

APPENDIX

Representative Examples of the Use of the Phrase
“Contract(s) of Employment” Between 1900 and
1925 to Refer to Any Agreement to Perform Work—
Including that of an Independent Contractor

Case Law

Allen v. Bear Creek Coal Co., 43 Mont. 269, 115 P. 673, 679 (1911) (“The relation of the parties under a contract of employment is determined by an answer to the question, Does the employé in doing the work submit himself to the direction of the employer, both as to the details of it and the means by which it is accomplished? If he does, he is a servant, and not an independent contractor. If, on the other hand, the employé has contracted to do a piece of work, furnishing his own means and executing it according to his own ideas, in pursuance of a plan previously given him by the employer, without being subject to the orders of the latter as to detail, he is an independent contractor.”)

Allen v. Brooke, 25 Ga. App. 122, 122 (1920) (syllabus by court) (“Where an attorney at law accepts employment and agrees for a stipulated fee to handle certain litigation through the courts” and where “it does not appear that the performance of such services was necessary to the successful handling of the litigation under the general contract of employment, it cannot be said that the attorney has failed to comply with his obligation under the contract”)

Atchison, T. & S.F. Ry. Co. v. Dickens, 7 Ind. T. 16, 103 S.W. 750, 753 (Indian Terr. Ct. App. 1907) (“If the

contract of employment has been reduced to writing, the question whether the person employed was an independent contractor or merely a servant is determined by the court, as a matter of law.” (quotation marks omitted))

Bailey v. United States, 43 Ct. Cl. 353, 355-57 (1908) (stating attorney hired by Osage Nation “to defend it in said suit of Watson Stewart” and similar suits “now seeks recovery for the entire amount of compensation provided for by the terms of his contract of employment” and reprinting contract which states attorney was “employed” and calls attorney’s work “employment” (quotation marks omitted))

Baray v. Escobedo, 259 S.W. 1099, 1102 (Tex. Civ. App. 1924) (“The question then is, Does the quoted evidence conclusively show that under the contract of employment Meraz became an independent contractor?”)

Boardman v. Christin, 65 Cal. App. 413, 419 (Dist. Ct. App. 1924) (“The rule is that when complete performance by an attorney of his contract of employment becomes impossible without fault on the part of either party, the attorney may recover in *quantum meruit* the value of the services actually rendered by him.”)

Bowman Eng’g Co. v. Ark. & Mo. Highway Dist., 151 Ark. 47, 235 S.W. 399, 401 (1921) (“The attorney for the district also filed his claim for services under his contract of employment with the commissioners, and the commissioners themselves filed their respective claims for services and expenses.”)

Boyd v. Johnson, 145 Md. 385, 125 A. 697, 698-99 (1924) (“The attorney in such case, under mere contract of employment, acquires no vested interest in the suit[.]”)

Bremer v. Lake Erie & W. R.R. Co., 317 Ill. 580, 582 (1925) (“The contract of employment authorized appellants, as attorneys, to effect a settlement by suit at law or in chancery, or to compromise the same with the consent of the administrator.”)

Caron v. Powers-Simpson Co., 96 Minn. 192, 104 N.W. 889, 889 (1905) (syllabus by court) (“The relationship of master and servant rests upon contract, express or implied, and where there is dispute of fact as to whether the contract of employment was made with an independent contractor or the employer of such contractor it is for a jury, under proper instructions, to determine the controversy.”)

Calhoun v. Massie, 253 U.S. 170, 179 (1920) (McReynolds, J., dissenting) (referring to attorney’s contract with client to prosecute claim against the United States as a “contract of employment”)

Chicago, R.I. & Pac. Ry. Co. v. Bennett, 36 Okla. 358, 128 P. 705, 705 (1912) (syllabus by court) (“Where the contract of employment involved is in writing, the question of the relation created by it between the parties is ordinarily one of law for the court; but if the contract is oral, and the evidence as to its terms is conflicting, or where a written contract has been modified by the practice under it, the question should be submitted to the jury under proper instructions.”)

