

**CONFIDENTIAL**  
**ATTORNEY-CLIENT PRIVILEGE**

**VIA E-MAIL**

Ms. Melissa Drennan  
VarTec Telecom, Inc.  
1600 Viceroy Drive  
Dallas, TX 75235

Re: Firm Retention Agreement (the "Agreement") and Waiver of Conflicts; VarTec Telecom, Inc., Bankruptcy Case No. 04-81694-SAF-11 (Jointly Administered)

Dear Melissa:

This is to confirm that VarTec Telecom, Inc., the Debtor in the above-referenced bankruptcy case (individually or collectively, as the case may be, "You" or "your") has retained Kane, Russell, Coleman & Logan, P.C. (the "Firm") to represent You in connection with the Engagement described herein. This Agreement sets forth the terms of the Firm's retention, and constitutes a contract between You and the Firm with respect to the Firm's legal representation of You in the Engagement.

**Client(s).** You are the Firm's client(s) in the Engagement. The Firm does not represent or assume any duty whatsoever to any other person or entity not identified herein as a client of the Firm with respect to the Engagement.

**Scope of Engagement.** The Firm will represent You as special counsel in connection with bankruptcy issues related to that litigation now pending as VarTec Telecom, Inc. v. Southwestern Bell Telephone, L.P., et al., before the United District Court for the Northern District of Texas, Dallas Division, as Civil Action No. 304-CV-2325-P and that action styled Southwestern Bell Telephone, L.P. v. VarTec Telecom, Inc., Case No. 4:04-CV-01303-CEJ filed in the United States District Court for the Eastern District of Missouri (the "Engagement"). If You engage the Firm on additional legal matters, this Agreement will apply to those matters as well, unless a separate retention agreement is executed for such matters.

**Fees.** The Firm's fees for services rendered in connection with the Engagement are based on the time spent by the Firm's lawyers and legal assistants who work on the Engagement, multiplied by his or her respective hourly rate. The hourly billing rates for lawyers currently range from \$235.00 to \$400.00 for directors, and from \$160.00 to \$240.00 for associates. Work performed by legal assistants will be charged at the rate of \$75.00 - \$125.00 per hour. Other lawyers and legal assistants may be assigned as necessary to achieve proper staffing. Additional

information concerning how the Firm's fees are determined is provided in the Firm's Standard Terms for Legal Engagement attached hereto as Exhibit "A".

**Expenses and Other Charges.** In addition to fees, the Firm's statement will include expenses and other charges incurred in connection with the Engagement, such as court costs, filing fees, photocopying, postage, delivery charges, travel expenses, long distance telephone calls, cellular telephone charges, file and document retrieval, facsimile transmissions, overtime for secretaries and other nonlegal staff, word processing charges and specialized computer applications such as computerized legal research. Those charges are also more particularly described in the Standard Terms for Legal Engagement attached hereto as Exhibit "A".

**Retainer.** At this time, the Firm has not requested a retainer deposit in order to open the engagement. However, the Firm reserves the opportunity to request of you a retainer. In that event, the Firm will apply and/or utilize the requested deposit according to terms then agreed to. Should you fail to pay promptly the requested advance deposit, then the Firm will have the right to cease performing further work and withdraw from the representation.

**Conflicts of Interest.** As You know, the Firm has, from time to time, represented Qwest Communications Corp. in unrelated matters, and currently represents Regional Management, Inc. in matters relating to your bankruptcy case. The Firm does not believe that such representation will affect its ability to represent You on an impartial basis. However, You must understand that the Firm's prior representation may unconsciously bias it in favor of one or the other of You in the event of any disagreement between You. Should the Firm at any time determine that such a bias exists, then it must withdraw from the representation. Both Qwest Communications Corp. and Regional Management, Inc. have agreed to waive any conflicts of interest that might arise on the part of the Firm as a result of this representation. Further, by signing this Agreement, You agree to waive any conflicts of interest on the part of this Firm that arise as a result of this Firm's representation of Qwest Communications Corp. and/or Regional Management, Inc.

