

The Phoenix Plaza  
21st Floor  
2929 North Central Avenue  
Phoenix, Arizona 85012-2793

P.O. Box 36379  
Phoenix, Arizona 85067-6379

Telephone 602.640.9000  
Facsimile 602.640.9050



A PROFESSIONAL ASSOCIATION  
ATTORNEYS AT LAW

www.osbornmaledon.com

R. Douglas Dalton

Direct Line 602.640.9333

ddalton@omlaw.com

RECEIVED

MAR 1 2011

LEGAL DEPT.

February 28, 2011

City of Prescott  
SRP

J. Ivan Legler, Esq.  
Town of Prescott Valley  
7501 East Civic Circle  
Prescott Valley, Arizona 86314

Re: Terms of Engagement

Dear Ivan:

Thank you for choosing Osborn Maledon, P.A., to represent the Town of Prescott Valley in connection with its disputes with Salt River Project and the City of Prescott concerning the Big Chino Water Ranch Project. We look forward to working with you on this matter and will do our best to bring it to a satisfactory conclusion.

The Arizona State Bar requires that each client be clearly informed in writing of the terms of engagement when employing legal counsel. Therefore, we would like to take this opportunity to set out the terms of our representation.

**Fees and Costs.** Our fees are generally based on the number of hours worked by attorneys, law clerks, paralegals, and other assistants on your behalf, multiplied by their hourly rates. The rates are available to you at any time on request. Time charges for lawyers now range from \$200 to \$565 per hour; for law clerks, paralegals and other assistants the range is from \$65 to \$200. My hourly rate is currently \$515, and John Blanchard's hourly rate is \$335. We adjust these rates periodically. In arriving at a fee, however, we may on occasion increase or decrease that hours-based figure in keeping with the factors in Ethical Rule 1.5 of the Rules of Professional Conduct adopted by the Arizona Supreme Court, such as the results achieved, the amount at issue, the difficulty of the problem, and any special expertise or experience provided in the representation.

We record and bill for our time in tenths of an hour. Our bills will include the time we spend researching factual and legal issues, negotiations, conferences, preparation of various documents or pleadings, conducting discovery, court appearances, travel, and telephone calls.

In addition to our fees, you will be responsible for charges and expenses we incur on your behalf. We normally advance the cost of court fees, deposition expenses, expert witness fees, and travel expenses, and charge them to you monthly as the firm receives and processes bills. We may submit certain outside charges to you for direct payment. We will bill you for photocopies (\$.20/page), CD duplication (\$10/CD), DVD duplication (\$35/DVD), computer-assisted research (at average imputed cost), messenger services (from \$7 to \$30 or more,

J. Ivan Legler, Esq.  
February 28, 2011  
Page 2

depending on distance), automobile travel (\$.51/mile), extraordinary staff overtime (at cost), long distance telephone calls (at average imputed cost), and certain specialized technical services, such as computerized litigation support, at \$155 to \$200 per hour.

We will make every effort to include our out-of-pocket disbursements in the next monthly statement. However, some disbursements are not immediately available to us and, as a result, may not appear on a statement until sometime after the charges were actually incurred.

We prepare statements each month for mailing by the 15th. The statements will show the fees and charges incurred during the previous month. We will address our statements to you at the above address unless directed otherwise. If you wish to have us furnish copies to anyone else, please let us know. If there are any special codes or identifications which should appear on our statements to facilitate review and payment, please pass those on to us as well. Our federal taxpayer identification number appears on our statements.

Payment of each month's statement is due 30 days after the date of the statement. We may withdraw from the representation, after reasonable notice, if our bills are not paid when due. We reserve the right, upon ten days advance notice to you, to charge interest on past due amounts at 1.5% per month.

We may furnish budgets or other estimates of fees or costs based on our experience and understanding of the matter. Any estimate is not intended to be binding, is subject to unforeseen circumstances, and is by its nature inexact. It is not to be considered a "cap" or "flat fee" unless expressly stated in writing.

As the responsible attorney, I will review your statements to make any adjustments we believe are appropriate. We ask you to review our statements with care and to alert us promptly to any questions you may have about the statement or the work for which you were billed by contacting me or the firm's controller. It is important for you to promptly bring to our attention any questions or concerns you may have concerning a particular statement so that it can be dealt with while the issue is still fresh and before additional charges are incurred. We are always willing to discuss our fees with you if you have questions or feel the charges may be inappropriate. It is our desire to provide you with the best representation possible at a price which is fair and reasonable and to build an ongoing relationship of trust, confidence, and fair dealing.

**Retention and Destruction of Documents.** During our representation, we are likely to receive copies or originals of documents or other materials belonging to you or others. Once the matter to which those materials relate has been concluded, we will retain and eventually return these materials to you or destroy them in accordance with our file retention policy, a copy of which is enclosed. Please inform us of any change of address so that we can contact you when it is time to return the file.

