

# Robert A. Gardner, CPP

Independent Security & Crime Prevention Advisor

Federal Tax I.D. 77-0257150

(Completion Instructions: Initial each page at bottom and sign on Page 6)

## **Retention Agreement and Fee Schedule**

*(Applicable To Cases In United States Federal Courts and State of Nevada Courts)*

This Agreement is entered into between Robert A. Gardner, CPP ("Consultant") and the Retaining Attorney or Law Firm ("Attorney") identified below on the date specified.

The engagement and responsibility for payment are the obligations of the retaining Attorney. While payment may be accepted directly from a litigant or insurance company as an accommodation to Attorney, employment of the Consultant and the responsibility for timely payment rests with the Attorney in all cases.

### **I. ADVANCE PAYMENT**

#### **Initial Retainer**

**1. An Initial Retainer fee of Three Thousand Two Hundred Dollars (\$3,200.00) as described below for Case Acceptance and Written Report Deposit, plus a Rush Surcharge (if applicable) and any other identifiable initial fees and expenses shall be paid to Consultant prior to the commencement of work. Until payment is made and signed Agreement is received, consultant is free to accept inquiries and/or engagement from any other parties.**

#### **Case Acceptance Fee:**

Attorney shall retain Consultant by payment of a Non-Refundable Case Acceptance Fee in the amount of Two Thousand Dollars (\$2,000.00). Consultant will apply Attorney's Non-Refundable Case Acceptance Fee as a deposit towards future work on this matter.

#### **Written Report Deposit:**

1. Attorney shall pay a refundable fee of One Thousand Two Hundred Dollars (\$1,200.00) as a deposit for the production of the required Initial Expert Witness Report or an Opposing Expert Report Rebuttal.

2. In the event Consultant is not required to produce a written report, the Written Report Deposit will be applied to any unpaid fees due Consultant. Any remaining balance of the Written Report Deposit will be refunded upon request following termination of Consultant's services.

#### **Rush Surcharge:**

A non-refundable surcharge in the amount of One Thousand Five Hundred Dollars (\$1,500.00) shall be applied when any written declaration or report, deposition appearance, or trial appearance is required within fourteen (14) calendar days of the date of retention.

#### **Main Office**

##### **California**

590 W. Main St.  
Suite 101  
Santa Paula, CA 93060  
(805) 659-4294

##### **License**

PI 6477  
PPO 10770

#### **Branch Offices**

##### **Nevada**

2620 Regatta Drive  
Suite 102  
Las Vegas, NV 89128  
(702) 733-8711

##### **License**

Security Consultant  
PI/ PP 852

##### **Arizona**

6619 N. Scottsdale Road  
Scottsdale, AZ 85250  
(480) 347-0211

##### **License**

PI 1003680

#### **Email**

[cpp@crimewise.com](mailto:cpp@crimewise.com)

#### **Website**

[www.crimewise.com](http://www.crimewise.com)

**2. Any unencumbered portion of the Initial Retainer in excess of Two Thousand Dollars (\$2,000.00) is refundable upon request following termination of Consultant's services.**

**Designation Policy**

Upon completion of this Retention Agreement and payment of the Initial Retainer, Attorney is authorized to designate or disclose Consultant as an Expert Witness in the matter identified below. Consultant's Non-Refundable Case Acceptance Fee is fully earned at the time of retention and not contingent upon additional work being completed.

**Designation Without Authorization Prohibited.**

Unless expressly authorized by Consultant, Attorney shall not designate nor disclose Consultant as an Expert Witness, or use Consultant's name in conjunction with any legal proceeding until the Initial Retainer and signed Retention Agreement has been received by Consultant.