**Principal Attorneys.** Subject to change in the future, Joseph M. Coleman and Robert J. Taylor are your principal attorneys for the Engagement. Their current respective hourly rates are \$375.00 per hour and \$240.00 per hour. Their respective Firm designated e-mail addresses are [colemaj@krcl.com](mailto:colemaj@krcl.com) and [taylorr@krcl.com](mailto:taylorr@krcl.com). You agree to contact either of your principal attorneys should you have any questions concerning the Engagement, the Firm's fees, expenses or other charges, or any other matter addressed in this Agreement.

**Entire Agreement.** The Firm's Standard Terms of Legal Engagement are attached hereto as Exhibit "A" and incorporated herein by reference. Together with the attached exhibits, this Agreement sets forth the entire agreement of the parties, and may not be modified except in writing signed by all parties. There are no oral understandings or agreements of the parties, and no oral representations have been made.

If the foregoing terms and conditions for the Firm's representation of You in the Engagement are acceptable, please so indicate by executing the enclosed copy of this Agreement in the space provided below and returning it to me as soon as possible. The Firm appreciates your business and looks forward to working with You.

November 18, 2004

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Very truly yours,

**KANE, RUSSELL, COLEMAN & LOGAN, P.C.**

By: \_\_\_\_\_

Joseph M. Coleman

Its: Authorized Agent

GHB/cso

**READ, UNDERSTOOD AND AGREED:**

**VARTEC TELECOM, INC.**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT "A"**

**KANE, RUSSELL, COLEMAN & LOGAN, P.C.  
Standard Terms of Engagement  
for Legal Services**

This Exhibit sets forth certain standard terms relating to your retention of the Firm as legal counsel in connection with the Engagement, and is intended as a supplement to the Firm's Agreement with You executed in connection therewith. Unless modified in writing by mutual agreement, these terms will be an integral part of the Firm's Agreement with You. Therefore, please review this Exhibit carefully and contact the Firm promptly if You have any questions. Please retain this Exhibit in your file as part of the Agreement.

**The Scope of the Firm's Work**

The Firm will represent You as legal counsel in connection with the Engagement. You should always have a clear understanding of the legal services the Firm will provide. If you ever have any questions concerning the scope or nature of these services, You agree to advise the Firm of such questions promptly, and in writing.

The Firm will at all times act on your behalf to the best of its ability. Any expressions by the Firm concerning the outcome of the Engagement are expressions of the Firm's best professional judgment, but are not guarantees. Such opinions are necessarily limited by the Firm's knowledge of the facts and are based on the state of the law at the time they are expressed.

It is the Firm's policy that its client is the person or entity that is identified in this Agreement, and absent an express agreement to the contrary, such representation does not include any affiliates of such person or entity (i.e., if You are a corporation or partnership, any parents, subsidiaries, employees, officers, directors, shareholders or partners of the corporation or partnership, or commonly owned corporations or partnerships; or, if You are a trade association, any members of the trade association). If You believe that the Engagement includes additional entities or persons as clients of the Firm who are not specifically identified as clients in the Agreement, You agree to inform the Firm of that belief immediately.

The Engagement is subject to and governed by the Texas Disciplinary Rules of Professional Conduct (the "Disciplinary Rules").

**Cooperation**

To enable the Firm to more effectively render legal services to You, it is essential that You fully and accurately disclose all facts and keep the Firm fully apprised of all developments relating to the Engagement. You have agreed to cooperate fully with the Firm and to make yourselves available to aid the Firm's preparation for and, if necessary, attendance at or to: meetings, conferences, hearings, depositions, and other matters in connection with the

Engagement. In addition, You agree to spend the time necessary to respond to discovery, if any, consider strategy, provide factual information, and otherwise fully cooperate with the Firm in connection with the Engagement.

### **Who Will Provide the Legal Services**

Customarily, each client of the Firm is served by a principal attorney contact. The principal attorney should be someone in whom You have confidence and with whom You enjoy working. You are free to request a change of your principal attorney at any time. Subject to the supervisory role of the principal attorney, your work or parts of it may be performed by other lawyers and legal assistants in the Firm. Such delegation may be for the purpose of involving lawyers or legal assistants with special expertise in a given area or for the purpose of providing services on the most efficient and timely basis. Whenever practicable, the Firm will advise You of the names of those attorneys and legal assistants who work on your matters.