Connell v. U.S. Sheet & Window Glass Co., 2 La. App. 93, 104 (1925) (“We recognize the right of plaintiff’s attorney, under his contract of employment, as provided for by Act 124 of 1906, giving a first privilege to attorneys for the amount of their professional fees on all judgments obtained by them and on the property recovered by such judgments; and by which it was made lawful for an attorney by written contract, signed by the client, to acquire as his fee an interest in the subject matter of the suit binding on the opposite party after notice.”)

Coon v. Ewing, 275 S.W. 481, 484 (Tex. Civ. App. 1925) (“An attorney and his client have the legal right, however, to abrogate an original contract of employment and to enter into a new contract[.]”)

Crosby & Fordyce v. Hatch, 155 Iowa 312, 135 N.W. 1079, 1081 (1912) (“No contract of employment can prevent a client from dismissing one attorney and entering into a new arrangement with another.”)

Davis Bakery, Inc. v. Dozier, 139 Va. 628, 124 S.E. 411, 414 (1924) (stating that in “contract of employment” of “independent contractor” there “was no suggestion on the part of the owner as to how the work should be done”)

Decola v. Cowan, 102 Md. 551, 62 A. 1026, 1028 (1906) (describing “evidence” as to whether “contract of employment” established master-servant or employer-independent contractor relationship as “so conflicting as to present a material issue of fact”)

Dixon v. Pruett, 42 Nev. 345, 177 P. 11, 12 (1919) (“[Pursuant to the contract of employment, he [an attorney] commenced and prosecuted an action, which resulted, in 1909, in a judgment and decree adjudging and decreeing Nellie G. McCormick to be the owner of a one-ninth undivided, equitable interest in 1,200 acres of land[.]”)

Dobson’s Case, 124 Me. 305, 128 A. 401, 402 (1925) (“The question in these cases whether the relation be that of master and servant or not is determined by ascertaining from the contract of employment whether the employer retains the power of directing and controlling the work, or has given it to the contractor.”)

Eckert’s Case, 233 Mass. 577, 578 (1919) (“It was provided by his contract of employment that he should furnish the team, feed, take care of and drive the horses for a fixed daily remuneration. . . . It is plain as matter of law . . . that when injured he was not an employé of the town but an independent contractor.”)

Graham v. Wichita Terminal Elevator Co., 115 Kan. 143, 222 P. 89, 90 (1924) (“The contract of employment was in writing, and provided the attorney should receive 33 1/3 per cent of such sum as might be realized by compromise, settlement, or judgment.”)

Hadley v. Union Trust & Sav. Bank, 308 Ill. 175, 180 (1923) (“[T]he contract of employment between attorney and client is such that it cannot thereafter be changed during the pendency of the litigation.”)

Hamill v. Territilli, 195 Ill. App. 174, 176 (1915) (“Appellant strongly contends that under the contract of employment Territilli and Scully were independent contractors[.]”)

Higgins v. Uchello, 5 Pelt. 811, 813 (La. Ct. App. 1923) (“This court has frequently held that a contract of employment with an attorney is in the nature of a mandate, revocable at the will of the principal upon the payment of the value of the services rendered up to the date of the discharge.”)

Huntzinger v. Devlin, 80 Pa. Super. 187, 189 (1922) (“Under an ordinary contract of employment an attorney has implied authority to incur reasonable expenses in conducting his client’s case, although not expressly authorized to charge his client with the amount thereof.”)

In re Badger, 9 F.2d 560, 562 (2d Cir. 1925) (“The reason for this rule is that the contract of employment is entire and in order to earn his compensation, the attorney is subject to the same test as every other contract performer; he must show full performance in accordance with this retainer in order to recover the stipulated compensation.”)

In re Barth, 26 N.M. 93, 189 P. 499, 501 (1920) (“In August, 1916, respondent [an attorney] claims that Mrs. Flournoy was indebted to him for services rendered outside the contract of employment herein set out in an amount in excess of \$2,000.”)

Kaw Boiler Works v. Frymyer, 100 Okla. 81 (1924) (syllabus by court) (“One of the tests for determining whether the contract of employment creates the relation of independent contractor, or that of principal and agent, is whether the employer retained or has the right to control the mode or manner in which the work is to be done.”)

Kelley v. Del., L. & W. R.R. Co., 270 Pa. 426, 428 (1921) (“The question for determination is whether deceased was an employee of defendant or an independent contractor. If the first, compensation is due; if the second, it is not. To decide, it is necessary to construe the written contract of employment[.]”)

