



DIGITAL FORENSICS & E-DISCOVERY

NEW CLIENT INFO-PACK





Letter of Engagement

Rate Card

Jerry Hatchett CV



Letter of Engagement

LETTER OF ENGAGEMENT

December 22, 2015

Law Firm PLLC
123 Main Street
New York, NY 11111

RE: *Plaintiff v. Defendant*

Dear Jane/John:

This engagement letter confirms that Law Firm PLLC, acting on behalf of and as counsel for Defendant in the case referenced above, (“the Clients”), have retained Red Forensic (“Our Company”) to provide professional consulting services in connection with litigation that requires digital forensic investigation. It is our understanding that we are to assist you in performing analytical procedures on computers and other data storage devices, and other services which may be required. We will perform the services requested or otherwise required unless we advise you to the contrary. We also understand that you may ask us to testify at deposition, arbitration, or trial, provided that any expansion of the scope of work described above must be agreed to by Our Company. Our efforts will be under the direction of Jerry Hatchett.

The value of our firm’s service to you and your clients is founded, in part, on our reputation for professionalism and integrity. Our firm has been engaged from time to time by a significant number of law firms, both locally and nationally. It is possible that the opposing parties or their law firms have engaged Our Company in other situations unrelated to this litigation. Your engagement of our firm is expressly conditioned on your agreement not to use the fact of our current or previous engagement by opposing counsel or their clients in other matters as a means of enhancing or diminishing our credibility before a trier of fact.

The Clients acknowledge the obligation to pay Our Company for services rendered, whether arising from your request or whether otherwise necessary as a result of our efforts in this engagement, regardless of the outcome of this engagement, at our hourly billing rate for personnel utilized, plus expenses. We bill the law firm, and while we are happy to receive payments directly from the end client, we stress that both the law firm and the end client(s) are responsible for payment of our bills. Our hourly billing rate for this engagement will be \$320, billed in six-minute increments. Other specifics regarding our rates and charges are incorporated herein by addendum. We revise our

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rates periodically to reflect increases in our costs, and the client(s) is notified promptly.

The clients acknowledge and accept the fact that should our examination uncover evidence of illegal activity, we may be legally and ethically bound to notify the appropriate law enforcement agency.

We will bill the Client periodically for services rendered and expenses incurred. We will send a copy of the bill to you in order to keep you apprised of the status of our work. Expenses will include an allocation of office charges in support of our services including computer usage, telephone, facsimile transmission, postage, photo-reproduction, and similar expenses. All invoices are due upon receipt. All balances unpaid after 30 days are subject to a late payment charge of 1.5% per month. It is our practice that all outstanding bills will be paid prior to testimony of any kind or the delivery of a written report. We reserve the right to stop all work if any bill goes unpaid for 45 days, without regard to the status of our services or any related proceedings. Testimony at deposition or trial is billed at \$400 per hour in half-day increments and is payable in advance, prior to testimony.

A \$XXXX non-refundable retainer is required before significant case work begins. While non-refundable, this retainer is fully creditable toward work being performed by Our Company.

Fees for our services are based on the actual time expended on the engagement, along with other costs that may arise; all such fees and costs are clearly enumerated on our Rate Card, incorporated herein by addendum. The time involved depends on the extent and nature of available information and on the developments that occur as work progresses.

Any dispute between us regarding the construction or application of this agreement letter and the related services shall, on the written request of either of us, be submitted to arbitration, and this arbitration shall comply with and be governed by the rules of the American Arbitration Association and shall take place in Houston, Texas. The prevailing party shall be entitled to attorney fees and costs incurred in connection with any such dispute.

The Clients accept and acknowledge that any legal proceedings arising from or in connection with the Engagement must be commenced within one year from the date when you or your clients became aware or ought reasonably to have become aware of the facts which give rise to our alleged liability and in any event no later than two years after any alleged breach of contract or act of negligence or commission of any other tort.

The Clients agree to hold our Firm, its members, and employees harmless from any and all liabilities, costs, and expenses relating to this engagement, and expenses (and those of our legal counsel) incurred by reason of any action taken or committed to be taken by us in good faith. In no event will our Firm be liable for incidental or consequential damages even if we have been advised of the possibility of such damages.