### **How the Firm's Fees Will Be Set**

Generally, the Firm's fees are based on the time spent by the lawyers and legal assistants who work on the Engagement. The Firm's lawyers and legal assistants record and charge time in increments of 1/10th hours. The Firm will charge for time spent in representing your interests, including, by way of illustration, telephone and office conferences; factual investigation; legal research; responding to your requests to provide information to your auditors in connection with reviews or audits of financial statements; drafting letters and other documents; discovery; trial preparation and attendance; mediations, arbitrations and settlement meetings; and other efforts undertaken on your behalf as necessary in connection with the Engagement. The Firm will keep accurate records of the time devoted to your work. If at any time You become concerned that any amount of time expended is not reasonable under the circumstances, You agree to notify the Firm immediately of such concern in writing.

The Firm reviews and adjusts the hourly rates of its lawyers and legal assistants annually on a Firm-wide basis to reflect current levels of legal experience, changes in overhead costs, and other factors. Generally, these annual increases do not exceed 10%. The Firm usually makes any adjustments effective January 1st of each year. If at any time You question whether such rate or rates are reasonable under the circumstances, You agree to notify the Firm immediately of such concern in writing.

For certain well-defined services (for example, a simple business incorporation), the Firm may (if requested) quote a flat fee. It is the Firm's policy not to accept representation on a flat-fee basis except in such well-defined areas or pursuant to a special arrangement tailored to the needs of a particular client. In all such situations, the flat fee arrangement will be expressed in a letter, setting forth both the amount of the fee and the scope of the services to be provided.

The Firm will also, in appropriate circumstances, provide legal services on a less traditional fee basis such as a contingent fee basis. Any fee arrangement other than as described above must be the subject of a separate and specific engagement letter.

## **Expenses and Other Charges**

In addition to fees, the Firm's invoices will include a detailed listing of expenses and other charges for items incident to the performance of legal services, such as photocopying, messenger costs, travel expenses, long-distance telephone calls, facsimile transmissions, postage, specialized computer applications such as computerized legal research, filing fees, exhibit preparation, deposition transcripts and expert and consulting witness fees. The current basis for some of these charges is set forth below. The Firm will review this schedule of expenses and other charges on an annual basis and adjust them as necessary to take into account changes in the Firm's costs and other factors.

### Duplicating/Photocopying

The Firm generally charges \$.15 per page for copies generated internally within the Firm. If outside copy vendors are utilized, the cost may vary depending upon the services rendered. The Firm does seek to contract with outside vendors based upon competitive rates. Depending on the timing of the Firm's payment to outside copy vendors, the Firm may receive a discount for which no adjustment is made on an individual client's bill.

### Delivery/Courier Services

The Firm charges an amount which generally represents its cost for the delivery service provided by the Firm. The Firm also contracts with outside vendors on a competitive fee basis. Depending on the volume of work performed by an outside delivery vendor, the Firm may receive a volume discount during a particular accounting period for which no adjustment is made on an individual client's bill.

### Facsimile Transmissions

The Firm charges \$1.00 per page for outgoing local facsimile transmissions, and \$2.00 per page for outgoing long distance facsimile transmissions, which includes all telephone costs. International facsimile transmission charges will vary depending upon telephone long distance charges which will be passed on to the client. No charges are incurred by the client for incoming facsimile transmissions or incoming or outgoing e-mails.

### Telephone

The Firm does not charge for local calls. The Firm does bill each individual call based on the statements received from providers for each long distance and international call made on a client's behalf.

### Travel-Related Expenses

The Firm charges airfare, ground transportation, hotel, meals, and related travel expenses based upon the actual, out-of-pocket cost. The Firm or individual lawyers may receive beneficial services from travel agencies, including airline tickets, for which no adjustment is made on an individual client's account. In addition, credits earned under any frequent flyer programs accrue to the individual traveler and not to the Firm.

