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_____, 2011
ENGAGEMENT/RETAINER AGREEMENT

DRAFT © 2011, by Auden L. Grumet, Esq.

Mr. John Doe
ABC, Corporation, Inc.
100 Anywhere St.
Atlanta, GA 30305

Re: Engagement/Retainer Agreement
Matter: ABC Corporation, Inc. v. Doe
My File No.: ALGXXX-11.001

Dear Mr. **Doe/ABC** Corporation, Inc.:

I am pleased you/**ABC** Corporation, Inc. ("**ABC**") has asked me [in my professional capacity, as counsel with *The Law Office of Auden L. Grumet, LLC*] to assist it with the matter we discussed concerning _____.

This letter ("*Agreement*") is meant to serve as a follow-up to our **exchange of emails/telephone call(s)** and your/**ABC**'s decision to retain my services, as well as to outline our mutual understanding and agreement concerning several aspects of our relationship.¹ While such formalities may seem like an unnecessary distraction at the beginning of our engagement, I have found that it aids in the development of good client relationships and helps minimize misunderstandings.

(I) SERVICES TO BE PROVIDED

We have agreed that the current scope and focus of my representation may consist of, and shall be limited to [at least initially, unless and until I agree in writing to expand or change said scope], assisting **ABC** with _____, as a result of _____, and preserving, protecting and or pursuing its rights in connection therewith. In the event we later mutually agree in writing, these tasks may be expanded.

¹

Please keep in mind that this document is intended to be and should be treated as a legally-binding contract despite the letter-like format. Unless otherwise specified, "you" and "your" refer to **ABC, Inc.** and you, individually and or as its agent, jointly and separately, as applicable.

My services may include, but are not necessarily limited to, activities such as factual investigation, telephone calls, public records/legal research, preparation, review/receipt and or filing of correspondence, letters, memoranda, email, facsimiles, pleadings, notices, mailings, postal documents, exhibits, electronic scanning/preservation of documents, attending meetings with you and or others, consulting with experts, insurance adjusters, medical providers, traveling to/from and attending/conducting depositions, hearings, arbitrations, mediations or other proceedings and appearances before or contact with various agencies and or courts, etc.

You agree to cooperate with me at all (reasonable and necessary) times to ensure I am able to timely act on its behalf and in its interest and in order for us to have a clear understanding as to the precise scope of the services to be rendered. This includes, for example, regularly checking and responding to emails. ***You and ABC understand that I have not - nor could I - guarantee a specific or favorable result or outcome of/to any particular matter.***

(II) IDENTITY OF CLIENT

ABC Corp. is specifically retaining me for legal representation and as counsel to act on its behalf and no other entity(s) or individual(s) that is now or may become affiliated with it shall be considered my client for any purpose unless this *Agreement* is expressly amended in writing to that effect. As such, I will have the right to represent other current and future clients so long as I adhere to my professional obligation not to disclose any confidential information for the benefit of another party. Provided I act in this manner, you agree not to assert or claim that my possession of such information, even though it may relate to a matter for which I am representing another client, is a basis for disqualifying me from representing another client(s) in any matter.

(III) FEES

As compensation for my services, I will be paid an hourly fee of **\$240.00** for all time/tasks (including travel time, if necessary), exclusive of time spent in, or traveling to/from, court, depositions or other formal legal proceedings [e.g., hearings, trial, calendar calls, ADR, etc.], which shall be billed at a rate of **\$260.00** per hour. In this instance I will require an initial Retainer Fee of **\$2,500.00**, which will be debited as fees are earned and disbursements are incurred.

As we have discussed, **the initial Retainer Fee is not intended to reflect an estimate of the total scope/cost of my work, but is merely a preliminary payment.** Depending upon a variety of factors, ***I may require an additional/increased Retainer Fee(s)*** as the scope, extent and or nature of our engagement changes. However, **the unearned portion remaining at the conclusion of my engagement, if any, will be refunded.** Also, please keep in mind that some limited time may be billed for tasks related to certain preliminary matters leading up to the establishment and formalization of our attorney-client relationship [a rough estimate of such time is 1-2 hours].

All time is to be billed in minimum increments of 1/10th (.10) of an hour. This might mean, for example, that a 'quick' exchange of emails, voicemails, telephone calls, etc. could result in a billing entry of 1/10th of an hour (i.e., 6 minutes), even if I do not actually spend an entire 6 minutes on such a task(s). My general practice, however, if I undertake such multiple and successive tasks throughout a given day, is to bill them cumulatively; so that, for example, two short phone calls might be billed a total of .10 hours.

