



February 16, 2017

## VIA HAND DELIVERY

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Dear Client:

### **Re: Retainer Agreement**

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Thank you for selecting me to represent you in this matter. I confirm my agreement to act as your legal counsel to resolve your family law problems. This letter confirms the terms and conditions of our agreement.

### **SERVICES PROVIDED**

1. **I cannot guarantee a favourable result. But I can maximize a favourable result's potential. You acknowledge I will do the following to advance this goal in signing this agreement:**
  - a. I will assess the risk to you at all stages of this process and advise you of same; and
  - b. I may provide advice you may not wish to hear and recommend you do things you may not wish to do.
2. **I will do so because a favourable result is one you can live with. It allows you to move beyond what brought you here. It will require you to compromise in negotiation. It will also require you to accept the imposed compromise in litigation. You understand and accept this in signing this agreement.**
3. The services I offer to do the above, include, but are not limited to, the following:
  - a. Reviewing and responding to correspondence from you and from opposing parties;
  - b. Obtaining disclosure relating to legal and evidentiary issues;
  - c. Identifying key issues and developing a theory of the case;
  - d. Keeping a written record of events as the file advances;
  - e. Instructing legal assistants, paralegals, other lawyers and other professionals to advance your interests;
  - f. Undertaking legal research;
  - g. Retaining and instructing mediators, arbitrators, parenting coordinators, or experts including private investigators, valuers, and psychologists on your instruction;
  - h. Negotiating with opposing parties, with or without a mediator or arbitrator, attending settlement meetings, and drafting settlement offers and agreements on your instruction;

- i. Making or defending claims in the Provincial Court of British Columbia, Supreme Court of British Columbia, and the British Columbia Court of Appeal;
- j. Making or defending interim applications to court;
- k. Preparing for and conducting Examinations for Discovery;
- l. Attending Judicial Case Conferences, Family Case Conferences, Settlement Conferences, and Pre-Trial Conferences;
- m. Preparing for and attending Trial;
- n. Obtaining Judgments, settling Orders, and enforcing Orders; and
- o. Undertaking Appeal proceedings, if necessary.

## BILLING

4. All of the above services will hopefully not be required. **The total cost of the services will vary according to the degree of difficulty of the various legal and evidentiary issues and the emotional state of both sides.** More services will be required if the legal and evidentiary issues are complex and difficult and there is a great deal of acrimony between you and your former spouse.
5. **You understand I cannot guarantee to accomplish your goals for a fixed amount, as it is difficult to estimate the amount of time and expense necessary to adequately represent you in this case.**
6. I confirm you have provided my office with a \$XXX retainer.

## OR

7. I confirm you have signed the pre-authorized credit card debit authorization attached as "Schedule A" to this Agreement. It allows me to charge your credit card on each first of the month until the account is paid in full. You understand and accept payment will occur in the following manner:
  - a. **\$500 a month until the first of the month after a Judicial Case Conference; and**
  - b. **\$1,000 a month thereafter until the bill is paid in full.**
8. You also understand and agree any funds coming into our possession to be disbursed to you either by agreement, or court order, shall first be subject to a deduction of ours fees before they are passed on to you.
9. I will keep all retainers in our general trust account for your benefit until I send you a bill. I will then transfer money from your retainer to help pay the bill. **I will not continue to work on your file unless arrangements have been made to secure fees.**
10. My fees are based on an hourly rate. **I will be the main lawyer responsible for your file but from time to time other lawyers or assistants in my office may do some of the work.** Our hourly rates are:
  - a. Kevin J. Groves: \$300.00;
  - b. Aaron M. Lessing: \$500.00;

- c. Matthew Brandon: \$300.00;
  - d. Michael Long: \$250.00;
  - e. Michelle Boscott: \$100.00; and
  - f. UBC Law Student: \$20.
11. My legal fees will be based on the time actually spent plus disbursements, unless I advise otherwise in writing.
12. The above hourly rate will govern before your file concludes. However, I confirm I will use the following table to calculate a discount on the final balance owed:

Tier	Income	Rate	Base %	Discount %	10-hour retainer
1	Less than \$22,000	\$100	100	67	\$1,000
2	Between \$22,000 and \$27,500	\$125	125	58	\$1,250
3	Between \$27,500 and \$33,000	\$150	150	50	\$1,500
4	Between \$33,000 and \$38,500	\$175	175	42	\$1,750
5	Between \$38,500 and \$44,000	\$200	200	33	\$2,000
6	Between \$44,000 and \$49,500	\$225	225	25	\$2,250
7	Between \$49,500 and \$60,500	\$250	250	17	\$2,500
8	Between \$60,500 and \$66,000	\$275	275	8	\$2,750
9	Over \$66,000	\$300	300	0	\$3,000