### All Other Costs

The Firm charges actual disbursements for third-party services such as court reporters, expert witnesses, etc., and may recoup expenses reasonably incurred in connection with services performed in-house, such as mail services, file retrieval, etc.

Unless special arrangements are otherwise made, fees and expenses of others (such as experts, investigators, consultants and court reporters) will be the responsibility of, and billed directly to You. Further, all invoices in excess of \$500 will generally be forwarded to You for direct payment. If, however, vendor invoices are paid by the Firm, such charges will be added to the Firm's invoices.

### **Cost Estimates**

From time to time at your request, the Firm may furnish estimates of legal fees, expenses and other charges that it anticipates will be incurred in connection with its representation of You in the Engagement. Because of the uncertainties inherent in all legal representation, such estimates are inexact. Therefore, the Firm's actual fees and other charges billed may vary significantly from such estimates. In any event, You agree to pay all fees, expenses and other charges incurred.

### **Billing Arrangements and Terms**

The Firm's billing rates are based on the assumption of prompt payment. Consequently, unless other arrangements are made, the Firm's fees, expenses and other charges will be billed monthly and are payable immediately upon receipt. To the extent You have any questions about an invoice, You agree to promptly raise such questions with the Firm in writing. Otherwise, the Firm will assume that You do not have any questions with respect to the Firm's invoices, that You accept the invoiced charges as fair, reasonable, necessary and appropriate under the circumstances, and that you agree that such amounts are properly due and owing to the Firm without defense or offset.

If You fail to pay the Firm's invoice within thirty (30) days of the date of the invoice, the Firm is authorized to draw from the retainer, if one was required, the amount necessary to pay the outstanding invoice. In addition, failure to pay the Firm's invoice within that time is also a basis for the Firm's withdrawal from your representation.

Further, in the event the Firm's invoices are not paid within thirty (30) days of the date of the invoice, the Firm reserves the right to charge interest on the past due balance at the rate of ten (10%) percent per annum.

In the event of any litigation concerning the Agreement, the prevailing party shall be entitled to attorneys' fees as a part of its damages.

### **Advance/Retainer**

The Firm's clients are sometimes asked to deposit funds as an advance payment with the Firm. The advance will be deposited in the Firm's client trust account, and the Firm will charge its charges and fees against the advance and credit them on your billing statements. The advance payment will be applied first to payment of charges for such items as photocopying, messengers, travel, etc., as more fully described above, and then to fees for services. In the event such charges and the Firm's fees for services exceed the advance deposited with the Firm, the Firm will bill You for the excess monthly or may request additional advances. Any unused portion of amounts advanced will be refundable to You at the conclusion of the Firm's Engagement.

### **Client Documents**

All of the Firm's work product will be owned by the Firm. At the conclusion of the Engagement, it is your obligation to advise the Firm as to which, if any, of the documents in the Firm's possession, whether received from You or otherwise, that You want returned to You. The Firm may keep copies of such documents at your expense to the extent the Firm deems advisable for its records. If You do not advise the Firm on which documents You want returned at the conclusion of the Engagement, the Firm may return any or all such documents to You at your expense as it deems appropriate. In the event any such documents are not returned to You, then, after destruction of duplicates, the Firm will retain any remaining documents in its files for a period of time deemed appropriate under the law, and ultimately destroy such documents in accordance with its record retention program schedule then in effect, without further notice to You. If the Firm's representation of You involves multiple clients, You agree that the delivery of original records, entrusted to the Firm's care, to any one of You will be considered as a delivery to all of You.

### **Electronic Mail and Communication**

Along with the traditional methods of communication between the Firm and its clients (United States mail, the various private mail services, facsimiles, land-line telephones and cellular telephones), the Firm has electronic mail capability. The Firm recognizes the convenience provided by modern electronic mail and communications. However, with such conveniences come issues related to maintenance of the attorney-client privilege and the confidentiality of communications with You. The Firm presently believes that communication by electronic mail to addresses specifically designated by You have an expectation of privacy that preserves the attorney-client privilege, and it intends to retain and defend the attorney-client privilege with respect thereto. However, the Firm does not encrypt or encode electronic mail, and it is essential that You restrict access to communications received by You from the Firm to yourself in order to preserve the attorney-client privilege.