Lindsay v. McCaslin, 123 Me. 197, 122 A. 412, 413 (1923) (“When the contract of employment has been reduced to writing, the question whether the person employed was an independent contractor or merely a servant is determined by the court as a matter of law.”)

Lawler v. Dunn, 145 Minn. 281, 176 N.W. 989, 989 (1920) (“The action is for the recovery of damages for an alleged breach of contract of employment” between client and attorney “employed . . . to defend him” in criminal case).

Luckie v. Diamond Coal Co., 41 Cal. App. 468, 477 (1919) (“We think that the nature of Foulk’s relation to defendant at the time of the accident, whether that of an independent contractor or servant, must be determined not alone from the terms of the written contract of employment, but from the subsequent conduct of each, known to and acquiesced in by the other.”).

Marquam v. Vachon, 7 F.2d 607, 607 (9th Cir. 1925) (“[T]he right of the client to dismiss the attorney, whether with or without cause and at any time, is an implied condition of the contract of employment.”)

Martin v. Camp, 219 N.Y. 170, 172 (1916) (“This is an action by the assignee of a firm of attorneys and counselors at law to recover damages for the breach of a contract of professional employment.”)

Martin v. Dixon, 49 Nev. 161, 241 P. 213, 216 (1925) (“It is contended, however, that the relation of attorney and client had ceased, and that the court found that Dixon’s contract of employment as attorney was completed”)

McDougal v. Black Panther Oil & Gas Co., 277 F. 701, 706 (8th Cir. 1921) (“Should the party to any action or proposed action, whose interest is adverse to the client contracting with an attorney, settle or compromise the cause of action or claim wherein is involved any lien, as mentioned in the preceding sections hereof, without a satisfaction of the attorney’s claim, such adverse party shall thereupon become liable to such attorney for the fee due him or to become due him under his contract of employment[.]”)

N. Tex. Traction Co. v. Clark & Sweeton, 272 S.W. 564, 566 (Tex. Civ. App. 1925) (“The petition first sets out facts showing personal injuries suffered by Mrs. Williams through the negligence of the traction company, and the contract of employment of the attorneys by which they were to have one-third of any sum of money realized or received as a compromise of the claim

without trial, or 40 per cent. of the amount of the judgment rendered in the trial of the case.”)

Owen v. Dudley, 217 U.S. 488, 494 (1910) (calling an agreement by attorneys to represent the Eastern Cherokee tribe in pursuing claims against the United States a “contract of employment”)

People ex rel. Eaton v. El Paso Cnty. Court, 74 Colo. 123, 126 (1923) (“[T]he executrix could not enter into a contract of employment with an attorney, which contract fixed the amount of compensation, without the approval of the county court[.]”)

Pociey v. Pierrot, 17 Ohio App. 175, 175 (1922) (“The plaintiff in error, who was plaintiff below, brought suit on a contract of employment, for services as attorney. The petition alleged that the contract for his services was on a contingent fee[.]”)

Rogers v. Osage Nation of Indians, 45 Ct. Cl. 388, 393 (1910) (“They [attorneys] had a contract of employment and contributed under it to the ultimate success of their clients.”)

Runyan v. Goodrum, 147 Ark. 481, 228 S.W. 397, 400 (1921) (“The very nature of his profession and the character of his contract of employment involves this right [to exercise independent judgment]. Such being our conclusion, it inevitably follows under the doctrine of our own cases that the relation of master and servant cannot exist[.]”)

Semper v. Am. Press, 217 Mo. App. 55, 273 S.W. 186, 190 (1925) (“Bresler, it is true, used his own conveyance, a

Ford touring car, in doing his work, and kept it in repair and provided the necessary gas and oil for it, as it seems he was required to do under the contract of employment. . . . It is manifest that in this state of the evidence the question as to whether Bresler was an independent contractor or a mere servant of the defendant was for the jury.”)

Shannon v. W. Indem. Co., 257 S.W. 522, 524 (Tex. Comm’n App. 1924) (“So it may be stated in a general way that in every contract of employment, this element of right to control being present, the person employed has been held to be an employé or servant, unless all the other circumstances necessarily required a different conclusion; and when this element of control was absent, the person has been held to be a contractor, and not an employé, unless a contrary conclusion was apparent from all the other circumstances.”)

