

RETENTION AGREEMENT

THIS AGREEMENT (“Agreement”), effective as of May 10, 2021 (“Effective Date”), is between the Attorney General of the State of Mississippi and the law firms of Keller Lenkner LLC, 150 N. Riverside Plaza, Suite 4270, Chicago, IL 60606, and The Lanier Law Firm, P.C., 10940 W. Sam Houston Pkwy. N., Suite 100, Houston, Texas 77064 (together, “Law Firms”).

RECITALS

WHEREAS, the Attorney General of the State of Mississippi has determined that claims (the “Claims”) should be brought against Google, LLC, and any related parent companies or subsidiaries (together, “Google”) arising from violations of state and federal antitrust laws, unfair methods of competition and unfair or deceptive trade practices, and other related claims asserted in *State of Texas, et al. v. Google LLC*, filed as 4:20-cv-00957 (the “Litigation”); and

WHEREAS, the Attorney General has determined that the investigation, research, and litigation of the Claims may require the work of numerous lawyers, paralegals, and others who are familiar with the facts of this case; and

WHEREAS, the Attorney General has further determined that it is in the best interests of the State and its citizens that the State retain attorneys with significant litigation experience; and

WHEREAS, the Law Firms are experienced in such litigation and have consented to represent the State of Mississippi, in association with the Attorney General, respecting the Claims and pursuant to the terms and conditions hereof.

IT IS, ACCORDINGLY, AGREED on May 10, _____, 2021 as follows:

1. The Office of the Attorney General hereby retains the Law Firms and their lawyers listed in Exhibit B, who are hereby designated as Special Assistant Attorneys General, to pursue causes of action on behalf of the Attorney General against Google for violations of state and federal antitrust laws, unfair methods of competition and unfair or deceptive trade practices, and other related claims asserted in the Litigation.
2. The Attorney General does not relinquish her constitutional or statutory authority to settle this Litigation on behalf of the State of Mississippi and its citizens, and the Law Firms shall timely apprise the Attorney General of all settlement offers. The Law Firms shall consult with the Attorney General and obtain her approval on all material matters pertinent to the Litigation, including whether and how to proceed in the Litigation, which claims to advance, what relief to seek, and whether or on what terms to settle. The Attorney General shall cooperate with the Law Firms and

use her best efforts to secure the cooperation of other State agencies. However, the Attorney General is not required to assign any member of her staff to pursue the Litigation but may from time to time afford staff and other support services as the Attorney General deems appropriate, and the Law Firm shall keep the Attorney General and any designated staff member(s) fully informed on all matters pertaining to the Litigation.

3. The Attorney General and the Law Firms recognize that the Litigation presents numerous factual and legal obstacles, and that no assurance of success on the claims has been or can be made.
4. The Attorney General shall maintain sole responsibility for the public distribution of information concerning the State's role in this matter. All press inquiries regarding the State in particular shall be referred to the Attorney General for comment and response. Because the Law Firms represent other plaintiffs in the Litigation, Law Firms may be responsible for publicly distributing information or responding to press inquiries relating to the Litigation on behalf of other plaintiffs; Law Firms shall notify the Attorney General when they do so.
5. Notwithstanding potential difficulties, the Law Firms have agreed to represent the State on a fully contingent basis. The Attorney General hereby agrees that the Law Firms will be compensated for recoveries by the State of Mississippi on the following basis, which the Attorney General finds to be reasonable and necessary to assure the State of its rightful recovery:

A. Recovery of Attorneys' Fees: The sole contingency upon which the Law Firm shall be compensated is a monetary recovery in this Litigation, whether by settlement or judgment. The term recovery refers to all monies received or obtained in connection with the Litigation before the deduction of costs and expenses advanced by Outside Counsel. The contingency fee shall in no way be based on any penalties or civil fines awarded by a court or any amounts attributable to penalties or civil fines awarded by a court.

- i. Upon the execution of this Agreement, the fees paid to the Law Firms by the State shall be the following:
 - 25% of any recovery of up to \$10,000,000; plus
 - 20% of any portion of such recovery between \$10,000,000 and \$15,000,000; plus
 - 15% of any portion of such recovery between \$15,000,000 and \$20,000,000; plus
 - 10% of any portion of such recovery between \$20,000,000 and \$25,000,000; plus
 - 5% of any portion of such recovery exceeding \$25,000,000.