**Designation Without Authorization Fee:**

Designation or disclosure of Consultant as an Expert Witness in any matter, or use of Consultant's name in conjunction with any legal proceeding without authorization will incur a fee of Two Thousand Five Hundred Dollars (\$2,500.00) per occurrence. This fee is exclusive and separate from any other fee or payment that may be payable to Consultant. This fee is solely compensation for the unauthorized designation or disclosure of Consultant as an Expert Witness or other prohibited use of Consultant's name. Payment of this fee in no way binds or otherwise obligates Consultant to provide any service or undertake any work on Attorney's behalf.

**Commencement of Work – Prior Clients**

Where a previous working relationship exists between Consultant and Attorney and a signed Fee Agreement has been executed, Consultant may, at his sole discretion, begin work on Attorney's matter prior to receipt of Initial Retainer.

**Electronic Payment**

Consultant encourages payment by *eCheck*. Electronic Payment information (account number, routing number, etc.) can be provided by email or fax using the *eCheck* authorization form available on Consultant's website. Electronic Payment is particularly useful when last minute payments are necessary.

**II. SERVICES**

1. Upon receipt of the Initial Retainer and a copy of this agreement with Attorney's signature properly affixed, Consultant, an independent contractor who is a licensed Private Investigator, Private Patrol Operator and Security Consultant, agrees to perform consulting and/or expert witness services as requested by Attorney. In connection with these services, Consultant agrees to perform such document review, studies and research as to be able to consult with and/or advise Attorney as an expert witness with respect to Consultant's findings. Consultant agrees to orally report his findings and opinions to Attorney. If requested, Consultant will prepare a written report and cause it to be delivered to Attorney.

2. Consultant agrees to assist in Attorney's case preparation and to testify as Attorney's expert witness in those areas in which Consultant is qualified. The full scope of Consultant's work will be determined as Attorney's matter proceeds, and will be subject to the needs and requests of Attorney.

Attorney agrees to assist Consultant in formulating his opinions by providing Consultant with all available information regarding the facts and circumstances of the matter.

3. Consultant and Attorney agree that Consultant's role is as an expert advisor to educate the Court and assist Attorney in understanding both the strengths and weaknesses of Attorney's matter. Attorney recognizes that Consultant's opinions may not always be consistent with, or favorable to, Attorney's theories and arguments. Attorney agrees that Consultant has a legal and ethical responsibility to provide truthful information and unbiased opinions.

### **III. FEES AND REIMBURSEMENT OF EXPENSES**

1. Attorney's account shall maintain a positive balance at all times. Consultant will bill Attorney for services rendered and costs incurred at such times as Consultant deems appropriate. If a zero balance exists or is anticipated, a deposit of not less than Two Thousand Dollars (\$2,000.00) or the amount of the anticipated billing, whichever is greater, may be required prior to the continuation of work on Attorney's behalf. Consultation, opinions, appearances, reports and other deliverables will only be provided when Attorney's account is paid in full. Attorney agrees to pay Consultant's bill upon receipt, and payment will not be predicated upon settlement or adjudication of any legal matter. The unencumbered portion of deposits and prepaid expenses is refundable upon request following termination of Consultant's services.

2. Attorney's contractual obligation to pay for Consultant's services is a personal executory contract when services have been rendered, and does not depend upon the findings which Consultant renders, on the outcome of any legal action, mediation, arbitration, or the amount or terms of any settlement of third party matters, nor upon any contractual arrangement between Attorney and third parties.

3. Unless otherwise noted, Consultant's fees are calculated and billed to Attorney in quarter (.25) hour increments as follows:

- A. Consultation and other work, including but not limited to examination of evidence and documents, research, site inspections, meetings, deposition preparation, telephone calls, and travel: Two Hundred Fifty Dollars (\$250.00) per hour (Hourly Rate). A two (2) hour minimum applies when travel away from Consultant's office is required.
- B. Written Report Preparation: Initial Expert Witness Reports, Declarations, Affidavits and Opposing Expert Rebuttal Reports will be provided on a fixed fee rather than hourly basis. Fee covers all activities directly associated with report production including: supplementary case file review, incidental research, and report preparation. All other written documents will be billed at the Hourly Rate. Payment is due prior to the production of any report.