Spurr v. Pryor & Stokes, 104 Okla. 68, 230 P. 267 (1924) (calling attorney’s agreement to represent criminal defendants accused of “the unlawful sale of intoxicating liquor” a “contract of employment”)

S. R.R. Co. v. McKinney, 276 F. 772, 777 (5th Cir. 1921) (“However, we think that the court erred in not recognizing the right of the Southern Railway Company to a credit for such part of this judgment as represented the fee of the attorney. It is quite clear that he retained this sum by virtue of his contract of employment, and that his fee was contingent on recovery by suit or settlement.”)

Tankersley v. Webster, 116 Okla. 208, 243 P. 745, 747 (1925) (“[T]he contract of employment between Tankersley and Casey was admitted in evidence without objections, and we think conclusively shows that Casey was an independent contractor.”)

Trinkle v. McCue, 113 Kan. 623, 216 P. 263, 264 (1923) (“With such notice of lien the attorney may recover for his services as stipulated in his contract of employment[.]”)

Trump v. Bluefield Waterworks & Imp. Co., 99 W. Va. 425, 129 S.E. 309, 311 (1925) (“The determination of the question of whether a person performing work or doing business for another is a contractor for whose negligence the employer is not liable, or a servant for whose acts the employer is responsible, depends upon a consideration of the contract of employment, the nature of the business, and the circumstances under which the parties contracted and the work was being done[.]”)

Vance v. Jones, 106 Okla. 110, 219 P. 375, 377 (Okla. 1923) (“Vance, in that he makes no contention as to the validity of the contract of employment wherein he agreed to pay 50 per cent. of the amount recovered as attorney’s fee. . . .”)

Waldron v. Garland Pocahontas Coal Co., 89 W. Va. 426, 109 S.E. 729, 729 (1921) (syllabus by court) (“Whether a person performing work for another is an independent contractor depends upon a consideration of the contract of employment, the nature of the business, the

circumstances under which the contract was made and the work was done.”)

Watkins v. Sedberry, 261 U.S. 571, 575 (1923) (“The referee made an order authorizing the trustee to enter into a contract of employment with the attorney ‘on a contingent basis,’ and providing that the attorney should be personally responsible for and pay all expenses incurred in the prosecution of any suits.”)

W. Hartlepool Steam Navigation Co. v. Benemelis S.S. Co., 12 Teiss. 3, 5 (La. Ct. App. 1914) (“It devolves upon him who relies upon the defense of independent contractor to plead and prove the nature of the contract of employment and to establish that the work was neither directed nor controlled by the employer.”)

Wright v. Johanson, 132 Wash. 682, 692 (1925) (repeatedly referring to attorney’s contract with a client as a “contract of employment”)

Statutes

Federal

Act of Mar. 3, 1919, ch. 103, 40 Stat. 1316, 1317 (providing for payment of “attorney employed” by “Cherokee Nation” to prosecute claim against the United States and requiring that no such payment shall exceed “the amount stipulated in his contract of employment” or “ten per centum of the sum, if any, to which the Cherokee Nation shall be found entitled”)

Act of Aug. 24, 1921, ch. 89, 42 Stat. 192, 192 (“That no part of this sum shall be used to pay the compensation of any attorney, regular or special, for the United States Shipping Board or the United States Shipping Board Emergency Fleet Corporation unless the contract of employment has been approved by the Attorney General of the United States[.]”)

Act of June 7, 1924, ch. 300, §§ 2, 5, 43 Stat. 537, 537-38 (providing for payment of “attorney or attorneys employed” by Choctaw and Chickasaw Tribes to prosecute claims against the United States and providing that no such payment shall exceed the “amount or amounts stipulated in the contract of employment” or “10 per centum of the amount of recovery against the United States”)

Act of Mar. 19, 1924, ch. 70, §§ 2, 5, 43 Stat. 27, 28 (providing for payment of “attorney or attorneys employed” by “Cherokees” to prosecute claims against the United States and providing that no such payment shall exceed the “amount or amounts stipulated in the contract of employment” or “10 per centum of the amount of recovery against the United States”)

Act of Mar. 3, 1925, ch. 459, §§ 2, 5, 43 Stat. 1133, 1134 (providing for payment of “attorney or attorneys employed” by “Kansas or Kaw Tribe of Indians” to prosecute claims against the United States and providing that no such payment shall exceed the “amount or amounts stipulated in the contract of employment”)

State

Act of Mar. 4, 1909, ch. 4, § 3, 1909 Okla. Sess. Laws 117, 118 (“Should the amount of the attorney’s fee be agreed upon in the contract of employment, then such attorney’s lien and cause of action against such adverse party shall be for the amount so agreed upon.”)