- ii. Per Mississippi Code § 7-5-7(2)(b), the contingency fee shall not exceed an aggregate of \$50,000,000, exclusive of reasonable costs and expenses incurred in connection with the Litigation.
- iii. In the event that the Litigation settles with non-monetary relief to the State, such as a business restructuring of Google, the State and the Law Firms will ask the court to award attorneys' fees and costs and use commercially reasonable efforts to obtain from Google payment of the Law Firm's fees, costs, and expenses as granted by the court.

B. Reasonable and Necessary Costs and Expenses: Except for the incidental costs and expenses initially borne by Keller Lenkner in the ordinary course of performing legal services under this Agreement, the Lanier Law Firm shall advance on the Attorney General's behalf all costs and expenses in performing legal services under this Agreement not already covered by Mississippi's prior contribution to the multistate cost-share, including those incurred for third-party investigations, such as statistical and actuarial investigations of damages, and expert fees and costs. Other reasonable and necessary costs and expenses include, but are not limited to, those relating to court fees, travel, depositions, paralegals, and computer research. Such costs and expenses shall be approved by the Attorney General and shall initially be borne entirely by the Lanier Law Firm, and not by the Attorney General. The Attorney General shall reimburse the Law Firms for all costs and expenses paid or owed by the Law Firms in connection with this Litigation—which have been advanced by the Law Firms on the State's behalf and which the State has not previously paid or reimbursed to the Law Firms—solely out of the State's share of any monetary settlement or judgment or other award obtained by the State.

- i. The parties acknowledge that the Law Firms represent or may have represented other plaintiffs in similar litigation against Google and that legal work and damage modeling for the State and the other plaintiffs may overlap. To the extent possible, the Law Firms agree to reasonably apportion such overlapping costs and expenses among such clients; however, costs and expenses incurred specific to each state shall be paid solely by the respective state in the event of any monetary settlement or judgment in favor of the State and shall not be apportioned.

C. Contingent Nature of Agreement: The Law Firms shall receive no compensation or reimbursement other than as set out in this Agreement. In the event that no monetary recovery is realized, the Law Firms shall receive no compensation or reimbursement.

Right to Terminate: The Attorney General has the right to terminate this Agreement for any reason, with or without cause, by notifying Law Firms in writing of such termination. Subject to applicable rules, the Law Firms may terminate this Agreement if the Law Firms cannot continue to be involved in the Litigation or upon approval of the court or the Attorney General. In the event of termination, Law Firms shall, unless otherwise mutually agreed upon in writing, cease all services immediately. Upon termination of this Agreement, Law Firms shall, subject to Law Firms' professional obligations, immediately transfer to the Attorney General all information and associated work product prepared by Law Firms to the extent requested by the Attorney General. Should the Attorney General subsequently obtain any monetary recovery in the Litigation, terminated Law Firms are entitled to receive a fair and reasonable portion of the recovery, based on their percentage of work in the Litigation and the stages in Litigation in which they represented the State, in addition to all costs and expenses that the Law Firms have advanced on behalf of the State; provided, however, that the quantum meruit fee will not be less than the following percentage of the Fee that Outside Counsel would have been entitled to had Outside Counsel not been terminated:

- (i) 10% if Outside Counsel are preparing and defending the complaint;
- (ii) 25% if Outside Counsel are engaged in fact discovery;
- (iii) 50% if Outside Counsel are engaged in expert discovery or drafting dispositive motions;
- (iv) 75% if Outside Counsel are engaged in pre-trial preparations;
- (v) 85% if the trial has begun; or
- (vi) 100% if the trial has concluded.

6. With the approval of the Attorney General, the Law Firms may associate other attorneys at their own expense and at no cost to the State of Mississippi. Notwithstanding such association of other attorneys, this Agreement is non-assignable and non-transferrable, nor are the Law Firms' commitments delegable without the express, written consent of the Attorney General.
7. The Law Firms and any other attorneys with which they associate shall, from the date hereof until not less than four (4) years after this Litigation is concluded, maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the provision of attorney services related to the Litigation and otherwise comply with the Attorney General's retention policy. In addition, the Law Firms shall maintain detailed contemporaneous time records for the attorneys and paralegals working on this matter in increments of not greater than one-tenth (1/10th) of an hour, and shall promptly provide these records to the Attorney General upon request.

