to provide counsel in this action, including the names of all insurers and the terms of all policies, immediate transmittal to the Attorney General of every demand, notice, summons, or other process received by him/her, attendance at hearings, conferences and trials; assistance in securing and giving evidence and obtaining the attendance of witnesses; and the Defendant shall not, except at his/her own cost, voluntarily make any payment, assume any obligation, or incur any expense.

3. The Attorney General, if he determines it appropriate, may require the Defendant to reimburse the State for all expenses, including court costs and reasonable attorney's fees, if it is judicially determined that the injuries complained of in said civil action did not arise out of an act or omission of the Defendant occurring during the performance of his/her duties and within the scope of his employment or that the act or omission of the Defendant was malicious or grossly negligent and the defense of sovereign immunity is not available; that said costs constitute a debit due the State of Maryland and may be collected by appropriate judicial proceedings; provided that no such reimbursement may be required if the information provided to the Attorney General by the Defendant was complete and neither false nor misleading.

4. That if judgment is rendered against the Defendant, the State of Maryland, its agency, board, commission or department thereof is not responsible for the payment of the judgment, and the legal representation by the Attorney General, his assistants or Special Counsel, of the Defendant in no manner constitutes an obligation on the part of the State of Maryland to pay the judgment or a settlement of said civil action.

5. The Attorney General shall not compromise or settle said civil action without the written consent of the Defendant, but if the Defendant does not consent to the compromise or settlement, the Attorney General may withdraw from the representation subject to the appropriate rules of Court, and in that event the State of Maryland is not responsible for any further costs whatsoever.

6. The Defendant shall have the right to engage private counsel of his/her own choice, at his/her own expense. If Defendant retains private counsel, the Attorney General in his discretion may withdraw from representation on a limited basis.

7. The Attorney General in his discretion may withdraw from representation of the Defendant, subject to the appropriate rules of court, when the Defendant or his/her private counsel has violated the terms of this agreement.

8. In the event that attorneys' fees, costs or sanctions are awarded in this matter, the state employee, in consideration for representation by the Office of the Attorney General, agrees that the State of Maryland, not the employee, is entitled to any such sums.

9. Whenever the singular or plural number is used herein, it shall equally include the other.

ATTORNEY GENERAL OF MARYLAND

Defendant's Signature:

By: _____
Assistant Attorney General

(name typed)

SAMPLE AFFIDAVIT

[NOTE: This Appendix is intended to serve as an example of the format used in the preparation of an affidavit. It is not to be used as a form.]

STATE OF MARYLAND, COUNTY OF _____ : TO WIT:

I, (Name of Affiant), do hereby affirm on my personal knowledge that the following information is true and correct:

(Substance of Affidavit)*

(Affiant's Signature)

Subscribed and sworn to before me, a Notary Public in and for the State of Maryland, on this _____ day of _____ 19_____.

Notary Public

My Commission Expires:

*The substance of the Affidavit must be detailed, and must respond specifically to each of the plaintiff's allegations of which the employee has personal knowledge. Copies of all pertinent documents (e.g. notices of infraction, serious incident reports, matters of record, medical records, log book entries) should be attached to, and discussed fully in, the affidavit.

If the employee recalls witnessing or participating in the incident described in the complaint, but, because of the passage of time, has no present independent recollection of the specific details of the incident, the affidavit should state affirmatively the employee's lack of such a specific independent recollection. However, the affidavit can then make reference to any documents which reflect and memorialize the employee's actions and which the employee prepared at the time of the incident. This can be done in the affidavit by referring to a prior report prepared by the employee at the time of the incident, adopting it under oath in the affidavit, and attaching a copy of it to the affidavit.

If the employee did not participate in any way in the event described in the complaint or had absolutely no contact with the inmate plaintiff in regard to the allegations of the complaint on the date in question, the employee should expressly state the reason for the lack of personal knowledge. Conclusory assertions such as "I have no knowledge of this incident" are to be avoided; the precise reasons should be set forth (e.g. "I was not working on the day of the incident as alleged, as shown by the attached copy of my time card" or "I was not assigned to the area where the incident is alleged to have occurred, as shown by the attached assignment sheet" or "I was assigned duties which prevented me from being in the area of the alleged incident").

CORRECTIONAL LITIGATION UNIT

As of July 1, 1991, the individuals assigned to the Correctional Litigation Unit are:

Richard M. Kastendieck	Supervising Attorney	576-6429
Glenn W. Bell	Assistant Attorney General	576-6416
Audrey J.S. Carrion	Assistant Attorney General	576-6424
Terri DeLibro	Administrative Assistant Base File Requests	576-6489
Amy B. Kushner	Assistant Attorney General	576-6433
Stephanie Lane-Weber	Assistant Attorney General	576-6340
Timothy J. Paulus	Assistant Attorney General	576-6343
Susan Stone	Secretary	576-6445
Treva Weir	Secretary	576-7298
Fax Machine		576-6404

The mailing address is as follows:

Correctional Litigation Unit
200 St. Paul Place
St. Paul Plaza Building-19th Floor
Baltimore, Maryland 21202

All visitors must first report to the 17th Floor Reception Area.

Employees Charged with Criminal Violations
or
Under Criminal Investigation

State Government Article, Subsection 12-313 to 12-318 provides that an employee who is charged with a criminal offense or who is under criminal investigation by a law enforcement agency may not be represented by the Attorney General or by counsel appointed or provided by the Attorney General.