Unless You otherwise advise the Firm specifically in writing, the Firm will presume that any e-mail address that You provide to it will be an e-mail address that has the appropriate protections to preserve your attorney-client privilege. Unless otherwise specifically instructed by You in writing, execution of this Agreement constitutes authorization by You to communicate

with You by electronic mail at any such address. If there are other e-mail addresses that the Firm should use in connection with these communications, or if those e-mail addresses should not be used in connection with all or any particular communications with You, You agree to notify the Firm immediately. Further, absent specific written instruction from You, the Firm will not e-mail credit card numbers, social security numbers, or patent applications. You may instruct the Firm not to e-mail specific information at any time.

Communications to members of the Firm (including its staff) by electronic mail should only be directed to a Firm-designated e-mail address, i.e., [name@krcl.com](mailto:name@krcl.com).

Finally, You are advised that the Firm uses currently available commercial virus protection software to reduce the risk of transmitting a virus, worm or Trojan horse to You. However, the Firm specifically and expressly disclaims any liability to You for the transmission of any viruses, worms, Trojan horses or other similar defects with respect to electronic mail communications that may be transmitted by the Firm's electronic mail server.

### **Termination or Withdrawal**

The Firm's representation of You in connection with the Engagement may be terminated prior to the completion of the Engagement by any party to this Agreement by written notice to the other. The Firm reserves the right to withdraw from its representation of You in the Engagement, if, among other things, You fail to honor the terms of this Agreement, including the timely payment of the Firm's fees, or fail to cooperate or follow the Firm's advice on a material matter, or if any fact or circumstance would, in the Firm's view, render its continuing representation of You unlawful, unethical or ineffective, including the following:

1. You fail to cooperate and comply fully with all reasonable requests of the Firm in connection with the Engagement;
2. You use the Firm's services to perpetrate a crime or fraud, persist in a course of conduct which the Firm believes is criminal or fraudulent, insist on pursuing an objective which the Firm considers repugnant or imprudent, or pursue an objective with which the Firm fundamentally disagrees;
3. You fail to pay fees, expenses or other charges, or the retainer when due as stated in this Agreement; or
4. You engage in conduct that renders it unreasonably difficult for the Firm to carry out the purposes of its employment.

No such termination or withdrawal will, however, relieve You of the obligation to pay the legal fees owed to the Firm for services performed and any expenses and other charges owing to the date of termination or withdrawal. In the event of the Firm's withdrawal, the Firm will take reasonable steps to avoid reasonably foreseeable prejudice to your rights, including giving due notice to You, and delivering to You all papers and property to which You are entitled.

## **Conflicts**

If a controversy or conflict arises between You and any other client of the Firm, the Firm, after taking into account the Disciplinary Rules and any other rules of professional conduct applicable to it under the circumstances, may decline to represent You or such other client, or both You and such other client. If a controversy or conflict arises between You in connection with the Engagement, the Firm after taking into account the Disciplinary Rules and any other rules of professional ethics applicable to it, may decline to continue representing some or all of You under this Agreement.

Further, pursuant to the Disciplinary Rules, the Firm shall be disqualified from representing any other client (i) in any matter which involves a substantially related matter in which your interests are materially and directly adverse to the interests of the other client; (ii) with respect to any matter where there is a reasonable probability that confidential information You have furnished to the Firm could be used to your disadvantage or may be revealed to another person; or (iii) in a litigation matter in which You are also involved and the Firm's representation of You or the other client reasonably appears to be, or may become, adversely limited by the Firm's responsibilities to You, the other person or the Firm's own interests. You understand and agree that, with those exceptions, the Firm is free to represent other clients, including clients whose interests may conflict with You in litigation, business transactions, or other legal matters. You agree that the Firm's representation of You in this matter will not prevent or disqualify the Firm from representing clients adverse to You in other matters for which the Firm does not represent You, so long as (i) the Firm does not violate the above stated exceptions, and (ii) You consent in advance to the Firm undertaking such adverse representations.