13. The above discount will be calculated in the following way:
- a. An average of your income from the date of retainer to the date of conclusion of your file will be determined;
  - b. All child and spousal support payable to you and government benefits receivable by you shall be added to your income;
  - c. All child and spousal support payable by you will be subtracted from your income; and
  - d. I reserve the right to add, or subtract other costs incurred by you prior to your file's conclusion at my sole discretion.
14. **There will be a review of the retainer prior to any appearance at trial. A separate retainer agreement may be signed to secure my attendance at trial.**
15. **I reserve the right to enter into a different fee arrangement with you at any time, such arrangement to be confirmed in writing.**
16. I will charge you for minor ongoing expenses. Some of these expenses are long distance telephone calls, costs to deliver documents to court, parking charges, agent's fees, courier delivery, postage, and court filing fees.

17. The following amounts will be charged as disbursements for “in house” services:
- a. Photocopies: \$0.35 per page;
  - b. Fax transmissions: \$0.50 per page; and
  - c. Open file fee: \$40.00.
18. You understand and accept disbursements are always payable by you and are not subject to a discount. I am also able to charge your credit card **in full** at any time for disbursements, including, but not limited to, the following:
- a. Payment for any notary who is retained to complete a mortgage on the former Matrimonial Home;
  - b. Payment for any agent who is retained to speak to any court appearance due to unavailability of counsel;
  - c. Payment for any mediator who is retained to attempt settlement of your case;  
Payment for any reporting agency’s account to conduct any Examination for Discovery; and
  - d. Payment in full for my fees and disbursements in the event of a termination of services, as defined below.
19. I may have to hire other experts such as psychologists, accountants, medical specialists, parenting coordinators, property appraisers and valuers to help with your case. **I will first discuss the matter with you if we need to do so.** I will require you to deposit sufficient funds in trust to pay for these experts in advance.
20. I occasionally hire UBC Law Students to assist me with legal research and drafting of spreadsheets to chronologically depict facts or address financial issues in the cases I conduct. You consent to the following in signing this agreement:
- a. A UBC Law Student may review your file materials under my supervision to perform administrative tasks; and
  - b. The UBC Law Student shall be paid \$20 per hour, charged as a disbursement on your file.
21. **It is my practice to ensure sufficient funds are deposited in trust to secure the mediator’s fee prior to any attendance at mediation/arbitration.**
22. I will periodically bill you for services and minor expenses as the work is done. Bills will detail the work done, and the expenses I have had to pay. **Please discuss with me immediately if you are unable to pay bills on time.**
23. **Payment is due once a bill is issued to you. Please note I will begin a process to certify and collect on an unpaid bill if payment does not occur more than 30 days after the bill is issued, without a reasonable excuse.**
24. I will refund any money left over in your retainer, after deducting any unpaid or final bills, any GST/PST, and any unpaid expenses at the end of your case.
25. I will seek a sum of money called “costs” from your spouse, if your matter proceeds to an interim application, or trial, and you are substantially successful. These costs, if granted, will be applied to reduce any fees still owed by

you, or will be sent to you in full if you have fully paid my account.

26. Please be advised your spouse may seek costs against you if you are not substantially successful at an interim application, or at trial. **You understand and agree you are solely responsible for paying the costs ordered to your spouse in addition to our fees.**
27. I am enclosing a draft account for your review to illustrate the information in this agreement. You can see I itemize my time and your actual account is made up of time spent on your file, the other costs and disbursements on your behalf, and all taxes accruing and payable.
28. Clients sometimes feel uncomfortable discussing fees with their lawyer. I want to ensure you are fully advised on how your bill is arrived at before it is received. The above information is offered to explain the billing process prior to an account being issued. Please contact me immediately if you have questions about the billing process.
29. You also have the right under the *Legal Profession Act* to have bills reviewed by a Registrar of the Supreme Court of British Columbia at all times.

### TERMINATION OF SERVICES

30. You may end the solicitor/client relationship we have now entered into at any time by notifying me in writing.
31. I may also withdraw by providing reasonable notice to you in writing before I do so. The reasons can include, but are not limited to, the following:
  - a. You do not provide a \$500 installment, or such other amount as agreed between us in writing, more than 30 days after receiving a statement of account;
  - b. You persist in instructing me to act contrary to professional ethics. Such situations can include:
    - i. I learn you do not pay child support, despite a legal obligation to do so, without a reasonable excuse. You then continue to do so contrary to my advice;
    - ii. I learn you have failed to disclose an asset that would materially change any asset division analysis between you and your opposing spouse. You then fail to instruct me to disclose this asset's existence to your former spouse and factor it into the asset division analysis;
    - iii. I learn you have been engaging in a combination of programming and indoctrination toward any children you have with your opposing spouse that adds, or colours, the children's feelings toward the opposing spouse. You then fail to rectify this behaviour immediately; or
    - iv. I learn you have refused to abide by a consent order, separation agreement, minutes of settlement, or other agreement you have instructed me to enter into, without a reasonable excuse.
  - c. An unforeseen event occurs resulting in me being no longer competent to handle your matter;
  - d. You do not provide instruction to me in writing more than seven days after a written request to do so; or
  - e. You reject the advice I have given you to the extent I conclude there has been a serious loss of confidence between us.
32. I will do the following if I withdraw:

- a. Provide you with my reasons, in writing;
  - b. Remind you of any upcoming hearing dates in any litigation, in writing;
  - c. Remind you to retain new counsel promptly, in writing;
  - d. Make every reasonable effort to ensure a withdrawal occurs at an appropriate time in any litigation to minimize your expense and ensure you are not unduly prejudiced without a reasonable opportunity to address the situation;
  - e. Assist you in having a reasonable opportunity to retain new counsel as follows:
    - i. Notify opposing counsel and the court I have ceased to act, in writing;
    - ii. Advise you of the procedure to be followed in court to request an adjournment to obtain new counsel, in writing; and
    - iii. Recommend other counsel to assist you, in writing.
  - f. Promptly render a final account for outstanding fees and disbursements to you;
  - g. Deliver your file materials to you, or to new counsel, **once my statement of account has been paid in full**;
  - h. Release any funds in trust to you, or to new counsel, **once my statement of account has been paid in full**;
  - i. Cooperate with new counsel to transfer the file materials in a manner minimizing your expense and avoiding prejudice to you; and
  - j. Comply with all applicable rules of court.
33. I will not disclose my reasons for withdrawal to anyone outside my law firm if the reason stems from confidential communications between us, unless you allow it in writing. The sole exception to this will be where the withdrawal occurs because you have not provided at least a \$500 installment, or such other amount as agreed between us in writing, more than 30 days after receiving a statement of account.
34. **You understand and agree to pay my fees and expenses up to the date either of us terminates this agreement.** This shall occur as follows:
- a. I shall provide you with a final statement of account, in writing, upon notifying you that I withdraw; and
  - b. **I shall then have the right to charge your credit card for the full balance owing.**
35. **This agreement remains in force until payment in full has occurred.**

#### **KEEPING IN TOUCH WITH ME**

36. **It is very important for you to maintain communication with me, as we have now entered into a solicitor/client relationship. I will ask you to do things from time to time. Know that you are**

**preventing yourself from incurring unnecessary costs by having me, or my staff, do them for you if you do them.**

37. I will try to return your phone messages and emails as quickly as possible, but I will not always be able to do so on the same day you sent them. I am primarily a courtroom lawyer and am often in court. Know that I prioritize files based on the court or mediation deadlines in my calendar.
38. I devote my time to that client when I am in court and have only limited time to reply to other clients. Please be assured you will have my full attention when it is your turn to go to court. I thank you for your patience in understanding this, particularly when an appointment with me is moved to make way for a court appearance.
39. **I remind you I will bill you for all telephone calls, emails and meetings, including any time I may need to prepare for such conversations or review documentation (including emails) before or after our discussions.**
40. I will try to be as efficient as possible so you receive the most value for the services you pay for. I hope you will limit our conversations in time and subject matter to those topics necessary to resolve your legal problems.
41. I suggest you write to me or, if I am not available, speak to my legal assistant, who may be able to assist you or can pass on a detailed message to me, if you have any questions or need to provide me with additional information.
42. A good way to communicate with me is by email. My email address is kgroves@lblaw.ca. Sometimes I can reach you through my email as I can access email remotely. **Your file and communications are held in the strictest confidence and are covered by solicitor/client privilege.**
43. I monitor all email sent to me. You will hear from me if what you write requires immediate action. But please note I prioritize email communication based on urgency and when a particular client is before the court.
44. What this means is I may not respond to your email immediately. I promise you I am not ignoring you. I have merely determined the issue you raise is one that can wait until our next meeting together and will be addressed at that time. I thank you for your understanding of this.
45. I require your explicit consent if you wish to communicate by fax or email. **I will assume you have expressly given me permission to communicate and send documents to you electronically until you instruct me otherwise by signing this agreement.**
46. I will send copies of all letters and documents we receive and send out. You may also review them at my office if you wish.

## CLOUD STORAGE

47. Protection of your privacy is of paramount importance to me. I accordingly confirm my usual practice is to store a backup of client matters on DropBox. This includes all pleadings, letters and documents. I also store all my client notes on Microsoft OneDrive until a file closes.
48. I confirm DropBox encrypts its data and I use “two-step verification” with it. This means no access to your data can occur from a public computer without access to a number provided to my cel phone by text message whenever an attempt is made to access my DropBox account.