The statute, however, establishes a procedure for reimbursement of personal expenses incurred for retaining counsel to represent the employee where the employee has been named as a defendant in a criminal case or was the subject of a criminal investigation.

Reimbursement Where an Employee was the
Subject of a Criminal Investigation But No Charges
Were Ever Filed

A State employee or officer may seek reimbursement for his/her attorney fees in connection with a criminal investigation of his/her conduct in a State position. The criteria for reimbursement are as follows: (1) the investigation must be concluded; (2) the criminal charges must not have been filed against the officer or employee.

Reimbursement of the employee's expenses for an attorney may be approved by the Board of Public Works after the Attorney General has certified the following facts:

1. The officer or employee who was under investigation did retain counsel.
2. The officer or employee promptly notified the Attorney General in writing that the employee had retained counsel.
3. The Attorney General is satisfied after a review of all evidence and information that the officer or employee did not engage in any unlawful conduct and discharged his/her public responsibilities in good faith in connection with the matters that were investigated.
4. It was reasonable for the officer or employee to retain counsel and incur the expenses for which the employee seeks reimbursement.

Request for Reimbursement Where Criminal Charges Were Actually Filed

An officer or employee of the State who is actually charged with a criminal offense relating to his/her conduct as an officer or employee of the State may likewise apply for reimbursement of reasonable expenses incurred in his/her defense against those charges. The criteria for reimbursement where charges were actually filed are as follows:

1. The officer or employee who was charged did retain counsel.
2. The officer or employee promptly notified the Attorney General in writing that he/she had retained counsel.
3. The Attorney General is satisfied after a review of all evidence and information that the official or employee discharged his/her public responsibilities in good faith in connection with the matters which were the subject of the charges.
4. The expenses for which reimbursement are sought are reasonable.
5. The criminal charges themselves must not have resulted in a finding of guilt, a plea of guilty or a plea of nolo contendere.

Procedures for Requesting Reimbursement

The following are the procedures that should be followed in conjunction with the above for employees and officers of the Division of Correction:

1. As soon as an employee has been charged (this usually occurs by service on the employee or officer of any of the following: indictment, statement of charges in the District Court, show-cause order in the District Court or criminal information), the employee should immediately forward a copy of the charging documents to the Office of General Counsel in the Office of the Secretary of Public Safety and Correctional Services.
2. If it is a situation where the employee is the subject of a criminal investigation (not yet charged), the employee should promptly notify the Office of General Counsel of the Department of Public Safety and Correctional Services of this fact with a short statement indicating in what jurisdiction the investigation is taking place and other pertinent facts.

3. If the employee has retained counsel, the notification should include the name, address, and telephone number of the attorney that the employee has retained for representation.
4. If the employee has not yet retained counsel, the notification to the Office of General Counsel should so state. If, thereafter, the employee retains counsel, notification should be made.
5. If the employee's attorney requests information concerning circumstances and procedures to be followed, the employee should advise his or her attorney to contact the Office of the General Counsel with specific inquiries.
6. It is important to note that the statute requires prompt notification as a condition of reimbursement. It is requested that all employees pay particular attention to this prompt notification requirement.
7. In a case where an employee was actually charged in the criminal case (see above discussion) at the conclusion of the case, the employee and/or the employee's attorney should forward directly to the Office of General Counsel a certified copy of the docket entry or other appropriate court documents showing that the employee was found not guilty (or other disposition). No request for reimbursement will be entertained if the employee is found guilty.
8. The employee or the employee's attorney should also forward directly to the Office of General Counsel the original or a copy of the invoices or billings from the employee's attorney for the legal services rendered. The billing from the employee's attorney must be detailed. It should include a detailed statement of the services rendered by the attorney, the amount of time spent and the method of fee calculation. An invoice or bill that is submitted without a detailed breakdown of the billing will have to be returned for sufficient detail, thus only delaying processing.
9. Any investigation needed to establish that the employee did not engage in any unlawful conduct and discharged his/her public responsibilities in good faith will be conducted by the Office of General Counsel.
10. After all the appropriate documents, etc., as described above, have been submitted and whatever other information might be necessary has been obtained, the Office of General Counsel, after approval by the Attorney General, will forward the request for reimbursement directly to the Board of Public Works and the employee will be so notified.

11. Employees are cautioned, and they should so advise their attorneys, that the State will reimburse for reasonable counsel fees. Any questions in this regard should be directed to the Office of General Counsel immediately by the employee or the employee's attorney.
12. Questions about these matters should be directed to Alan Eason, Assistant Attorney General, assigned to the Office of the Division of Correction. Mr. Eason may be reached at DOC Headquarters, 764-4191.



DCR # & TITLE 50-29, Request for Representation by the
Attorney General's Office

INST. _____

DATE _____ AUDITOR _____

COMPLIANCE

NON-COMPLIANCE

NOT APPLICABLE

REMARKS ATTACHED

RE-AUDIT COMPLIANCE

RE-AUDIT
NON-COMPLIANCE

ITEM NO.	DCR REF.	AUDIT ITEM						
1.	VI.C. 1.	The warden has designated one staff person to be responsible for the procedures specified in this section of the DCD.						
2.	VI.C.	The warden has ensured that the Assistant Commissioner-Field Services is aware of the name of the designated staff person whose responsibilities are outlined in in section VI.C.I.						