Act of Mar. 10, 1909, ch. 70, § 1, 1909 Kan. Sess. Laws 121, 121. (“[A]ll contracts of employment of auditors, accountants, engineers, attorneys, counselors and architects for any special purpose shall be by ordinance[.]”)

Act of Mar. 26, 1909, ch. 118, § 4, 1909 Tex. Gen. Laws 231, 232 (“[T]he applicant is authorized to have such evidence taken down by his attorney or by such other person as he or she may employ under the contract of employment to secure his or her pension”)

Act of Feb. 10, 1913, ch. 7, § 2, 1913 N.Y. Laws 9, 9-10 (referring to “contract of employment” with agents of an insurance underwriter, where “agents” were defined to exclude “officers and salaried employees” of the underwriter)

Act of Apr. 21, 1915, ch. 13, §§ 1, 6, 1915 Alaska Sess. Laws 29, 30, 34. (allowing “[e]very person who at the instance of the owner performs work or labor in, on or about a mine or mining claim” to file a lien against the mine or mining claim to ensure payment for their work, and specifying that “[e]very person” claiming a lien must file a “statement of the terms and conditions of his contract of employment”)

Act of Feb. 11, 1919, ch. 22, § 2, 1919 Okla. Sess. Laws 38, 38-39 (“Should the amount of the attorney’s fees be agreed upon in the contract of employment, then such attorney’s lien and cause of action against such adverse party shall be for the amount or portion of the property so agreed upon.”)

Act of Mar. 4, 1924, ch. 88, § 1, 1924 Va. Acts 90, 91 (permitting extension of “contracts of employment” between the state and contractors that facilitate the labor of prisoners, but specifying that contractors must first file a bond)

Other Sources

Annotation, *General Discussion of the Nature of the Relationship of Employer and Independent Contractor*, 19 A.L.R. 226, 228, 238, 240 (1922) (citing several cases which refer to the “contract of employment” of an independent contractor)

Annotation, *Teamster as Independent Contractor Under Workmen’s Compensation Acts*, 42 A.L.R. 607, 617 (1926) (“When the contract of employment is such that the teamster is bound to discharge the work himself, the employment is usually one of service, whereas, if, under the contract, the teamster is not obligated to discharge the work personally, but may employ others to that end and respond to the employer only for the faithful performance of the contract, the employment is generally an independent one.” (citing cases from 1916-1925))

A Post Mortem on John Barleycorn, 3 W. Publ'g Co. Docket 2254, 2254 (1920) (calling contract with attorney “employed to recover part of the estate of a deceased person on a contingent percentage basis” a “contract of employment”)

B.B. Purser Entitled to Compensation for Services Rendered as Special Counsel of School Board of Tangipahoa Parish, 1918-1920 La. Att’y Gen. Rep. 501-02 (referring to agreement with attorney to represent Parish of St. Helena in a lawsuit “to establish and fix its boundary line with the Parish of Tangipahoa” as a “contract of employment”)

Independent Contractors, 13 Cal. Jurisprudence: A Complete Statement of the Law and Practice of the State of California 1011, 1018 (William M. McKinney ed., 1923) (“Primarily the contract of employment, whether written or verbal, governs in determining the relation of the parties—whether that of master and servant or that of employer and contractor.”)

Detective—Service of How May Be Paid, 1910 Wis. Att’y Gen. Biennial Rep. 840 (referring to agreement between county board and private attorney to “prosecute some tax cases” on board’s behalf as “contract of employment”)

Digest of Opinions: The Syllabi of the Most Important Opinions Rendered by the Attorney-General for the State of Oregon 97 (1919) (“The question of whether the relation of master and servant exists or whether the relation of contractor and contractee exists is determined mainly by ascertaining from the contract of

employment whether the employer retains the power of directing and controlling the work or has given it to the contractor.”)