49. I invite you to review DropBox's security features, located here: <https://www.dropbox.com/security>.
50. I also confirm Microsoft OneDrive encrypts all its data and I also use two-step verification with it. I invite you to review Microsoft's privacy statement, located here: <https://privacy.microsoft.com>.
51. I wish you to know, however, that DropBox employees can access data stored on its service for legal reasons. Microsoft OneDrive can also be accessed by third parties, including the US government, or by Microsoft itself if it views data stored on it is "objectionable."
52. Your consent to me using DropBox and OneDrive in your matter, considering the above, in signing this agreement.

**OR**

53. Protection of your privacy is of paramount importance to me. I accordingly confirm I will not use DropBox or OneDrive in your matter.

**THE FAMILY LAW ACT**

54. The *Family Law Act* was passed on March 18, 2013, replacing the *Family Relations Act*.
55. I have a duty to discuss the following with you under the *Family Law Act*:
- a. Whether family violence is present;
  - b. Whether family violence may affect your safety, or your family's safety;
  - c. Whether family violence affects your ability to negotiate a fair agreement;
  - d. The advisability of using various types of family dispute resolution to resolve the matter; and
  - e. The facilities and other resources known to me that may be available to assist in resolving the dispute.
56. I also have a duty under the *Family Law Act* to inform you any agreements and orders respecting guardianship, parenting arrangements or contact with a child must be made in the best interests of the child only.
57. **You confirm the following by signing this agreement:**
- a. You have been informed of the above;
  - b. You understand it is never a good idea to fight over family matters, it is best to try to do one of the following:
    - i. Mediate;
    - ii. Arbitrate;
    - iii. Negotiate through counsel;
    - iv. Have close friends who you trust help you work it out; and

- v. See a counsellor.
- c. You have been advised of all the resources known to me to do the above at the following internet address:  
  
[http://www.divorcesolutions.ca/Divorce\\_Law\\_Links.html](http://www.divorcesolutions.ca/Divorce_Law_Links.html)

**WEBSITE**

- 58. I operate a website located at [www.divorcesolutions.ca](http://www.divorcesolutions.ca). I post the results I obtain for clients from time to time on the “Divorce Law Results” page there. I may do so in your case. You consent to me doing so by signing this agreement, on the understanding some facts relating to your case will appear on the site but I will not reveal names.
- 59. You may also advise me in writing at any time if you wish your information removed from the website. I confirm it shall be removed once written confirmation of your intention has been provided.

Please sign a copy to acknowledge your acceptance if the form of this agreement is acceptable to you. I look forward to assisting you. You will get through this process, stressful though it is. I will endeavour to help you through it in as painless a way as possible.

Kind regards,

***LESSING BRANDON & COMPANY LLP***

Per:

Kevin J. Groves

**I ACKNOWLEDGE AND ACCEPT THIS  
RETAINER AGREEMENT’S TERMS  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20XX**

\_\_\_\_\_  
XXX

**SCHEDULE "A" AUTOMATIC PAYMENT BY CREDIT CARD AUTHORIZATION**

CLIENT NAME: \_\_\_\_\_

TYPE OF CREDIT CARD (Please check): VISA (    )            MASTERCARD (            )

PHONE NUMBER ON BACK OF CREDIT CARD: \_\_\_\_\_

CREDIT CARD NUMBER (include the three digits on the back of the card):

\_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

EXPIRATION DATE ON CREDIT CARD: \_\_\_\_\_

BILLING ADDRESS OF CREDIT CARD HOLDER:

ADDRESS: \_\_\_\_\_

CITY AND PROVINCE: \_\_\_\_\_ POSTAL CODE: \_\_\_\_\_

PHONE NUMBER OF CREDIT CARD HOLDER: (\_\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

**I authorize Lessing Brandon & Company to do the following:**

1. Charge my credit card every first of the month for services rendered pursuant to the Retainer Agreement I have signed. I understand credit card debit may occur the week before or after the payment date;
  - a. Verify the billing address of my credit card with the issuing bank if payment is unable to be processed; and
  - b. Charge my card for the full balance on disbursements pursuant to the Retainer Agreement I have signed.
2. I will be responsible for an alternate payment and any late fee if Lessing Brandon & Company is unable to process my payment;
3. I understand this authorization will remain in effect until I have fully paid for services rendered on my account, or until mutual agreement between myself and Lessing Brandon & Company;
4. I understand Lessing Brandon & Company will hold payment from my credit card in trust and submit a bill for service before rendering any trust account. I also understand Lessing Brandon & Company will return any surplus funds in trust upon conclusion of my file, or upon termination of service once all outstanding fees are paid; and
5. I acknowledge I have read and understood the above. All information given is complete and accurate.

SIGNATURE OF CARDHOLDER: \_\_\_\_\_

PRINTED NAME OF CARDHOLDER: \_\_\_\_\_

DATE SIGNED: \_\_\_\_\_