Our personnel understand that they are subject to and will abide by any reasonable confidentiality restrictions and protective orders. In addition, we always treat as confidential any documents or information made available to us in connection with these kinds of engagements and will take appropriate steps to segregate all material related to our work in this engagement from other files in our offices. In the event we encounter information that reasonably suggests that a crime has been committed, we are legally and ethically bound to immediately report same to the appropriate law enforcement authorities. Any written reports, documents we prepare and the related working papers are the sole and exclusive property of Our Company and are to be used only for the purpose of this litigation and may not be published or used for any other purpose without our written consent. We retain our reports, prepared documents and working papers in accordance with our document retention policies. Additional confidential information received in connection with this matter but not incorporated into our working papers will be returned to you or certifiably destroyed at your cost upon completion of the engagement.

Clients declare that Clients are authorized to access any and all systems, devices, and data that are being provided to us for collection, inspection, and analysis, and Clients further declare that Clients are authorized to provide these systems, devices, and data to us. In the event that it is determined that Clients did not have legal authority for such access, Clients agree to indemnify and hold harmless our firm against any and all claims regarding unauthorized access to such systems, devices, and data.

Please acknowledge your agreement with the terms of this engagement letter by signing, dating and returning one copy to us. If you have any questions regarding this letter, please do not hesitate to call Jerry Hatchett at 713-364-2467. While we would prefer to have a signed copy of this letter in our file before commencing work on this matter, we will begin work earlier if the circumstances require. Accordingly, the performance of services with your knowledge will be considered consent to the terms of this letter until or unless we hear to the contrary from you. We look forward to working with you on this important matter.

Very truly yours,

Jerry Hatchett
Red Forensic
jh

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Confirmation of Terms of Engagement

The services described in this letter are in accordance with our requirements and are acceptable to me.

Accepted by:

LAW FIRM PLLC

Signed: _____

Name: _____

Date: _____



Rate Card



2019 RATE SCHEDULE

Consulting and Analysis

Our fees are typically based on consulting hours, billed in 6-minute increments. When appropriate for the matter and task, and advantageous for the client, we may use an associate for certain work. All work is personally supervised by Jerry Hatchett.

Primary Expert \$375 / hour

Associate \$275 / hour

Hard Drive Imaging

<= 320GB - \$500

321GB – 500GB - \$600

501GB – 750GB - \$700

1TB - \$900

> 1TB - \$375 per hour

Difficult devices (primarily some Macs, Microsoft Surface, and/or encrypted devices-, but occasionally other devices qualify) - \$375 per hour

Flash Drives – Under 320GB, \$125 >320GB uses Hard Drive Imaging Rate

The only other imaging expense is the cost of the hard drive that we store the images on. In most cases we are able to store multiple images per hard drive. We bill these at \$100 for a conventional drive or actual cost for an SSD.

Mobile Devices

Acquisition of phones and tablets is most often handled on a per-device flat fee basis. Typical fees are currently \$750 per device. Due to the incredible variety of devices, however, there are situations in which

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an hourly billing model is the only practical approach.

Analysis of the data acquired from mobile devices is billed at our standard rates.

Expenses

Straight pass-through.

Travel

Billed at our actual cost. We fly coach on domestic flights under two hours, business class on all international flights and domestic flights over two hours. In certain circumstances we may ask the client to book and pay for the travel directly.

Retainers

We generally require a retainer before significant work begins. Assessed on a case-by-case basis.



FORENSIC

**Curriculum Vitae
of
Jerry Hatchett**

Curriculum Vitae of Jerry Hatchett

SUMMARY

I bring seasoned expertise to the areas of digital forensics and electronic discovery, providing assistance to law firms, businesses of all sizes, federal and state courts, and foreign and domestic governmental entities. My digital forensics expertise covers computers and data devices of all types, and also extends to the fields of forensic audio and forensic video. The primary focus of my practice is enabling clients to deal with challenges regarding their ESI (electronically stored information) universe, from forensic examinations, to turnkey management of electronic discovery matters.

My experience includes cases dealing with theft of intellectual property, misappropriation of trade secrets, antitrust, breach of contract, stock option backdating, HIPAA violations, embezzlement, larceny, bankruptcy, liability, and criminal matters. I've worked extensively as a court-appointed expert in digital forensics for both federal and state courts, and as a testifying expert engaged by parties to litigation. I have worked with sensitive data involving multiple major U.S. defense contractors and have conducted major data acquisition efforts in Asia. I have examined and analyzed numerous computers containing non-English data, including Chinese and Japanese.

I am a Certified Computer Examiner (CCE). My professional affiliations include the International Society of Forensic Computer Examiners (ISFCE) and numerous industry groups in the online world. I speak at industry events, including CEIC/EnFuse, the digital forensics industry's major annual conference. I have published dozens of articles in national technology magazines, reference works, and law journals.