Edward F. White, 8 A Supplement to the Commentaries on the Law of Negligence of Seymour D. Thompson, LL.D. 89-90 (1914) (“General statement as to who are independent contractors.—One is an independent contractor where, in the exercise of an independent employment, he contracts to do a piece of work according to his own methods. . . . The question of relationship is to be determined by consideration of the contract of employment, the nature of the business, and all the circumstances. The relation is not necessarily repugnant to that of agency, and an independent contractor may also be the agent of the owner so as to make him liable for negligence under the doctrine of respondeat superior.” (footnotes omitted))

Employment of Special Counsel, 1916-1918 La. Att’y Gen. Rep. 507 (referring to agreement with special counsel to represent district in single lawsuit as “contract of employment”)

Frances A. Patterson as Widow of George N. Osler (Claimant), 12 Interior Dec. 6 (1902) (stating in reference to agreement of attorney to represent client in pension claim, “it is not reasonable to presume that Congress recognized her right to employ an attorney and yet intended to deny her right to pay the attorney for his services under the contract of employment”)

George W. Warvelle, Essays in Legal Ethics 73-74 (2d ed. 1920) (“The attorney’s right to charge and recover

compensation for his professional services is based upon a contract of employment, which, as a rule, is initiated by a formal request on the part of the client, technically called a 'retainer.'")

House Slashes High Salaries in Ship Board, N.Y. Trib., Jan. 31, 1922, at 2 ("A limitation provides that no part of this shall be paid to attorneys whose contract of employment has not been approved by the Attorney General.")

Index, 81 Reports of the Cases Decided in the Appellate Court of the State of Indiana, Jan. 11, 1924 – Oct. 10, 1924, at 749 (1925) ("*Evidence.—Oral Contract of Employment.—*In proceedings against employer of independent contractor for compensation for the death of latter's employee, where the contract between the contractor and his employer was verbal, it was the duty of the Industrial Board to determine from the evidence before it the intent of the parties and give it effect.")

Index, 121 Wash. Reports—Cases Determined in the Sup. Ct. of Wash. July 13, 1922 – Oct. 21, 1922 at 762 (1922) ("Where there is no conflict as to the terms of the contract of employment, the question as to whether one is an employee or an independent contractor is one of law for the court, and not to be submitted to the jury.")

I.T. 2036, III-1 C.B. 117, 119 (1924) (federal Income Tax Unit ruling calling agreement of attorney held to be an independent contractor a "contract of employment")

65 *The Lawyers Reports Annotated* 508 (Burdett A. Rich & Henry P. Farnham, eds., 1904) (“If the contract of employment has been reduced to writing, the question whether the person employed was an independent contractor or merely a servant is determined by the court, as a matter of law.”)

Questions on Professional Ethics, 2 W. Publ’g Co. Docket 1619, 1619 (1916) (calling contingency fee agreement with attorney to collect a debt a “contract of employment”)

Investigation of the Administration of Indian Affairs in Okla.: Hearings Before a Subcomm. of the H. Comm. on Indian Affairs, Pursuant to H. Res. 348, 68th Cong. 219 (1924) (statement of Rep. Sid C. Roach, Member, H. Comm. of Indian Affairs) (calling attorney’s contingency-fee contract to represent heirs seeking to recover property “contract of employment”)

Investigation of the Administration of Indian Affairs in Okla.: Hearings Before a Subcomm. of the H. Comm. on Indian Affairs, Pursuant to H. Res. 348, 68th Cong. 429 (1924) (Statement of Rep. M.C. Garber, Member, H. Comm. of Indian Affairs) (using term “contract of employment” to describe attorney’s contract to bring “[s]uit for possession and recovery of rents”)

New York Cnty. Lawyers’ Ass’n Comm. on Prof. Ethics, Summary Statement of Causes for the Discipline of Lawyers: New York Decisions to May 1924, at 50 (1924) (“[W]hen client makes performance of attorney’s contract of employment impossible, attorney may upon notice apply to Court for leave to withdraw.”)