8. **Counsel.** Ashley Keller and W. Mark Lanier are designated as Co-Lead Trial Counsel. They will be responsible for the execution of specified legal tasks, subject to the approval of the Attorney General.
9. **Power of Attorney.** Representatives for the Law Firms are hereby granted a power of attorney so that—subject to final approval by the Attorney General—they may have full authority to prepare, sign, and file all legal instruments, pleadings, drafts, authorizations, and papers as shall be reasonably necessary to conclude this representation, including settlement and/or reducing to possession any and all monies or other things of value due to the State under the Litigation as fully as the Attorney General could so do. The Law Firms are also authorized and empowered to act as the Attorney General’s negotiators in any and all settlement negotiations concerning the Litigation under the terms and conditions of this Agreement.
10. **Potential Future Conflicts.**
 - A. The Law Firms intend to represent other entities with claims similar to the State’s. At this time, the interests of the State and other entities align. It, however, is possible that conflicts may arise in the future, including: (1) The Law Firms discover that there is a limited pool of damages or assets from which recovery is reasonably likely, and those damages or assets must be divided among all plaintiffs; (2) Google offers an aggregate or “lump sum” settlement to all plaintiffs that does not specify the amount each plaintiff will receive; (3) Google offers to settle, but only if a certain number, or all, of the plaintiffs accept the proposed settlement; (4) certain plaintiffs disagree on questions of case management, such as whether to pursue particular legal theories or strategies.
 - B. The Law Firms may share material information about the State’s claims and negotiating positions with the Law Firms’ other state clients with the consent of the Attorney General. If any of the above conflicts of interest arises, the Attorney General consents to allow the Law Firms to continue representing the State and their other clients but may ask the Law Firms to recuse from representing the State in those specific issues where the State determines that those conflicts cannot be resolved and chooses not to waive the conflict of interest. If other types of conflicts arise, the Law Firms will inform the Attorney General promptly and work with her on how to best proceed in accordance with the applicable rules of professional conduct.
11. **Legal Construction.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other

provisions thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

[Signature Page Follows]

To evidence the parties' agreement to this Agreement, they have signed and delivered it on the Effective Date.

CLIENT

STATE OF MISSISSIPPI
OFFICE OF ATTORNEY GENERAL

By: 

Name: Tricia L. Beale

Title: Special Assistant Attorney
General

Client Home Phone Number(s):


Client Work Phone Number(s):
228-386-4404

Client Cell Phone Number(s):
228-596-8803

Client Email Address:
tricia.beale@ago.ms.gov

KELLER LENKNER

KELLER LENKNER LLC

By: 

Name: Ashley Keller

Title: Co-Founder

THE LANIER LAW FIRM

THE LANIER LAW FIRM, P.C.

By: 

Name: W. Mark Lanier

Title: Founder

EXHIBIT A

DETERMINATION OF NEED FOR CONTINGENCY FEE REPRESENTATION

The Attorney General has determined that use of the Law Firms is cost-effective, in the public interest and necessary to investigate and potentially pursue claims against Google, LLC, and any related parent companies or subsidiaries, which may have engaged in certain unlawful conduct, including, but not limited to, violations of state and federal antitrust laws, unfair methods of competition and unfair or deceptive trade practices, and other related claims asserted in *State of Texas, et al. v. Google LLC*, filed as 4:20-cv-00957. Use of the Law Firms is necessary because: sufficient and appropriate legal and financial resources do not exist within the Attorney General's office to handle the matter; the time and labor required necessitates the retention of the Law Firms; the novelty, complexity, and difficulty of the questions involved are within the expertise of the Law Firms; and the skill requisite to perform the attorney services properly prohibit our office from being able to efficiently handle it in-house. The geographic area where the attorney services are to be provided is expansive because of the diverse locations of the defendants, their operations, and the potential witnesses. The Law Firms has the amount and type of experience needed, having worked on a number of similarly complex cases on behalf of other states and entities and given that they are representing other states in this Litigation.