

**APPENDIX A**  
**Retainer Letter**  
*(For Matrimonial Cases Only)*

February 1, 20

Mrs. Mary Jones  
123 Main Street  
Garden City, New York 11530

Dear Mrs. Jones:

This letter confirms that you have retained my firm to negotiate a settlement agreement with your husband (through his attorney), if that is reasonably possible; if not, to commence or defend a matrimonial action on your behalf.

You agree to pay to us promptly a retainer of \$\_\_\_\_\_, at which time our services will commence. This retainer is our minimum fee in this matter in consideration of committing myself and staff, the value of services, the reservation of time and staff, the nature of the case, the issues involved and other factors affecting an overall fee. Time spent on your case (computed in units of six minutes), which includes services, telephone calls and correspondence, will be charged against the retainer at these hourly rates commencing with our conference today: my time at \$\_\_\_\_; partners and counsel at \$\_\_\_\_; associate attorneys at \$\_\_\_\_; and paralegals at \$\_\_\_\_. An itemized statement of charges will be sent to you not less often than every 60 days. No time will be charged for discussing any statement or bill. If the retainer is depleted, then additional charges will be billed to you on a monthly basis, except that we may request additional retainers in increments of \$\_\_\_\_\_ in the event of contested litigation. The initial retainer will cover from about \_\_\_ hours to \_\_\_ hours of time on your file, depending upon the persons rendering the services; however, all work will be under my direct supervision and control, and I shall be the principal attorney handling your case. We shall furnish to you copies of correspondence and legal papers and shall keep you informed of the status of the case.

You have the right to terminate our representation of you at any time in your sole discretion. If termination occurs prior to the conclusion of the case or in the event of a reconciliation or for any other reason, you shall be liable for the time spent on your case as computed above, and any unused portion of the retainer will

be refunded to you. If, however, your case is concluded by settlement or trial of the issues, there will be no refund even though the time charges might not have consumed the entire retainer, which will then be the total fee. No post-judgment modification or enforcement proceedings are contemplated by this retainer agreement.

We also have the right to withdraw from representing you in the event of your failure to cooperate or to provide on a timely basis accurate and complete information and documents relating to your case, or if you engage in any conduct that would make it inappropriate to continue representation of you. We reserve our right to have the court fix the amount of any retaining lien on your file and/or charging lien on the proceeds of this case.

The retainers and fees do not include: (a) any other actions or proceedings; (b) work in appellate courts; or (c) out-of-pocket expenses. Out-of-pocket expenses include but are not limited to costs of serving and filing papers, court fees, process servers, court calendar service, expert witnesses, subpoena fees, consultants, accountants, appraisers, investigators, actuaries, court reporters, long-distance telephone calls, travel, parking, fax charges, postage and photocopies normally made by us or requested by you. You agree to furnish to us promptly the further sum of \$\_\_\_\_\_ to be applied to disbursements and have agreed to furnish additional sums to be applied against anticipated disbursements from time to time as requested.

Under present law you may request that your husband pay for your legal expenses in this matter, and you may also have a liability for his legal expenses. To the extent that we receive more than our entire fee from payments made by you and by your husband, we shall refund the excess to you up to the amount that you have paid us. However, you are aware that despite efforts to collect our fee from your husband, there is no certainty that he will make payment and there is no assurance that you will receive any refund.

If you do not pay the retainer, fees or disbursements to us as contemplated by this agreement within 15 days after our request or if you fail to cooperate with us or do not perform your responsibilities as set forth in the annexed Statement of Client's Rights and Responsibilities, which is made a part of this agreement, we may withdraw as your attorney without relieving you of any obligations for our services and disbursements to the time of our withdrawal; leave of the court will be obtained if a court action is pending. Bills not paid within 30 days will accrue interest at the legal rate (presently 9% per annum), and you will be liable for reasonable attorneys' fees for the collection of said sums. If you and we agree to your providing security for the payment of fees, such as a confession of

judgment, promissory note or mortgage, we shall first obtain court approval on notice to your husband. You have the right to pursue binding arbitration in the event of a fee dispute involving not less than \$1,000 nor more than \$50,000, in which event we shall at your request provide you with information as to the procedure.

You are aware of the hazards and high costs of litigation and acknowledge that, despite our efforts on your behalf, there is no assurance or guarantee of (a) the outcome of this matter, (b) the length of time it may take to resolve, or (c) the costs that may be incurred.

