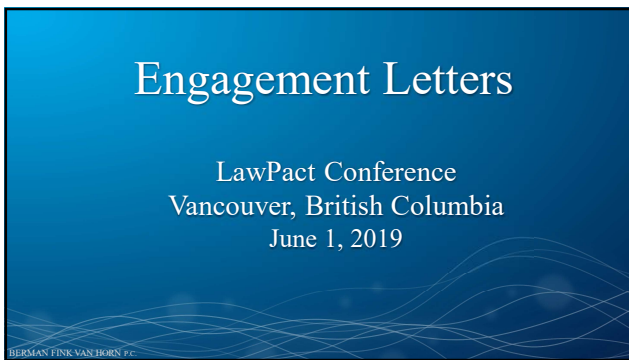
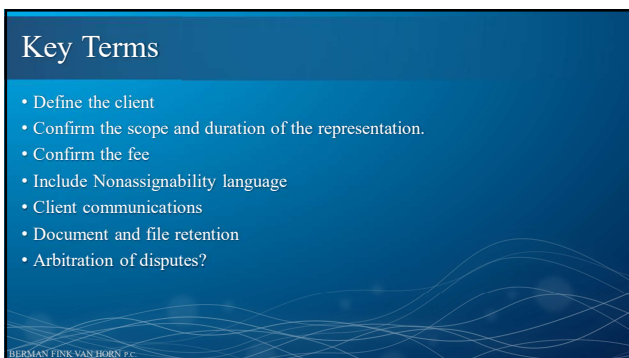




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Benefits of Engagement Agreements

- ABA Model RPCs “prefer” written engagement letters.
- Clear, written understanding of the terms of engagement.
- Ability to tailor the engagement upon commencement of the matter.
- Sound risk management policy.
- Professional liability insurance benefit – under HF policy, existence of engagement agreement will reduce the law firm’s self-insured retention (“deductible”) by 50%.

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Introduction

- BFV strives to provide full transparency with respect to our services and this letter outlines the basic information we believe you need to know regarding the engagement of our firm. This is both to acquaint you with our normal practices and to ensure that there are no misunderstandings over the handling of the matter or the billing for our services. *This letter is a contract between the Company and the firm.* And, more importantly, it is our commitment to you to provide excellent legal service. Please review the balance of this letter carefully and if you have any questions, please let us know.

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Hourly Rates and Retainers

- Our hourly rates are subject to periodic review and change. We typically evaluate our hourly rates annually.
- Retainers:
 - In consideration of the legal services to be rendered on the Company’s behalf, we require an initial retainer in the amount of \$ _____.00. Our firm has no obligation to take any action of any kind on behalf of the Company until this retainer is paid.
 - OR
 - Ordinarily, it is our firm’s policy to obtain retainers from all new clients. Nevertheless, given that the scope of our engagement is limited at this juncture, we have not requested a retainer. In the event the scope of our engagement increases or in the unfortunate event of any litigation, we reserve the right to request a retainer.

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Evergreen Retainers

- Beginning with the first periodic billing, the retainer will be credited against the fees and costs incurred. The retainer must then be replenished within ten (10) days of your receipt of our statements.

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Alternative: Retainers as Collateral

- In order to undertake this representation we ask that the Company deposit with us the amount of \$[10,000]. We will deposit these funds into a non-interest bearing client trust account for the duration of our representation, and any remaining balance will be returned to you immediately upon termination of our representation. We reserve the right to use any part of these funds to satisfy payment of costs or fees. If we do so you will be expected to restore the full retainer and/or deposit such further amounts as we require.

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Retainers for Litigation

- If this matter proceeds to a trial, ninety (90) days before the trial setting, we will require the Company to pay all amounts then owing and we reserve the right to request an additional retainer equal to the fees we estimate will be incurred in preparing for and completing the trial, as well as any out-of-pocket expenses estimated to be incurred. If the Company is behind in paying invoices or fails to timely pay the additional pre-trial retainer requested, we will have the right to withdraw from the representation and to cease from performing further work. If permission of the Court is required, you agree not to oppose any motion to withdraw.