Note, *Winding Up Professional Partnerships*, 33 Harv. L. Rev. 1070, 1071 (1920) (“A client who employs a firm of lawyers, without stipulating for the services of any particular member of the firm, has the option of terminating the contract of employment upon the death of one of the partners[.]”)

Proceedings of the Board of School Directors of the Parish of St. John the Baptist, Le Meschacébé (Louisiana), Feb. 26, 1916, at 3 (reprinting school board resolution characterizing agreement with attorney to litigate trespass claim as “contract of employment”)

Recent Cases, 9 Minn. L. Rev. 373, 375 (1925) (referring to attorneys’ contract to represent criminal defendant as a “contract of employment”)

Recent Legal Decisions, Houston Daily Post, July 12, 1901, at 4 (“Where a contract of employment has been fairly made between an attorney and one thereby becoming his client. . .”).

Rules of Practice Before the United States Bd. of Tax Appeals. Revised Jan. 1, 1925, IV-1 C.B. 399, 400 (1925) (“The Board shall have the right at any time to require a statement, under oath, of the terms and circumstances of any contract of employment of an attorney or certified public accountant with the taxpayer he represents.”)

Sam W. Eskridge Sues Frisco for Seventy-Five Thousand Dollars, The Monett Times (Missouri), Apr. 6 1917, at 5 (“contract of employment” with attorney to represent person injured while working as a brakeman

in lawsuit against St. Louis-San Francisco Railway Company)

1 Supp. to Vernon's Texas Civil and Criminal Statutes art. 331 (1922) ("A stipulation, in a contract of employment of attorneys, to the effect that the client could not settle his claim without the attorneys' consent did not render the contract void as against public policy.")

Supreme Court Renders Interesting Decision, The Grangeville Globe (Idaho), Oct. 24, 1912, at 5 ("contract of employment" of attorney to settle estate).

Survey of Conditions of the Indians in the United States: Hearings Before a Subcomm. of the S. Comm. on Indian Affairs, 71st Cong. 13242-43 (1932) (reprinting contract from 1925 described in the body of the contract as a "contract of employment," even though contract labeled worker "independent contractor")

Theophilus J. Moll, *A Treatise on the Law of Independent Contractors and Employers' Liability* 47-48 (1910) ("It has been laid down that the relation of master and servant will not be inferred in a case where it appears that the power of discharge was not an incident of the contract of employment.")

U.S. Will Follow Up Wheeler Indictment, The Evening Star (Washington D.C.), May 15, 1924, at 2 ("contract of employment" of attorney and law firm (quoting Senate committee report))

William F. Elliott, *Cumulative Supplement to the Commentaries on the Law of Contracts: Bringing the Law of Each Section of the Original Text Down to the*

Present Time and Adding All New Points of Law Subsequently Decided 425 (1923) (“In an action between an employer and a third person it is competent for either party to show the true relationship existing between the employer and his employé or independent contractor, regardless of the terms of the contract of employment.”)

Thirty-Ninth Annual Report of the Board of Directors of the Indian Rights Ass’n 40-41 (1921) (stating collection of money from members of the tribe to “defray the expenses of attorneys in collecting evidence” was impermissible because “no contract of employment as attorney had been approved by the Government”)

Where Attorney is Employed to Assist Prosecuting Attorney to Bring Suit for County Treasurer to Collect Taxes—Fees not Apportionable to Various Subdivisions Entitled to Share in Such Taxes, 2 Ohio Att’y Gen. Ops. 1581, 1586 (1916) (“contract of employment” of lawyer hired by county to assist in litigation to recover taxes from a brewing company)

Weekly Digest, 89 Cent. L.J. 309, 311 (1919) (“A conditional vendee and lessee of a motortruck, who is under a contract of employment to haul coal for the lessor, who has no right to control and direct the manner in which the hauling should be done, is an independent contractor[.]”)

W.M. Reed, *Professional Responsibility*, 52 Ohio L. Bull. 466, 466 (1907) (referring to “contract of employment” between attorney and client)

Yazoo Chancery Occupied with Smith-Rhodes Suit,
The Hattiesburg News (Mississippi), Dec. 22, 1916, at
2 (“[H]eirs of the late Colonel Smith, of Oglethorpe,
Ga., seek to cancel contracts of employment with C.F.
Rhodes, an attorney of Yazoo.”)