SELECT EXAMPLE ENGAGEMENTS

- Served as testifying expert in a federal case in which a Texas corporation (my client) was defending a lawsuit brought by a former partner company in another state. Plaintiff accused my client of an electronic intrusion into their company network, followed by data theft and destruction, and submitted reports from multiple experts that seemed to support the plaintiff's claims. After a voluminous amount of analysis, I proved that not only had my client not committed the intrusion, but that no intrusion had ever taken place at all. Opposing experts were forced to retract their earlier claims, and after issuance of my expert reports, the judge granted my client's motion for summary judgment and dismissed the case.

Curriculum Vitae of Jerry Hatchett

- Served as testifying expert for Fortune 100 corporation in litigation in which the corporation was defending a wrongful termination lawsuit. Critical evidence produced by Plaintiff included a series of surreptitiously recorded audio files that purportedly supported plaintiff's claims against the corporation. After I analyzed the recordings and produced two expert reports demonstrating that numerous of the recordings had been tampered with, and that other recordings had been intentionally deleted and not produced, the judge granted a motion for summary judgment and dismissed the case.
- Served as testifying expert for national restaurant chain defending an arbitration action from a disgruntled former employee who had been terminated. At issue were surreptitiously created recordings of the conversation during which the employee was terminated. After analysis of the evidence, I testified at the arbitration trial that the recordings were incomplete and had been intentionally edited to present an inaccurate portrayal of the recorded conversation. My client won a sweeping victory hours later.
- Served as testifying expert for a Washington (state) corporation whose intellectual property had been copied and publicly disseminated on the Internet. My analysis and expert report established with certainty that the distributed information was copied from the corporation's intellectual property and distributed online without the owner's consent.
- Served as consulting and testifying expert in matter in which an international corporation had suffered theft of confidential and proprietary business data. I established the theft of the data and subsequent efforts to erase the electronic tracks of the data theft. I served in a purely civil role, but the action was serious enough that the former employee was tried, convicted, and sentenced in U.S. federal court for the actions I discovered.
- Served as court-appointed neutral forensic expert in Texas and Florida for more than two years in litigation involving Fortune 100 defense contractors. Issues in case included alleged infringement of intellectual property and misappropriation of trade secret issues dealing with contracts valued at over one billion dollars. Services included data acquisition from numerous U.S. sites and detailed forensic analysis of dozens of computers containing highly sensitive defense-related data. Work performed in phased approach, with an extensive number of interim and final expert reports. Consulted throughout the engagement with a large number of different clients and outside counsel from all sides of the litigation.
- Engaged to collect information in China from pharmaceutical manufacturer involved in complex litigation with U.S. federal government. Issues in case included alleged antitrust violations, including allegations of attempted price-fixing in the market for a global staple

Curriculum Vitae of Jerry Hatchett

product. Services included collection of ESI and hard documents, followed by analysis and processing of the collected information.

- Provided expert deposition and trial testimony in engagement serving as court-appointed neutral forensic expert in Texas court. Issues in case included misappropriation of intellectual property and unfair trade practices. Services included ESI collection and detailed forensic analysis of multiple computers, including meticulous examination regarding the alleged intentional destruction of evidentiary data. Engagement proceeded through multiple phases and included regular consultation with outside counsel representing three different parties for over a year.
- Led team that collected, organized, and distributed to forensic accounting team and outside counsel, ESI involved in major stock-option backdating case. Issues in case focused on allegations that executives of a major insurance holding corporation manipulated the dates on which stock options were granted and exercised. Engaged by Audit Committee of the company's Board of Directors. ESI included forensic imaging of numerous critical computers, along with collection and processing of hundreds of backup tapes containing system and e-mail store backups. Participated in interviews of key custodians and personnel. Designed, implemented, and managed multi-attorney ESI review. Supported ESI needs of forensic accounting team and counsel throughout the engagement.
- Served as forensic video expert in litigation involving major manufacturer of household small appliances. Analyzed video footage of a forensic fire expert conducting interview of key witness, that interview having taken place in a reconstructed pre-fire environment. Identified and demonstrated in expert report that the video footage had been altered. Case settled shortly after report filed.
- Analyzed video footage of casino cash-handling station to determine whether employee stole cash from bank deposit while that deposit was being prepared. Conducted significant enhancement operations of low-quality surveillance video and a detailed frame-by-frame analysis that resulted in exoneration of the employee and resulting confession by armored car driver.
- Conducted numerous forensic examinations of computers, and digital forensic examinations and processing of video and audio data in civil and criminal court matters.