## **Outcome of Representation**

THE FIRM MAKES NO REPRESENTATIONS, PROMISES OR GUARANTEES AS TO THE SUCCESSFUL OUTCOME OF THE MATTERS HANDLED ON YOUR BEHALF IN CONNECTION WITH THE ENGAGEMENT, OTHER THAN TO PROVIDE YOU WITH REASONABLE AND NECESSARY LEGAL SERVICES. THIS FIRM ALSO MAKES NO REPRESENTATION CONCERNING ITS ABILITY TO OBTAIN A REIMBURSEMENT TO YOU OF ANY OF THE FEES, COSTS AND/OR EXPENSES INCURRED BY YOU IN CONNECTION WITH THESE MATTERS. ANY AND ALL STATEMENTS OF THIS FIRM EXPRESSED ON THESE MATTERS ARE STATEMENTS OF OPINION ONLY.

## **Disputes**

In the event of any dispute regarding this Agreement, venue shall be exclusively in Dallas County, Texas and shall be governed by Texas law. However, prior to instituting a lawsuit, the parties agree to mediate the dispute by use of any mediator on the approved-list of mediators in use by the Dallas County District Courts at that time. The cost of mediation shall be borne equally by the parties.

## **Professional Misconduct**

THE STATE BAR OF TEXAS INVESTIGATES AND PROSECUTES PROFESSIONAL MISCONDUCT COMMITTED BY TEXAS ATTORNEYS. ALTHOUGH NOT EVERY COMPLAINT AGAINST OR DISPUTE WITH AN ATTORNEY INVOLVES PROFESSIONAL MISCONDUCT, THE STATE BAR'S OFFICE OF GENERAL COUNSEL WILL PROVIDE YOU WITH INFORMATION ABOUT HOW TO FILE A COMPLAINT. YOU MAY CALL 1-800-932-1900 TOLL FREE FOR MORE INFORMATION CONCERNING THIS PROCESS.

## **Governing Law**

The laws of the State of Texas shall govern the validity, construction, enforcement and interpretation of this Agreement. This Agreement contains the entire agreement between You and the Firm regarding the matters described herein, and the fees, expenses and other charges to be paid relative thereto, and supersedes all prior oral or written agreements in respect thereof. This Agreement may only be amended in writing by You and the Firm. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and together shall constitute the same agreement.

## **Lawyer's Creed**

The Firm subscribes to and is bound by the terms of the Texas Lawyer's Creed - A Mandate for Professionalism, a copy of which is attached hereto as Exhibit "B". The Firm takes its terms very seriously and believes that the successful management of our civil justice system depends upon the proper implementation of the Lawyer's Creed. If You have any questions, comments or concerns with respect to such matters at any time, You agree to inform the Firm immediately with respect to those questions, comments or concerns.

**EXHIBIT "B"**

**THE TEXAS LAWYER'S CREED  
A MANDATE FOR PROFESSIONALISM**

**Promulgated by  
The Supreme Court of Texas and the Court of Criminal Appeals  
November 7, 1989**

I am a lawyer. I am entrusted by the People of Texas to preserve and improve our legal system. I am licensed by the Supreme Court of Texas. I must therefore abide by the Texas Disciplinary Rules of Professional Conduct, but I know that professionalism requires more than merely avoiding the violation of laws and rules. I am committed to this creed for no other reason than it is right.

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**I. OUR LEGAL SYSTEM**

A lawyer owes to the administration of justice personal dignity, integrity, and independence. A lawyer should always adhere to the highest principles of professionalism.

1. I am passionately proud of my profession. Therefore, "My word is my bond."
  2. I am responsible to assure that all persons have access to competent representation regardless of wealth or position in life.
  3. I commit myself to an adequate and effective pro bono program.
  4. I am obligated to educate my clients, the public, and other lawyers regarding the spirit and letter of this Creed.
  5. I will always be conscious of my duty to the judicial system.
- 

**II. LAWYER TO CLIENT**

A lawyer owes to a client allegiance, learning, skill, and industry. A lawyer shall employ all appropriate means to protect and advance the client's legitimate rights, claims, and objectives. A lawyer shall not be deterred by any real or imagined fear of judicial disfavor or public unpopularity, nor be influenced by mere self-interest.