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Billing/Fees

- The Company agrees that our invoices will be deemed accepted if no dispute over any item is brought to our attention within thirty (30) days after receipt of the invoice.
- Beginning with the first periodic billing, the retainer will be credited against the fees and costs incurred. After the retainer is exhausted, payment is due upon receipt of our statements.
- All receivables not paid within thirty (30) days will accrue interest at the rate of one and one-half percent (1½%) per month.
- If the Company fails to remain current on firm invoices, BFV reserves the right to suspend or terminate its services.

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Billing

- BFV does not bill for general office expenses, in-office copies, domestic phone call expenses, conference call expenses, or general office supplies such as pen, paper, notebooks, or other similar items. BFV also does not bill for meals for in-office meetings relating to client matters.
- HF: "... The firm will charge \$0.20 per page for photocopies made on copiers in our firm and \$0.10 per page of document production. ... By retaining us, the Company authorizes us to hire on its behalf court reporters, ... appraisers, investigators, consultants or experts necessary in our judgment to represent your interests in the litigation. We will forward third-party charges directly to you for payment, and you agree to pay such charges directly to the third party within thirty (30) days. We will make a reasonable effort to notify you in advance of incurring unusually large costs.

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Fees

- As we have discussed, the fees and expenses relating to this matter are not predictable. Accordingly, we have made no commitment to you concerning the maximum fees and expenses that will be necessary to resolve or complete the matter. Any estimate of fees and expenses that we may have discussed represents only an estimate of such fees and expenses, as those figures will wholly depend on the time and efforts required to be devoted to this matter. This in turn dependent on numerous factors including the complexity of the issues as they develop further and the approach that the opposition takes in negotiations and any litigation. It is also expressly understood that your obligation to pay our fees and expenses is in no way contingent on the ultimate outcome of the matter.

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Withdrawal/Termination

- BFV may withdraw from our representation and/or terminate this agreement at anytime if the Company (a) insists upon presenting a claim or defense which is not warranted under existing law and cannot be supported by a good-faith argument for modification or reversal of existing law; (b) seeks to pursue an illegal course of conduct; (c) insists that our law firm pursue an illegal or unethical course of conduct; (d) fails to pay any fees or costs when due; or (e) fails to cooperate with us on any matter when requested to do so.
- The Company may discharge us and terminate this contract at anytime. In the event of withdrawal or discharge of BFV, you expressly agree that BFV shall be entitled to all legal fees and expenses incurred in representing the Company, all of which will be due and payable at the time of such termination, unless we agree otherwise. You also agree to pay all fees and expenses incurred in transferring Company files after the engagement.

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Communications/Privilege

- Communications between attorneys and clients are privileged. This means that our communications are protected from review by third parties, including adversaries. The attorney/client privilege and its protections may be lost, however, if you disclose the contents of our communications to anyone else, or if you do not take reasonable steps to protect the confidentiality of our communications. Please refrain from disclosing the contents of any of the communications you have with us. This includes refraining from oral disclosures as well as not permitting others to view copies of our written correspondence. Never forward our email correspondence to any other person.
- To protect the privilege and confidentiality of our communications, you should never communicate with us from your present employer's telephones or computers or from any public computer such as a library or hotel business center computer...

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Electronic Data Transmission and Storage

- BFV may send Company data over the Internet or store electronic data via computer software applications hosted either on our servers, public and/or private cloud-based servers. Data may be stored or transmitted on portable storage devices, including USBs and external hard drives. We may also use third-party service providers to store, copy, or transmit data. In using these data communication and storage methods, our firm employs appropriate measures designed to maintain data security based on several factors, including the type and volume of data being stored or transmitted. We use reasonable efforts to keep such communications and data access secure in accordance with professional standards. By signing this letter, you are consenting to our use of these data communication and storage methods and well as the engagement of third-party vendors in the course of the representation. If you believe this matter requires BFV to handle data that merits extra security precautions in storage or transmission or the use of vendors, please notify us in writing and identify the specific data that requires extra precaution and what precautions you believe are necessary.

