

**LITIGATION RETENTION AGREEMENT  
FOR SPECIAL COUNSEL APPOINTED BY THE  
SOUTH CAROLINA ATTORNEY GENERAL  
AS TO THE**

General shall have final authority over all aspects of this litigation. The litigation may be commenced, conducted, settled, approved, and ended only with the express approval and signature of the Attorney General. The Attorney General at his sole discretion shall appoint a designated assistant or assistants (“designated assistant”) to oversee the litigation, which appointment the Attorney General may modify at will.

**2.**

**C. Employment Status**

Special Counsel will render services pursuant to this Agreement as an independent contractor. Neither Special Counsel nor any employee of Special Counsel shall be regarded as employed by, or as an employee of, the Attorney General or the State of South Carolina, nor shall they be considered public officials.

**ARTICLE III. CASE MANAGEMENT**

**A. Status Reports**

The Attorney General may at any time request status reports from Special Counsel regarding any aspect of this litigation. Within five business days after the request is received, Special Counsel shall submit such status reports to the Attorney General. Failure to timely provide such status reports may result in forfeiture of a portion of Special Counsel's compensation at the sole discretion of the Attorney General.

At a minimum, status reports must include a description of the current status of the litigation, any significant events that have occurred since the previous status report, and a prospective analysis of any significant future events.

**B.**

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**ARTICLE IV. COMPENSATION**

**A. Fee Schedule and Division**

Special Counsel will be compensated for their services as follows:

1. Special Counsel shall be reimbursed for certain costs and expenses incurred in this litigation and any appeals pursuant to Article V below.
2. Special Counsel shall be compensated for time at the following hourly rates:

C. Michael Branham, Partner	\$250.00
Stephen L. Brown, Partner	\$250.00
Russell G. Hines, Partner	\$250.00
Chandler D. Rowh, Associate	\$110.00
Aimee M. Justman, Legal Assistant	\$100.00
Melissa K. Mark, Legal Assistant	\$100.00

Special Counsel is required to submit detailed time records on a monthly basis for time worked over the previous month. Each monthly time record must clearly identify, by name or initials, the attorney or paralegal who performed the work, the date of the work, a detailed description of the work, and the number of hours or fraction thereof worked to the nearest tenth of an hour. When initials are used, the submission must identify all persons whose initials appear on the invoice and indicate whether each is an attorney or paralegal.

No time records shall be submitted or paid for work occurring either prior to the effective date of this Agreement or after its termination. The Attorney General, in his sole discretion, may decline to pay an hourly fee for time determined to be unnecessary, unreasonable, and/or not submitted in accordance with the requirements of this Agreement.

**B. Compensation upon Termination**

In the event this Agreement is terminated by Special Counsel or the Attorney General, Special Counsel shall be reimbursed only for all properly documented hours worked and expenses and costs, as defined in Article V of this Agreement, rendered prior to termination.

**C. No Other Payment Source**

Neither the State of South Carolina nor the Attorney General shall be required under this Agreement, or otherwise, to compensate or reimburse Special Counsel for their work in this litigation other than as set forth in Articles IV and V herein. Special Counsel shall not be entitled to and shall not accept compensation or reimbursement for this litigation from any other source.

**D. Court Approval of Fees and Costs**

When appropriate, the attorneys' fees and costs awarded to Special Counsel shall be approved by a Court of competent jurisdiction.

**ARTICLE V. EXPENSES AND COSTS**

**A. Advancement of Expenses and Costs**

Special Counsel shall advance all costs, expenses, and disbursements, including expert witness fees and costs, deposition costs, and costs of document production, other than those costs paid by the Attorney General's Office in its sole discretion.

**B. Expert and Consultant Expenses**

Special Counsel shall seek prior approval from the Attorney General for the retention of experts or consultants before incurring expenses related to such expert. Provided that the Attorney General has approved the retention of an expert or consultant, Special Counsel shall be reimbursed for the expert's or consultant's retainer and fees incurred on an hourly basis. Other expert and consultant expenses will be reimbursed in accordance with the provisions of Section V.C.

**C. Other Expenses**

Special Counsel shall be reimbursed for other certain reasonable expenses and costs enumerated below.

1. Overnight lodging shall be reimbursed at actual cost up to a maximum of the rate published by the United States General Services Administration as of the date of the lodging exclusive of taxes and fees. There is no reimbursement for in-room internet, room service, business center services, gratuity, or any other hotel services or upgrades.

2. Meals will be reimbursed as specified in the State of South Carolina Statewide Disbursement Regulations promulgated by the South Carolina Comptroller General's Office.

3. Automobile travel shall be reimbursed at the rate per mile published by the Internal Revenue Service for business miles driven as of the date of the automobile travel. Special Counsel must document the date of the travel, the address of the departure location, the address of the arrival location, and the purpose of the travel in order to be eligible for reimbursement. Automobile travel







brought in state courts of appropriate jurisdiction in the State of South Carolina, and Special Counsel hereby irrevocably consents to such exclusive jurisdiction.

**C. Code of Professional Responsibility**

If, during the appointment as Special Counsel, a complaint is filed against Special Counsel or Special Counsel's firm, alleging a violation of Rule 407, Rules of Professional Conduct, South Carolina Appellate Court Rules, or the applicable rules governing the state bar in which Special Counsel has been admitted, or the Code of Professional Responsibility, Special Counsel shall give prompt written notice of such complaint to the Attorney General. The Attorney General retains the right, in his sole discretion, to immediately terminate this Agreement if he deems the complaint to adversely affect in any way Special Counsel's ability to perform their duties required herein, or to adversely affect this litigation, the Attorney General, or the State of South Carolina.

**D. Insurance**

Special Counsel agrees to carry adequate professional liability insurance and to provide proof of same to the Attorney General promptly upon request.

**E. Conflict of Interest**

Special Counsel represents that they have no conflict of interest with the State of South Carolina, its agencies, or subdivisions at this time. Special Counsel agrees that if a conflict of interest, potential or otherwise, arises, as defined by Rule 407, Rules of Professional Conduct, South Carolina Appellate Court Rules, during the term of this litigation, then Special Counsel will give timely written notice to the Attorney General. Special Counsel must request and obtain a written authorization from the Attorney General prior to undertaking any representation against or adverse to the State of South Carolina, its offices, boards, departments, or institutions during the term of this appointment.

**F. Equal Opportunity**

Special Counsel hereby represents that neither they nor their law firms discriminate on the basis of race, religion, color, sex, age, national origin, or disability against any person in the employment of personnel in their offices.

**G. Right to Contact**

To clarify, nothing in this Agreement shall be construed to prohibit defendant(s) from discussing this case with the Attorney General without the presence of Special Counsel if the Attorney General agrees to such discussion.

**H. Entire Agreement/Integration**

This Agreement constitutes the entire understanding of the parties. Both parties agree that there is no other understanding or agreement other than the terms expressly stated herein.

**I. Severability of Terms and Conditions**

~~If any provision of this Agreement is held to be unenforceable or invalid, the entire Agreement shall be severed.~~ If any provision of this Agreement is held to be unenforceable or invalid, the validity, legality, and enforceability of all other provisions of this Agreement shall not in any way be affected or impaired unless such severance would cause this Agreement to fail of its essential purpose.

**J. Amendment or Modification**

~~No amendment or modification of this Agreement shall be effective against either party unless such amendment or modification is set forth in writing and signed by both parties.~~ No amendment or modification of this Agreement shall be effective against either party unless such amendment or modification is set forth in writing and signed by both parties.

**K. Headings**