1. I will advise my client of the contents of this creed when undertaking representation.

2. I will endeavor to achieve my client's lawful objectives in legal transactions and in litigation as quickly and economically as possible.
  3. I will be loyal and committed to my client's lawful objectives, but I will not permit that loyalty and commitment to interfere with my duty to provide objective and independent advice.
  4. I will advise my client that civility and courtesy are expected and are not a sign of weakness.
  5. I will advise my client of proper and expected behavior.
  6. I will treat adverse parties and witnesses with fairness and due consideration. A client has no right to demand that I abuse anyone or indulge in any offensive conduct.
  7. I will advise my client that we will not pursue conduct which is intended primarily to harass or drain the financial resources of the opposing party.
  8. I will advise my client that we will not pursue tactics which are intended primarily for delay.
  9. I will advise my client that we will not pursue any course of action which is without merit.
  10. I will advise my client that I reserve the right to determine whether to grant accommodations to opposing counsel in all matters that do not adversely affect my client's lawful objectives. A client has no right to instruct me to refuse reasonable requests made by other counsel.
  11. I will advise my client regarding the availability of mediation, arbitration, and other alternative methods of resolving and settling disputes.
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### **III. LAWYER TO LAWYER**

A lawyer owes to opposing counsel, in the conduct of legal transactions and the pursuit of litigation, courtesy, candor, cooperation, and scrupulous observance of all agreements and mutual understandings. Ill feelings between clients shall not influence a lawyer's conduct, attitude, or demeanor toward opposing counsel. A lawyer shall not engage in unprofessional conduct in retaliation against other unprofessional conduct.

1. I will be courteous, civil, and prompt in oral and written communications.
2. I will not quarrel over matters of form or style, but I will concentrate on matters of substance.

3. I will identify for other counsel or parties all changes I have made in documents submitted for review.
4. I will attempt to prepare documents which correctly reflect the agreement of the parties. I will not include provisions which have not been agreed upon or omit provisions which are necessary to reflect the agreement of the parties.
5. I will notify opposing counsel, and, if appropriate, the Court or other persons, as soon as practicable, when hearings, depositions, meetings, conferences or closings are cancelled.
6. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities, provided legitimate objectives of my client will not be adversely affected.
7. I will not serve motions or pleadings in any manner that unfairly limits another party's opportunity to respond.
8. I will attempt to resolve by agreement my objections to matters contained in pleadings and discovery requests and responses.
9. I can disagree without being disagreeable. I recognize that effective representation does not require antagonistic or obnoxious behavior. I will neither encourage nor knowingly permit my client or anyone under my control to do anything which would be unethical or improper if done by me.
10. I will not, without good cause, attribute bad motives or unethical conduct to opposing counsel nor bring the profession into disrepute by unfounded accusations of impropriety. I will avoid disparaging personal remarks or acrimony towards opposing counsel, parties and witnesses. I will not be influenced by any ill feeling between clients. I will abstain from any allusion to personal peculiarities or idiosyncrasies of opposing counsel.
11. I will not take advantage, by causing any default or dismissal to be rendered, when I know the identity of an opposing counsel, without first inquiring about that counsel's intention to proceed.
12. I will promptly submit orders to the Court. I will deliver copies to opposing counsel before or contemporaneously with submission to the Court. I will promptly approve the form of orders which accurately reflect the substance of the rulings of the Court.
13. I will not attempt to gain an unfair advantage by sending the Court or its staff correspondence or copies of correspondence.
14. I will not arbitrarily schedule a deposition, court appearance, or hearing until a good faith effort has been made to schedule it by agreement.
15. I will readily stipulate to undisputed facts in order to avoid needless costs or inconvenience for any party.