Written Report fees are as follows:

- 1. Initial Expert Witness Reports, Declarations, Affidavits, and Opposing Expert Rebuttal Reports: One Thousand Two Hundred Dollars (\$1,200.00)
- 2. Supplemental Reports and other Documents: Two Hundred Fifty Dollars (\$250.00) per hour with a two (2) hour minimum.

- C. Deposition and other non-trial appearances, including preparation, wait and testimony time: Two Hundred Fifty Dollars (\$250.00) per hour billed in accordance with applicable statutes. A two (2) hour minimum applies. Deposition fee must be received from opposing counsel or Attorney prior to, or at the time of, deposition. Preparation and travel expenses are charged to Attorney. Unless Attorney's account balance is sufficient to cover all anticipated fees and expenses, prepayment of deposition preparation fee and estimated travel expenses plus the balance of any outstanding fees and expenses owed or anticipated to Consultant must be received by Consultant at least five (5) business days prior to the date of deposition.

Cancellation: If cancellation occurs at least seventy-two (72) hours prior to the appearance date, prepayment - less actually incurred preparation time and all outstanding fees and expenses - will be refunded upon request at termination of Consultant's services to Attorney. If cancellation occurs less than seventy-two (72) hours prior to appearance, a two (2) hour cancellation fee applies.

- D. Trial appearance (includes final trial preparation, trial related travel time, wait and testimony time): Appearance day (all or part): Three Thousand Five Hundred Dollars (\$3,500.00). Additional trial related days: Two Thousand Dollars (\$2,000.00) per day prorated in half day (Morning: 7:00 a.m. to 12:00 p.m. – Afternoon: 12:00 p.m. to 6:00 p.m.) increments plus expenses. Prepayment of the appearance day and any anticipated additional days plus any fees and expenses owed or anticipated to Consultant (including outstanding fees owed by the opposing parties) must be received by Consultant at least seven (7) business days prior to the date of trial. Consultant requires that Attorney facilitate payment of any outstanding deposition or other fees owed by opposing parties or pay those fees.

Cancellation: If cancellation occurs at least seventy-two (72) hours prior to the scheduled appearance date, prepayment - less completed preparation time at Hourly Rate and all outstanding fees and expenses - will be refunded upon request at termination of Consultant's services to Attorney. If cancellation occurs less than seventy-two (72) hours prior to the scheduled appearance date, prepayment - less completed preparation time at Hourly Rate, a One Thousand Five Hundred Dollar (\$1,500.00) cancellation fee, and all outstanding fees and expenses - will be refunded upon request at termination of Consultant's services to Attorney. Cancellation on the scheduled appearance date incurs the full Trial Appearance fee.

- E. On-Call Time: When Consultant is expected to remain available for a trial appearance on a date uncertain (On-Call), or for any other purpose, attorney will be billed at a rate of One Thousand Dollars (\$1,000.00) per day – pro-rated in half day increments and commencing on the first anticipated appearance day - when Consultant is on-call from his Santa Paula, CA, Las Vegas, NV or Scottsdale, AZ office locations. On-Call time from any other location will be billed at Two Thousand Dollars (\$2,000.00) per day – pro-rated in half day increments. Prepayment is required.
- F. Travel Time Calculation: Travel time is billed at Two Hundred Fifty Dollars (\$250.00) per hour. Consultant recognizes that travel time can add significantly to Attorney's expenses. In order to simplify budgeting and lessen the impact of travel time costs, the following round trip fee schedule has been developed to address most travel situations.

Cities within 50 miles of:

- Consultant's Office: Santa Paula, CA; Las Vegas, NV; and Scottsdale, AZ Actual Travel Time
- Airports: San Francisco, Oakland, Sacramento, Fresno, Monterey, 6 Hrs. Fixed Rate
- Palm Springs, San Diego, Reno and Flagstaff
- Other Locations: Based on Above Plus Actual Travel Time Beyond 50 Miles

Consultant does not charge for travel time between office locations in Santa Paula, CA, Las Vegas, NV, and Scottsdale, AZ.