J. Ivan Legler, Esq.  
February 28, 2011  
Page 3

**Representation.** This letter sets forth the terms of our engagement on the matter mentioned above. If you cannot agree to the foregoing terms and conditions, or if you have any questions, please get in touch with me right away. Otherwise, please indicate your acceptance of the terms of this letter by signing below and returning it in the enclosed, self-addressed stamped envelope.

We welcome the opportunity to represent your interests and look forward to working with you in this matter.

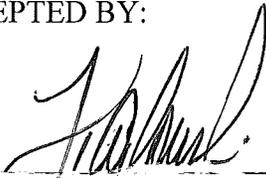
Sincerely,



R. Douglas Dalton

RDD/klm  
Enclosures  
3546071\_1

ACCEPTED BY:



Prescott Valley Town Manager  
Larry Takkowski  
Per Town Code 3-02-010(E)(11)

Dated: 3-1-11

**RATIFIED**

**PRESCOTT VALLEY TOWN COUNCIL**

\_\_\_\_\_  
Harvey C. Skoog, Mayor

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

# File Retention Policy

**Osborn Maledon, P.A.**  
**(Effective March 1, 2009)**

The State Bar of Arizona has issued Opinion No. 08-02 (December 2008) furnishing file retention guidelines for Arizona lawyers. Osborn Maledon, P.A. (the "Firm") has adopted this File Retention Policy to comply with such guidelines.

- 1. Disclosure.** Each client will be notified in writing at the commencement of the representation of the Firm's file retention policy. In most cases, this will be accomplished by enclosing a copy of this policy with the retention letter or agreement. Existing clients shall be furnished a copy of this policy with their next statement.
- 2. Retention Period.** Most files ("Short Term Files") will be held by the Firm for a period of five years after the earlier of (a) the closing of the file, or (b) the last recorded activity for the file (normally filing a document, retrieving a document, or pulling the file from storage for review). Other files ("Long Term Files") will be held for an indefinite period. Long Term Files include probate, estate planning, or trust matters, capital cases, homicide cases, life sentence cases, life probation cases, and other cases where the responsible attorney believes that indefinite file storage is appropriate to protect the interests of the client. Long Term Files will be destroyed only when the responsible attorney or the Firm's President has reviewed the file and has determined that there is no reasonable possibility that the file may ever be needed by the client. The Firm may store files in either hard copy or digital format.
- 3. Disposition Procedure.** After the expiration of the five-year period described above, the file room supervisor will notify the responsible attorney in writing to ask the attorney whether the client should be contacted to determine if the client desires the file to be returned to the client. If the attorney responds in the negative, the file will continue to be held for another year, at which time the attorney will again be queried. If the attorney responds in the affirmative, the supervisor will attempt to contact the client by mail to offer the client the choice of taking possession of the file, or having the file destroyed by the Firm. If the client responds, the supervisor will take the action requested by the client after a review of the file as set forth below. This procedure will be followed for both Short Term Files and Long Term Files as it may not be apparent to the file room supervisor whether a file is Short Term or Long Term—this judgment is to be made by the responsible attorney. In addition, even Long Term Files are appropriate for destruction at some point.
- 4. Unresponsive Client.** If no answer is received from the client within a reasonable period of time, the supervisor will make an additional effort to locate the client, and again query the client by mail about the disposition of the file. If no response is received within a reasonable period of time after this second inquiry, the supervisor will ask the attorney in writing if the file may be destroyed. If the attorney responds in the affirmative, the file will be given to the attorney for review as set forth below, and if appropriate the file will be destroyed. If the attorney responds in the negative, the file will be held an additional year, at which time the

attorney will again be queried by the supervisor. The Firm is under no obligation to continue to store Short Term Files for more than five years or Long Term Files which are appropriate for destruction if the client cannot be located or if the client fails to respond. In addition, the Firm is under no obligation to continue to store any file if the client fails, after reasonable notice, to retrieve a file the client has indicated it wants.

5. **Return of File.** When a file is returned to a client, the complete file, including any portion of the file stored electronically, is to be returned, except only internal practice management memoranda. Arrangements for the return of the file are to be made between the filing supervisor and the client. If the client does not wish to pick up the file, it will be delivered or shipped at the client's expense unless it can be mailed for less than \$10.00 in postage, in which case the Firm shall pay the postage. The client is to be notified that the Firm is not keeping a copy of the file, and that the client should safeguard the file if it may be needed for future use or reference. The Firm may retain photocopies of all or any portion of the file at the Firm's expense. The responsible attorney is to review the file prior to its return to remove internal practice memoranda and any information relating to another client that may have been inadvertently placed in the file. The Firm is not responsible for any file lost in transit if the client chooses not to personally retrieve the file at the Firm's offices.

6. **Early Return.** A client's file belongs to the client and may be retrieved by the client at any time, so long as the return of the file does not interfere with the ongoing representation of the client.

7. **Destruction of File.** Destruction of files shall be done in a manner that preserves client confidences and confidentiality. In no event will a file be destroyed until it has been reviewed by the responsible attorney or the Firm's president to insure that no original documents tendered by the client are in the file and that there is no reason to continue to store the file.