I generally bill on a monthly [approximately, although this can vary and any variation shall not relieve you from any payment obligations] basis for services performed during the prior billing period. My Statements ["Fee Bills"] will reflect tasks performed on a daily basis, in 1/10th of an hour increments, the fees and disbursements incurred and the Retainer balance [remaining or due], if any. With the exceptions noted herein, **I expect payment within thirty (30) days**; amounts outstanding more than 30 days will accrue interest at the rate of 1.5% per month, compounded monthly, not to exceed the maximum rate permitted by law.

You understand that time may be of the essence in certain situations (i.e. response deadlines, etc.), and **in the event the Retainer Balance is depleted I may, at my sole option, require that it be restored before continuing representation and prior to undertaking additional/expanded tasks** [subject to any Court-Order(s) or Professional Rules of Conduct, if applicable]. Accordingly, if and when I notify you that the Retainer Balance has fallen below the original amount [assuming it has been billed], you agree to tender such Fees within ten (10) days [or sooner if circumstances involving court or other deadlines or urgencies warrant]. To the extent allowable by law you/**ABC** also agree and consent to my withdrawal from representation in any litigation if such withdrawal is due in part or whole to non-payment or untimely payment of my fees and to receive any notice(s) of withdrawal via electronic mail.

(IV) INCIDENTAL EXPENSES

On occasion it may be necessary for me to incur various expenses for items such as travel, parking, mileage, lodging, meals, transcripts, etc. Similarly, some matters require substantial costs for ancillary services such as couriers, postage, long-distance telephone calls, photocopying, word processing/transcription, computerized legal research, telecopying, internet docket/public information access/retrieval and or other reasonable items.

In order to allocate these expenses fairly and keep billing rates as low as possible for those matters which do not involve such expenditures, these items are usually itemized separately on Fee Bills as expenses. Such expenses represent either actual out-of-pocket costs, allocated overhead costs or a combination of both. Mileage will be billed at the then-applicable **Federal tax-deduction rate [currently 50¢/mi.], copies at 15¢ per page and faxes at 15¢ per page.**

(V) PRIVACY AND CONFIDENTIALITY

In the course of my representation I may come into possession of, and work with, certain personal and or confidential information, including financial, credit, medical, health, family, legal, employment and other similar types of data and or documents. As such, you and **ABC** hereby agree and acknowledge that I may do so and it authorizes me to obtain, hold, review, and disseminate and or release such information/data as is necessary to pursue or protect it, its agent(s) and its legal or other interests and rights.

This includes authorization and consent for me to use electronic means of communication, such as electronic mail ("email"), the internet, telephone, facsimile, internal and external computer drives and software to transmit and or store such information and data. In doing so, I will use my best efforts to protect such information, but I cannot guarantee its absolute security.

(VI) COOPERATION

It will be our mutual responsibility to cooperate fully with one another so that the scope of work to be performed can be carried out. To that end, you and **ABC** agree to provide me with any necessary contact or other information requested and to make you, **ABC** and its representatives reasonably available for consultation.

(VII) MISCELLANEOUS

You and **ABC** understand and agree, unless provided otherwise in writing, that I have not been retained - and am not qualified - to provide expert, legal or other advice concerning bankruptcy, taxes, trusts/wills/estates, securities, corporations, antitrust, intellectual property, criminal or family/custody laws, or related matters, including as such relates to the consequences or application of receipt of any settlement proceeds and the like.

You and **ABC** also acknowledge and understand that there are certain risks, both financial and otherwise, associated with the proceedings and tasks described herein, including, but not limited to, exposure to liability and or [counter] claims against you, it, me or us - e.g. for attorneys' fees, abusive litigation, libel, slander, etc. Therefore, in the event a claim, demand or judgment/ruling/award of such nature is made or issued to or against me/my practice or my/its representatives/agents in conjunction with my representation, **ABC** agrees to indemnify and hold me/my practice/agents harmless from any liability [including the cost of defense and attorney's fees, whether proceeding *pro se* or not] arising therefrom.

This document represents our entire agreement, and any changes to it must be mutually agreed upon and in writing (exchange of electronic mail shall suffice). If any portion of this *Agreement* is deemed unenforceable, the remainder shall be unaffected and enforceable.

It is also important to reiterate the possibility that a conflict of interest may arise in light of my dual/simultaneous representation of you (personally) and **ABC as **Co-Defendants**.** By signing this *Agreement* you acknowledge that I have informed you accordingly and understand that as this case progresses there may come a time at which I will be compelled to seek to withdraw as counsel for one or more parties if, in my sole discretion, I determine such a non-waivable conflict exists. Likewise, you acknowledge you are aware of these issues and understand that you should seek independent counsel to advise you if you have any doubts or questions or concerns in this or any other regard.

