



State of West Virginia
Office of the Attorney General

Patrick Morrissey
Attorney General

(304) 558-2021
Fax (304) 558-0140

**WRITTEN DETERMINATION APPOINTING
JENKINS FENSTERMAKER, PLLC AS
OUTSIDE COUNSEL ON BEHALF OF THE GOVERNOR OF WEST VIRGINIA**

The Governor of West Virginia (hereinafter "Governor") is seeking the assistance of outside counsel to assist with currently pending litigation. More specifically, the Governor is seeking legal assistance to defend litigation styled: *State of West Virginia ex rel William K. Schwartz v. The Honorable James Justice, Governor of the State of West Virginia et al.* Case No. 18-0789 currently pending in the Supreme Court of Appeals of West Virginia.

Pursuant to the written determination issued on September 14, 2018, the Office of the Attorney General determined that due to the potential conflict of interest that may be created through the legal defense strategies available in this matter it was appropriate to appoint qualified outside counsel to assist the Governor with this matter. A request for proposals, RFP # 73, was thereafter issued in accordance with subsection (D) of the Attorney General's Policy on Outside Counsel (Policy #WVAG0-004).

As of the extended September 17, 2018, deadline for proposals, the Office of the Attorney General received three timely proposal for legal services. Due to the potential conflict of interest the three proposals were provided to the Governor to select outside counsel. After a review of the proposals received, the Governor selected the law firm of Jenkins Fenstermaker, PLLC ("Jenkins Fenstermaker") to provide the legal services based on the following factors:

- Jenkins Fenstermaker possesses the needed particular and specialized expertise; and
- Of the proposals received, Jenkins Fenstermaker is the Governor's preferred counsel to provide the legal services under the tight time constraints.

Based on the factors set forth above, as evaluated by the Governor, the Office of the Attorney General authorizes the appointment of Jenkins Fenstermaker, PLLC to serve as outside counsel for the legal matter cited herein pursuant to Section (E) of Policy # WVAGO-004.

A handwritten signature in black ink, appearing to read "Steven A. Travis".

Steven A. Travis
Deputy General Counsel

Date Signed: September 18, 2018