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Property/File Retention

- Any materials or documents generated during this engagement are, and shall remain, the property of BFV. Upon the conclusion of the representation, should you desire a copy of those portions of the file that are considered the client's, please let us know. Otherwise, BFV will retain electronic copies of the files for a period of seven years running from the conclusion of the representation, at which time the files will be destroyed unless you notify us to the contrary in writing. Catastrophic events or physical deterioration may result in damage to or destruction of our firm's records, causing the records to be unavailable before the expiration of the retention period as stated in our record retention policy.

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Scope of Engagement

- We have agreed that our engagement is limited to performance of services related to the matter described above. Our acceptance of this engagement does not involve an undertaking to represent you or your interests in any other matters. We may agree with you to limit or expand the scope of our representation from time to time, provided that any such change is confirmed by us in writing. The terms of this letter of engagement will govern all subsequent matters that you ask us to handle and we agree to handle unless we agree otherwise in writing.

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Scope of Engagement (cont'd)

- After completion of the matter or transaction, changes may occur in the applicable laws or regulations that could have an impact upon your future rights and liabilities. Unless you actually engage us after completion of the matter to provide additional advice on issues arising from the matter or transaction, the firm has no continuing obligation to advise you with respect to future legal developments.

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No Guarantee and Opinions are Just Opinions

- While we guarantee our very best efforts on your behalf, we make no guarantee of the outcome of the matter or any phase of the matter.
- We may express opinions or beliefs concerning the litigation or various courses of action and the results that might be anticipated. Any such statements made by any partner or employee of our firm is intended to be an expression of opinion only, based on information available to us at the time, and should not be construed by you as a promise or guaranty. . . . Unless settled, this case will be decided by an arbitrator, judge, or jury, after hearing evidence and argument from both sides. We cannot provide you any assurance as to how a judge, jury or arbitrator may eventually rule.

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Litigation Holds

- *Your matter either is in litigation, or likely could lead to litigation. For that reason, we are providing you a separate letter spelling out your obligation to preserve information, how to fulfill that obligation, and the consequences of not preserving required information.*

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Common Representation

- Common, or joint, representation exists when a law firm is engaged to represent more than one person in the same matter.
- Important rules of professional responsibility apply when representing more than one client in the same matter and attorneys have heightened duties with respect to conflict of interest and client disclosure before accepting common representation.
- Disclose upon engagement the real potential for conflicts of interest arising in the course of engagement.
- Clients must give INFORMED CONSENT to potential conflicts of interest.
- No secrets among clients.

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Payment of Fees by Non-Client

- When someone other than the client will pay the attorney's bill, special rules of professional responsibility apply.
- Disclose upon engagement:
 - The fact that bills will be paid by a third party;
 - The identity of the third party;
 - The attorney-client relationship is with the client;
 - The client, not the third party, is the decision-maker;
 - There is no attorney-client relationship with the third-party, and thus no privilege;
 - The client will be ultimately responsible for paying if third-party fails to pay; and
 - Client must give INFORMED CONSENT to payment arrangement.
- Other special terms, such as sharing of information and communications.

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Contingent Fee Matters

- A "contingent fee matter" is a matter where payment of the attorney's fee and, usually, the amount of the attorney's fee are contingent on the outcome of the matter.
- Special rules of professional responsibility apply to contingent fee engagements.
- Contingent fee engagement agreements are beyond the scope this presentation.

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Arbitration?

- Check your applicable law and rules of professional responsibility.
- Scope of arbitration clause:
 - Fee disputes
 - Professional liability
 - Other matters
- Voluntary fee arbitration/mediation through bar associations.
- Advantages:
 - Confidentiality
 - Speed and relative low expense of proceeding
 - No malpractice counterclaim in fee-dispute only arbitration
- Disadvantage – expensive battle over enforceability and applicability.

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THANK YOU

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