(VIII) DISPUTE RESOLUTION

In the unlikely event a dispute arises in connection with this *Agreement*, it is my desire to resolve it through amicable discussion. But if such efforts do not resolve the problem, and if the issue is one related to fees/payment, I believe it would be in our best interests to initially engage in a method of non-binding Alternative Dispute Resolution ["ADR"].

Accordingly, You and **ABC** agree that any such fee dispute related to this *Agreement* that cannot be informally resolved within forty-five (45) days shall thereafter be submitted to a neutral ADR organization for such a proceeding within a reasonable time (i.e. 90 days), with each party sharing any associated ADR filing or hearing fees equally but bearing his own expenses and attorney's fees. To the extent allowable, and unless we otherwise mutually agree in writing, we both further agree that such a proceeding will *not* be binding [including the Georgia State Bar's "Fee Arbitration Program"].

However, if you/**ABC** do not respond in writing to my request to submit to same within ten (10) days, it/you waive any right to compel the utilization of such a process and agree that I may proceed as otherwise allowed by law [notwithstanding the foregoing, nothing herein shall preclude initiating earlier legal action to avoid any putative Statute of Limitations defenses].

The prevailing party in any formal *binding* legal action or proceeding shall be entitled to and awarded any actual and reasonable costs/expenses and attorney's fees incurred [including *pro se*, if licensed to practice law in GA] in connection therewith. Furthermore, with the exception of standard and routine inquiries, any dispute or disagreement about the accuracy or validity of my/my firm's fees or bills that requires or leads to my review of, or expenditure of time analyzing, data or documents relating thereto may be billed to you at my sole discretion. Of course, this shall not apply to time incurred that is mutually determined to be solely a result of my error.

In addition to any other applicable forum, you also agree that jurisdiction and venue shall be proper [at my discretion] in Dekalb County in the unlikely event litigation is pursued against you in connection with this *Agreement*, and you hereby waive any defenses to the propriety of same to the extent allowable by law. If requested, you also agree to accept and acknowledge service of process [e.g. of any Complaint] by Certified U.S. Mail (or equivalent statutory delivery) and waive any service defenses to the extent allowed by O.C.G.A. § 9-11-4, Rule 4 of the Federal Rules of Civil Procedure or other applicable statute or rule. Finally, you agree and consent to electronic service of pleadings and other documents pursuant to O.C.G.A. § 9-11-5 (f) in the event of litigation.

(IX) TERMINATION OF SERVICES

Either you or I may terminate our engagement for any reason upon advance written notice to the other person. As soon as is practicable after receiving/giving such notice I will cease to render additional services - except to the extent such may be ordered by the Court or are, in my sole discretion, necessary to protect either its or my interests or for an effective closure of the file - and will cooperate with it in facilitating the orderly transfer of its file to it or to its new attorney(s). You and **ABC** also agree that I may be entitled to a lien on all or a portion of its file and the contents thereof [including digital] and I may therefore retain same in the event monies are due/outstanding to me. Furthermore and notwithstanding, you agree to be responsible for any and all copying, mailing or other costs associated with reproducing, transmitting or retrieving of the contents of the file.

I will also view my engagement as terminated if a period of sixty (60) consecutive days elapses during which I do not have an open project or matter for **ABC**, although my engagement may be renewed under this *Agreement* by my accepting new assignments from it. Once our engagement terminates for any reason, I am permitted to accept work from other clients who may have interests that are or could be adverse to its, provided I do not disclose confidential information acquired during my representation that is material to the new engagement.

Finally, please keep in mind - regardless of fact, fault or circumstance - **termination of my engagement [by either **ABC** or me] does *not* relieve you or **ABC** of the obligation to pay for any fees, costs and expenses generated, incurred and or due for services rendered and or expenses incurred prior to termination and or during/related to an orderly wind down of my services.** In litigation matters or in cases where I am counsel of record, my termination is subject to any applicable Rules or Orders of [and or permission from] the Court.

If you have any questions about any aspect of this *Agreement* please do not hesitate to ask me. Otherwise, please let me know and I will finalize it and mail the original to you to sign, **date** and **initial each page on the bottom right** and return to me. Thank you very much and I look forward to working with you.

Sincerely,

Auden L. Grumet, Esq.
The Law Office of Auden L. Grumet, LLC

Agreed to and accepted:

JOHN A. DOE
Personally and Individually

This ____ day of _____ 2011.

as _____
for ABC, Corp.

This ____ day of _____ 2011.