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TESTIMONY

Lockheed Martin v. Speed et al.

U.S. District Court
Middle District of Florida

U.S. District Court
Northern District of Texas

Court-appointed neutral forensic expert, submitted numerous sworn expert reports to the court over a two-year period.

Airgas v. IWS

249th Judicial District
Harris County, Texas

Served as court-appointed neutral forensic testifying expert in Texas court. Submitted multiple sworn expert reports to the court, testified verbally at deposition and trial.

Hatchett v. Hatchett

Superior Court of Henry County
State of Georgia

Served as digital forensic expert. Submitted sworn expert report and testified verbally at trial.

Nancy J. Clark v. Fiesta Restaurant Group, Inc.

JAMS Arbitration – Dallas

Served as digital forensic expert and testified verbally at trial.

The Matter of the Marriage of Courtney Bellow and Michael David Bellow, Jr.

356th Judicial District

Hardin County, Texas

Provided expert report and testified at trial.

HCC Insurance Holdings vs. Flowers, et. al.

U.S. District Court
Northern District of Georgia

Provided expert reports and testified at deposition.

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Frost Bank v. Huff

162nd Judicial District

Dallas County, Texas

Provided expert report and testified at deposition.

State of Mississippi v. Beasley

Hinds County Court

Jackson, Mississippi

Provided expert reports and verbal testimony in court.

SKILLS

All facets of forensic acquisition, consulting, analysis, reporting, and testimony, including thorough familiarity with the key software applications listed below as well as numerous ancillary tools:

EnCase

FTK (Forensic ToolKit)

X-Ways Forensic

Forensic Explorer

Internet Evidence Finder

NetAnalysis

Virtual Forensic Computing (VFC)

Plaso (log2timeline)

Various database-oriented tools, including SQL

Microsoft: Excel, Word, Outlook, PowerPoint

Adobe: Acrobat, Photoshop, After Effects

REFERENCES

Laura O'Donnell – Partner – Haynes and Boone, San Antonio

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laura.odonnell@haynesboone.com

210-978-7421

Darin R. Leong – Partner – Marr Jones & Wang, Honolulu

dleong@marrjones.com

808-536-4900

Kelly Cameron – Partner – Perkins Coie, Boise

KCameron@perkinscoie.com

208-343-3434

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PUBLICATIONS

- *Electronic Discovery: Beneath the Surface* - An exploration of the accuracy and completeness of evidence in today's e-discovery environment. - Tennessee Bar Journal (Complete article available upon request.)
- *Cover series on the use of biometric technologies in crime fighting and security*: This series of three articles explored a variety of biometric identification and authentication technologies, including fingerprint recognition, hand geometry scanning, facial and voice recognition, as well as iris and retina scanners; the exploration moved deeper, examining the ways in which these emerging and/or rapidly developing technologies are being put to use in today's society. (Complete article available upon request.)
- *Understanding Drive Compression* - Overview of using drive compression to conserve hard-drive space. - Smart Computing *Digital or Film* - An explanation of digital vs. film photography, cameras, and related issues. - Smart Computing
- *Tales of Transferring* - Overview of moving digital imagery from camera to computer. - Smart Computing Reference Series
- *Review* - ZoneAlarm Pro firewall software - Computer Power User
- *Review* - BlackICE Defender - Internet security software - Computer Power User
- *Webcams* - Feature on Internet-enabled cameras, hosting, Internet video, and related software. - Smart Computing
- *Setting Up a Message Board* - Overview on setting up Internet message boards. -Smart Computing
- *As Data Storage Evolves* - Overview of data storage technologies, from floppy diskettes to DVDs and beyond - CE Tips
- *How To Install Microsoft Office* - PC Today
- *Choosing a Business Projector* - An overview and tutorial roundup of video projectors used in business roles today. - Smart Computing Reference Series
- *Set Up A Small Wired Network* - Smart Computing
- *Cable TV: A Journey* - A history of cable television and examination of current cable technology. - CE Tips
- *Windows XP Network and Online Error Messages* - Smart Computing Reference Series
- *Windows 98 Installation Error Messages* - Smart Computing Reference Series
- *Phone Home In Style* - A look at modern wireless phone technology and an overview of available cellular gear. - CE Tips

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- *From Prototype to Profits* - Innovative use of video in the inventive processes. - Video Toaster User
- *The Long, Hard Road to Quick and Easy Riches* - An exploration of the process of moving from raw mental concept to physical prototype to the mass market. -Inventor's Digest
- Helped write a technology encyclopedia published by Sandhills Publishing.