Contract Assignment

I have chosen to analyze an engagement agreement that I have with Lexington Law, which is a credit repair company. The beginning of the contract defines certain words that are used throughout the contract such as: bureaus, communications, content, furnishers, service interval, and websites. This is done to ensure that the client fully understands the language used in the contract. The contract then describes the different service levels that are offered as well as the service level that is being engaged at the time of the agreement. Next is the payment and fees clause; this gives an explanation of the different fees for the various service levels being offered, late fees, and the dates that payments shall be made. It also mentions that the client will never be charged before any services are fully performed. After that is the term and cancellation clause which outlines when the client can suspend or cancel the contract, and the different ways to do so. The next clause is the client responsibilities and communications clause. This clause covers all of the agreements and acknowledgements made between Lexington Law and the client. Use of content for personal benefit, and not for commercial purposes is one example under this clause. The clause that follows is the clause labeled: Lexington Law will not do any of the following; this clause is self-explanatory. Then there is the staffing clause, which will be discussed later in this assignment. The general clause is next; it has many sub-clauses such as: arbitration, severability, conflict in terms, force majeure, copyrights and trademarks, privacy notice, entire agreement, and service of process. Finally, we have the limited designation of agency clause followed by a signature line for the client to sign providing they agree with the contract.

The first clause I will further analyze is the term and cancellation clause, which explains when the client may cancel the contract as well as when Lexington Law may cancel the contract. This clause states that “You may cancel this Contract at any time and in a number of ways....” Therefore, there is no penalty if the contract is cancelled on behalf of the client, for any reason. But, this clause also mentions that “Lexington reserves the right to withdraw from representing you if you have breached this Contract for any reason under applicable professional rules of conduct.” The clause then states that “In the event Lexington withdraws, you agree to pay Lexington for the services rendered by Lexington previous to the date of withdrawal.” In chapter 13, on page 258, section 10 of the textbook, a breach of contract is defined as “When one of the parties to a contract fails to perform as promised, a breach of contract may have occurred.” Lexington Law has the right to withdraw from the contract if the client does not uphold any one of the numerous client responsibilities mentioned in this bilateral contract. Since the contract mentions that the client agrees to pay Lexington for services previously rendered prior to the withdrawal date, there will be compensatory damages awarded to Lexington Law if the client decides to cancel the contract, but fails to pay for previously rendered services. A compensatory damage, as described in chapter 13, on page 258, section 12 of the textbook, is defined as “the amount of money awarded to the non-breaching party to provide that party with the benefit of the contractual bargain.” Once again, if this case were to end up in court, Lexington Law would be awarded the amount of money owed for all unpaid services prior to the date of withdrawal from the contract.

The next clause I will further analyze is the staffing clause. This clause mentions that “Lexington may ask various attorneys, paralegals, clerical staff, or others to assist in handling your case”, but there is no additional charge to the client for work performed by any of the third parties listed above. In chapter 20, on page 394, section 5 of the textbook, it is said that there are contracts involving personal rights or personal duties which may not be transferred without the consent of the non-assigning party. In this contract the non-assigning party is the client and the assigning party is Lexington Law. Lexington Law has mentioned in this clause that a third party may be assigned to assist in the service(s) being performed; therefore, If the client agrees to the contract, there would be no breach of contract on behalf of Lexington Law if they were to assign a third party to assist in the handling of the services. Also, a personal right or duty is defined in chapter 20, on page 394, section 5 of the textbook as “one in which personal trust and confidences are involved or one in which skill, knowledge, or experience of one of the parties is important.” Since the skill, knowledge, and experience of Lexington Law is involved, Lexington Law must assign a third party that has the equivalent knowledge, skills, and experience in order for this clause of the contract to stand true.

The last clause I will further analyze is the arbitration clause. Arbitration is defined in chapter 4, on page 65, section 3 of the textbook as “the procedure used, as an alternative to litigation, to submit a dispute to one or more third parties who have authority to impose a resolution to the dispute.” The contract states that the client agrees to arbitrate all claims and disputes between the client and Lexington Law on an individual basis only and not as part of any class. This means that the client cannot claim that they are being unfairly treated due to race, religion, gender, marital status, etc. Also, the contract mentions that the client waives the right to a trial by jury and waives all rights to participate in a class action lawsuit, or class action arbitration. Also in chapter 4, on Page 65, section 4, we can see that arbitration is described as being recognized by common law. It states that “Arbitration in common law was not a matter of right but was based on an agreement to arbitrate.” By agreeing to the entirety of the contract, the client recognizes that they can only individually arbitrate any claim against Lexington Law because it is clearly stated under this clause.