4. Meals, lodging, private and commercial air travel, rental vehicles and other ground transportation, and incidental expenses are billed at actual cost. Prepayment or direct payment by Attorney will be required for travel time and expenses. When applicable, Attorney may be charged for mileage at the current applicable IRS mileage rate.
5. Consultant reserves the right to select the method of travel. However, unless otherwise agreed upon, Attorney will be charged based on the most economical travel method reasonably available, regardless of the method chosen.
6. Assignments requiring travel to a destination in excess of one hundred (100) statute highway miles, one way, from Consultant's nearest office (Santa Paula, CA, Las Vegas, NV, or Scottsdale, AZ), which cannot be completed in ten (10) hours or less, will require overnight lodging and expenses. Consultant does not bill for non working hours during overnight stays.
7. Attorney's account shall be considered delinquent if not paid within thirty (30) days of date of invoice date or date of retention (when applicable). Late charges at the legal rate may be added to invoices not paid within thirty (30) days.
8. Consultant will suspend all work on Attorney's behalf should Attorney's account become delinquent or should an invoiced payment not be made within a specified time frame. Work will resume only upon full payment of all unpaid fees and expenses plus a refundable deposit of \$2,000.00 for future anticipated work.

**IV. CONFIDENTIAL INFORMATION**

Consultant regards all non-public information obtained from, or on behalf of, Attorney in this matter as confidential and shall not disclose such information unless Consultant has obtained the expressed prior consent of Attorney or is otherwise forced, compelled, or required to disclose such information by operation of law or applicable government authority.

**V. TERMINATION OF SERVICES**

1. Either party may terminate this agreement and service at any time without cause and without penalty upon ten (10) days written notice to the other party, by first class mail.
2. This contract is a non-assignable personal services agreement and shall terminate upon the death of either party. The obligation to pay any party under this agreement shall be binding upon the obligor's heirs, representatives, successors, and assigns. The right to collect any payment owing under this agreement shall inure to the benefit of the respective heirs, representatives, successors, and assigns of that party.

**VI. GENERAL**

1. All actions arising out of the performance of this Agreement shall be governed by the laws of the state having jurisdiction over the matter.
2. Attorney agrees to pay all costs incurred by Consultant, including his time and reasonable attorney's fees, in the collection of delinquent fees. Any legal proceedings will be litigated in the state having jurisdiction over the matter in Clark County, Nevada, Ventura County, California, or Maricopa County, Arizona.

**VII. INTEGRATION AND SEVERABILITY**

1. This agreement constitutes the entire agreement between the Attorney and the Consultant, superseding all previous discussions and agreements respecting the services described herein. This agreement may not be modified in any respect unless the modification is contained in writing, signed by both the Attorney and Consultant.
2. If any term or provision of this agreement is deemed invalid, contrary to, or prohibited under applicable laws or regulation of the jurisdiction in which it is sought to be enforced, it shall not affect the validity of any other clauses or provisions of the agreement, which shall remain in full force and effect.

**The terms of this agreement are understood and accepted:**

BY: \_\_\_\_\_ DATED: \_\_\_\_\_  
 Attorney Signature

\_\_\_\_\_ \_\_\_\_\_  
 Print Name Law Firm

**CASE DESCRIPTION**

Civil       Criminal      For:     Plaintiff / People     Defense

Case name: \_\_\_\_\_

Court name: \_\_\_\_\_

Case number: \_\_\_\_\_

<p><b>NOTICE TO ATTORNEY:</b> Please initial, sign and date the Agreement and provide requested description information. Send Agreement and retainer fee to: Robert A. Gardner, CPP - 590 W. Main St., Suite 101, Santa Paula, CA 93060. Effective Date: March 1, 2012 (Revision: FCA-2012-0301-NV-US)</p>
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