

STATE OF NEW YORK
SUPREME COURT

COUNTY OF MONROE

NOAH DOOLITTLE,

Plaintiff,

ANSWER

-vs-

Index No. 09-16450

NIXON PEABODY LLP,

Defendant.

The Defendant, Nixon Peabody LLP ("Defendant"), for its Answer to the Plaintiff's Complaint and Demand for a Jury Trial ("Complaint"), by and through its attorneys, The Wolford Law Firm, LLP, states as follows:

1. Denies the allegations contained in paragraph 1 of the Complaint.
2. Admits the allegations contained in paragraph 2 of the Complaint.
3. Admits the allegations contained in paragraph 3 of the Complaint.
4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint.
5. Admits the allegations contained in paragraph 5 of the Complaint.
6. In response to the allegations contained in paragraph 6 of the Complaint, states that Plaintiff was employed from September 9, 2002 until September 8, 2008 as an Associate.
7. Denies the allegations contained in paragraph 7 of the Complaint.
8. Denies the allegations contained in paragraph 8 of the Complaint.

9. Denies the allegations contained in paragraph 9 of the Complaint.

10. In response to paragraph 10 of the Complaint, admits that Plaintiff helped to generate a new client of Defendant in early 2005, but denies the remaining allegations in paragraph 10 and specifically denies it was "Plaintiff's Client."

11. Admits Plaintiff was listed in the internal record system as a "client attorney," but denies the remaining allegations in paragraph 11 of the Complaint and specifically denies it was "Plaintiff's Client."

12. Admits that Defendant represented the client before the American Arbitration Association, as alleged in paragraph 12 of the Complaint, but denies the remaining allegations in paragraph 12 and specifically denies it was "Plaintiff's Client."

13. In response to the allegations contained in paragraph 13 of the Complaint, admits that Plaintiff performed work in connection with the Arbitration, but denies the remaining allegations in paragraph 13 and specifically denies it was "Plaintiff's Client."

14. Denies the allegations contained in paragraph 14 of the Complaint.

15. Denies the allegations contained in paragraph 15 of the complaint.

16. Denies the allegations contained in paragraph 16 of the Complaint.

17. In response to the allegations contained in paragraph 17 of the Complaint, admits that Robert Calihan had a discussion with Plaintiff regarding a possible bonus, but denies the remaining allegations in paragraph 17 and specifically denies it was "Plaintiff's Client."

18. Admits the allegations contained in paragraph 18 of the Complaint, but specifically denies it was "Plaintiff's Client."

19. Admits the allegations contained in paragraph 19 of the Complaint.

20. In response to the allegations contained in paragraph 20 of the Complaint, admits that Plaintiff and Robert Calihan discussed the impact Plaintiff's departure from the firm would have on any bonus decision, but denies the remaining allegations in paragraph 20.

21. Denies the allegations contained in paragraph 21 of the Complaint.

22. Denies the allegations contained in paragraph 22 of the Complaint.

23. In response to the allegations contained in paragraph 23 of the Complaint, admits that a fee payment was received, but states that it occurred in December 2008, and denies the remaining allegations in paragraph 23 and specifically denies it was "Plaintiff's Client."

24. Denies the allegations contained in paragraph 24 of the Complaint, and further states that Plaintiff received a payment of \$75,000 in April 2009 from Defendant as a discretionary bonus to which he otherwise was not entitled.

**AS AND FOR AN ANSWER TO THE
FIRST CAUSE OF ACTION:**

25. In answer to paragraph 25 of the Complaint, repeats and realleges the foregoing responses, as if fully set forth herein.

26. Denies the allegations contained in paragraph 26 of the Complaint.

27. Denies the allegations contained in paragraph 27 of the Complaint.

**AS AND FOR AN ANSWER TO THE
SECOND CAUSE OF ACTION:**

28. In answer to paragraph 28, repeats and realleges the foregoing responses, as if fully set forth herein.

29. Denies the allegations contained in paragraph 29 of the Complaint.

30. Denies the allegations contained in paragraph 30 of the Complaint.

**AS AND FOR AN ANSWER TO THE
THIRD CAUSE OF ACTION:**

31. In answer to paragraph 31, repeats and realleges the foregoing responses, as if fully set forth herein.

32. Denies the allegations contained in paragraph 32 of the Complaint.

33. Denies the allegations contained in paragraph 33 of the Complaint.

34. Denies the allegations contained in paragraph 34 of the Complaint.

35. Denies the allegations contained in paragraph 35 of the Complaint.

**AS AND FOR AN ANSWER TO THE
FOURTH CAUSE OF ACTION:**

36. In answer to paragraph 36, repeats and realleges the foregoing responses, as if fully set forth herein.

37. Denies the allegations contained in paragraph 37 of the Complaint.

38. Denies the allegations contained in paragraph 38 of the Complaint.

39. Denies the allegations contained in paragraph 39 of the Complaint.

40. Denies the allegations contained in paragraph 40 of the Complaint.

**AS AND FOR AN ANSWER TO THE
FIFTH CAUSE OF ACTION:**

41. In answer to paragraph 41, repeats and realleges the foregoing responses, as if fully set forth herein.

42. Denies the allegations contained in paragraph 42 of the Complaint.

43. Denies the allegations contained in paragraph 43 of the Complaint.

**AS AND FOR AN ANSWER TO THE
SIXTH CAUSE OF ACTION:**

44. In answer to paragraph 44, repeats and realleges the foregoing responses, as if full set forth herein.

45. Denies the allegations contained in paragraph 45 of the Complaint.

46. Denies the allegations contained in paragraph 46 of the Complaint.

**AS AND FOR AN ANSWER TO THE
SEVENTH CAUSE OF ACTION:**

47. In answer to paragraph 47, repeats and realleges the foregoing responses, as if fully

48. Denies the allegations contained in paragraph 48 of the Complaint.

49. Denies the allegations contained in paragraph 49 of the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

50. The Complaint, in whole or in part, fails to state a cause of action upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

51. Plaintiff's claims are barred by the Statute of Frauds.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

52. Plaintiff has failed to plead fraud with particularity.


AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

53. Prior to the filing of this action, Plaintiff informed Defendant that he believed he was entitled to a bonus, as alleged in the Complaint. Defendant disputed Plaintiff's demand for bonus payment. Nevertheless, Defendant paid to Plaintiff, and Plaintiff accepted, payment of a seventy-five thousand dollar (\$75,000) bonus on April 28, 2009. Plaintiff's agreement to accept that \$75,000 bonus operates as an accord and satisfaction of any claim by Plaintiff for an enhanced bonus, and bars Plaintiff's claims for an enhanced bonus. Plaintiff's claims are barred by the doctrine of accord and satisfaction.

WHEREFORE, Defendant, Nixon Peabody LLP, demands judgment dismissing the Complaint, together with the costs and disbursements of this action, and such other and further relief as the Court deems just and proper.

Dated: January 15, 2010

THE WOLFORD LAW FIRM LLP

By: 
Michael R. Wolford, Esq.
Heidi W. Feinberg, Esq.
Attorneys for Defendant
Nixon Peabody LLP
600 Reynolds Arcade Building
16 East Main Street
Rochester, New York 14614
Telephone: (585) 325-8000

TO: THOMAS & SOLOMON LLP
J. Nelson Thomas, Esq.
Guy A. Talia, Esq.
Attorneys for Plaintiff
693 East Avenue
Rochester, New York 14607
(585) 272-0540