Kindly indicate your understanding and acceptance of all the above and your acknowledgment that it has been explained fully to you and to your satisfaction by signing below where indicated. We look forward to serving you.

Very truly yours,

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I have read and understand the above letter and the annexed Statement of Client's Rights and Responsibilities, have received a copy of each and accept all their terms:

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Mary Jones

## ATTACHMENT TO RETAINER LETTER

### Statement of Client's Rights and Responsibilities

Your attorney is providing you with this document to inform you of what you, as a client, are entitled to by law or by custom. To help prevent any misunderstanding between you and your attorney, please read this document carefully.

If you ever have any questions about these rights, or about the way your case is being handled, do not hesitate to ask your attorney. He or she should be readily available to represent your best interests and keep you informed about your case.

An attorney may not refuse to represent you on the basis of race, creed, color, sex, sexual orientation, age, national origin or disability.

You are entitled to an attorney who will be capable of handling your case; show you courtesy and consideration at all times; represent you zealously; and preserve your confidences and secrets that are revealed in the course of the relationship.

You are entitled to a written retainer agreement which must set forth, in plain language, the nature of the relationship and the details of the fee arrangement. At your request, and before you sign the agreement, you are entitled to have your attorney clarify in writing any of its terms, or include additional provisions.

You are entitled to fully understand the proposed rates and retainer fee before you sign a retainer agreement, as in any other contract.

You may refuse to enter into any fee arrangement that you find unsatisfactory. Your attorney may not request a fee that is contingent on the securing of a divorce or on the amount of money or property that may be obtained.

Your attorney may not request a retainer fee that is nonrefundable. That is, should you discharge your attorney or should your attorney withdraw from the case before the retainer is used up, he or she is entitled to be paid commensurate with the work performed on your case and any expenses, but must return the balance of the retainer to you. However, your attorney may enter into a minimum fee arrangement with you that provides for the payment of a specific amount below which the fee will not fall based upon the handling of the case to its conclusion.

You are entitled to know the approximate number of attorneys and other legal staff members who will be working on your case at any given time and what you will be charged for the services of each.

You are entitled to know in advance how you will be asked to pay legal fees and expenses, and how the retainer, if any, will be spent.

At your request, and after your attorney has had a reasonable opportunity to investigate your case, you are entitled to be given an estimate of approximate future costs of your case, which estimate shall be made in good faith but may be subject to change due to facts and circumstances affecting the case. You are entitled to receive a written, itemized bill on a regular basis, at least every 60 days.

You are expected to review the itemized bills sent by counsel, and to raise any objections or errors in a timely manner. Time spent in discussion or explanation of bills will not be charged to you.

You are expected to be truthful in all discussions with your attorney and to provide all relevant information and documentation to enable him or her to competently prepare your case.

You are entitled to be kept informed of the status of your case and to be provided with copies of correspondence and documents prepared on your behalf or received from the court or your adversary.

You have the right to be present in court at the time that conferences are held.

You are entitled to make the ultimate decision on the objectives to be pursued in your case and to make the final decision regarding the settlement of your case.

Your attorney's written retainer agreement must specify under what circumstances he or she might seek to withdraw as your attorney for nonpayment of legal fees. If an action or proceeding is pending, the court may give your attorney a "charging lien," which entitles your attorney to payment for services already rendered at the end of the case out of the proceeds of the final order or judgment.

You are under no legal obligation to sign a confession of judgment or promissory note, or to agree to a lien or mortgage on your home to cover legal fees. Your attorney's written retainer agreement must specify whether and under what circumstances such security may be requested. In no event may such security

interest be obtained by your attorney without prior court approval and notice to your adversary. An attorney's security interest in the marital residence cannot be foreclosed against you.

You are entitled to have your attorney's best efforts exerted on your behalf, but no particular results can be guaranteed.

If you entrust money with an attorney for an escrow deposit in your case, the attorney must safeguard the escrow in a special bank account. You are entitled to a written escrow agreement, a written receipt and a complete record concerning the escrow. When the terms of the escrow agreement have been performed, the attorney must promptly make payment of the escrow to all persons who are entitled to it.

In the event of a fee dispute, you may have the right to seek arbitration. Your attorney will provide you with the necessary information regarding arbitration in the event of a fee dispute or upon your request.

Dated: February 1, 20\_\_

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Mary Jones

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[Attorney Name], Esq.