16. I will refrain from excessive and abusive discovery.
  17. I will comply with all reasonable discovery requests. I will not resist discovery requests which are not objectionable. I will not make objections nor give instructions to a witness for the purpose of delaying or obstructing the discovery process. I will encourage witnesses to respond to all deposition questions which are reasonably understandable. I will neither encourage nor permit my witness to quibble about words where their meaning is reasonably clear.
  18. I will not seek Court intervention to obtain discovery which is clearly improper and not discoverable.
  19. I will not seek sanctions or disqualification unless it is necessary for protection of my client's lawful objectives or is fully justified by the circumstances.
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#### **IV. LAWYER AND JUDGE**

Lawyers and judges owe each other respect, diligence, candor, punctuality, and protection against unjust and improper criticism and attack. Lawyers and judges are equally responsible to protect the dignity and independence of the Court and the profession.

1. I will always recognize that the position of judge is the symbol of both the judicial system and administration of justice. I will refrain from conduct that degrades this symbol.
2. I will conduct myself in Court in a professional manner and demonstrate my respect for the Court and the law.
3. I will treat counsel, opposing parties, the Court, and members of the Court staff with courtesy and civility.
4. I will be punctual.
5. I will not engage in any conduct that offends the dignity and decorum of proceedings.
6. I will not knowingly misrepresent, mischaracterize, misquote or miscite facts or authorities to gain an advantage.
7. I will respect the rulings of the Court.
8. I will give the issues in controversy deliberate, impartial and studied analysis and consideration.
9. I will be considerate of the time constraints and pressures imposed upon the Court, Court staff and counsel in efforts to administer justice and resolve disputes.

## ORDER OF THE SUPREME COURT OF TEXAS AND THE COURT OF CRIMINAL APPEALS

The conduct of a lawyer should be characterized at all times by honesty, candor, and fairness. In fulfilling his or her primary duty to a client, a lawyer must be ever mindful of the profession's broader duty to the legal system.

The Supreme Court of Texas and the Court of Criminal Appeals are committed to eliminating a practice in our State by a minority of lawyers of abusive tactics which have surfaced in many parts of our country. We believe such tactics are a disservice to our citizens, harmful to clients, and demeaning to our profession.

The abusive tactics range from lack of civility to outright hostility and obstructionism. Such behavior does not serve justice but tends to delay and often deny justice. The lawyers who use abusive tactics instead of being part of the solution have become part of the problem.

The desire for respect and confidence by lawyers from the public should provide the members of our profession with the necessary incentive to attain the highest degree of ethical and professional conduct. These rules are primarily aspirational. Compliance with the rules depends primarily upon understanding and voluntary compliance, secondarily upon re-enforcement by peer pressure and public opinion, and finally when necessary by enforcement by the courts through their inherent powers and rules already in existence.

These standards are not a set of rules that lawyers can use and abuse to incite ancillary litigation or arguments over whether or not they have been observed.

We must always be mindful that the practice of law is a profession. As members of a learned art we pursue a common calling in the spirit of public service. We have a proud tradition. Throughout the history of our nation, the members of our citizenry have looked to the ranks of our profession for leadership and guidance. Let us now as a profession each rededicate ourselves to practice law so we can restore public confidence in our profession, faithfully serve our clients, and fulfill our responsibility to the legal system.

The Supreme Court of Texas and the Court of Criminal Appeals hereby promulgate and adopt "**The Texas Lawyer's Creed - A Mandate for Professionalism**" as attached hereto and made a part hereof.

*In Chambers, this 7th day of November, 1989.*

**The Supreme Court of Texas**

Thomas. R. Phillips, Chief Justice  
Franklin S. Spears  
C. L. Ray  
Raul A. Gonzales  
Oscar H. Mauzy  
Eugene A. Cook  
Jack Hightower  
Nathan L. Hecht  
Lloyd A. Doggett  
Justices

**The Court of Criminal Appeals**

Michael J. McCormick, Presiding Judge  
W. C. Davis  
Same Houston Clinton  
Marvin O. Teague  
Chuck Miller  
Charles F. (Chuck) Campbell  
Bill White  
M. P. Duncan, III  
David A. Berchelmann, Jr.  
Judges