

1 actually, in your parenting plan, have proposed every other  
2 weekend and the Wednesdays. A continuation of what you've  
3 been doing, correct, in yours?

4 A Right. Yeah, because we've been doing it for quite  
5 some time.

6 Q And that's every other weekend. And the parenting  
7 plan that's been submitted, it looks like that the visitation  
8 proposed is the second and fourth weekend of each month rather  
9 than every other weekend. That's not acceptable to you, is  
10 it?

11 A No. Our pattern has worked so well and we can  
12 calendar every other weekend and know and have expectations.  
13 I don't know what -- what the purpose would be to disturb  
14 that. Because we've been doing this for three years.

15 Q And there are other changes that -- I really haven't  
16 had the chance to look, but it looks like that the change on  
17 the holidays that fall on Monday will include the preceding  
18 Saturday and Sunday. And we propose that it just include the  
19 preceding Friday as well which gives you some additional time.

20 A It gives some consistency to it. And also, you  
21 know, when you cut off -- if you try to have them cut off the  
22 Sunday night, what that was was a trade of taking away the  
23 every Tuesday time and adding back every other Sunday nights.  
24 That's the reason why we evolved to that.

25 Q Yeah.

1           A     But it makes a lot of sense because there are  
2 weekend events the kids have where they can't necessarily be  
3 back at 6 PM on Sunday or we may go to the lake for example  
4 and play. And it's often tough to be somewhere at 6:00 PM  
5 Sunday. The key is getting them back and having them in bed  
6 and ready for school the next day. If you shorten that  
7 weekend beyond that, it's hard to have a weekend with them.

8           Q     Do you do the homework with them on the weekends?

9           A     Absolutely. We've never failed.

10          Q     And so far as you know do they go to bed? Are they  
11 rested?

12          A     They go to bed because I tell the bedtime stories  
13 every night until I hear snoring. That's how -- and I make it  
14 up. So I tell them until I hear the snoring.

15          Q     Preston, with regard to the request for attorney's  
16 fees, you're a lawyer, you understand that. You also  
17 understand the need for her to have a vehicle. Are there any  
18 resources that you can draw upon to get those funds?

19          A     Well, I would say -- I mean, I paid you a \$2,500  
20 retainer thus far, which seemed very reasonable to me. And  
21 I'd heard talk of five and ten or a thousand more for somebody  
22 else, which is outside of my range. I can come up with in a  
23 given month -- I mean, I looked -- I've just paid all the  
24 bills for December and I've just given Michelle a check this  
25 week for \$500 and, you know, I'm going to end up having a

1 \$1,000 or so left over from this month's check. Next month I  
2 get paid on the 15<sup>th</sup> and would have additional money. But I  
3 don't think it would be unreasonable to pay, you know, \$2,500  
4 so that both sides can have some attorney's fees if that's  
5 what's traditionally done. But I do not have any source of  
6 money. There is no -- it's all liquid. It's paid and paid  
7 out in bills. And what's left over -- like this month was  
8 \$20. And there's no savings account. There is no IRA  
9 account. There's no retirement account. The only asset that  
10 we have that I know of that could be sold would be the lot  
11 adjoining her house. And I'd be happy to put that up and give  
12 the proceeds to Mr. Medlin if that's what he wants. Other  
13 than that -- which that may take a little while -- we could  
14 fire sale it and maybe get a few thousand dollars for it. But  
15 there simply is nothing there. In fact, if you told me today  
16 to write a check for \$5,000, I don't have that money. Now if  
17 you give me until the 15<sup>th</sup> of next month when my paycheck is I  
18 could -- I could get closer to that and try to defer some  
19 other bills until another month.

20 MR. JONES: That's all the questions I have.

21 THE COURT: Mr. Medlin?

22 -----  
23 RECROSS-EXAMINATION by: Mr. Medlin

24 Q Your -- the Chevrolet Suburban, that was the second  
25 vehicle that had been wrecked in the last couple of years. In

1 December '06 there had been another wreck. Correct?

2 A With that vehicle?

3 Q No. Well, was that same vehicle involved in the  
4 December '06 wreck?

5 A I don't -- can you be more specific about the  
6 December '06 wreck? I'm not -- I don't --

7 Q Sure. I think you said that your wife was involved  
8 in an accident in October of '08, is that right, with the  
9 Suburban?

10 A I think she said that. October the 10<sup>th</sup> she said, I  
11 think.

12 Q Do you think that's correct as far as you know?

13 A It was a Friday. I believe it was in October. And  
14 I think she testified today it was the 10<sup>th</sup>.

15 Q Prior to that when was the last motor vehicle  
16 accident involving you or your wife?

17 A I don't recall.

18 Q Do you remember one in '06 that you were involved  
19 in?

20 A There was -- I mean, I've -- I've been involved in  
21 some fender-benders. I've never totaled a car or pulled out  
22 in front of -- or ran a red light and pulled out in front of  
23 someone on 411. I've never done anything like that.

24 Q In December of '06 was there a wreck that disabled a  
25 vehicle for a period of time and you were driving?

1 A Where was the location of it?

2 Q Do you recall any motor vehicle accident in late  
3 '06?

4 A Not based on what you're telling me, but it's  
5 possible. If you'll give me some other information I'll try  
6 to remember and explain it to you.

7 Q You don't recall anything though?

8 A I don't recall the date. I know that I was involved  
9 in a fender-bender with my vehicle and I don't know the dates.  
10 It was on Dean Street. If that -- is that the one you were  
11 talking about?

12 Q And you were in the Durango at the time?

13 A Uh-huh. Is that the wreck you're talking about?

14 Q Well, I'm just asking you. Did that occur in about  
15 2006?

16 A I don't remember the date.

17 Q Do you remember the year? Do you remember if it was  
18 '06?

19 A '06 sounds about right.

20 Q Have you declared the wear and tear on the Chevrolet  
21 Suburban for the campaign expenses? Have you used that as a  
22 write-off for the campaign?

23 A I have not. I've always thought that that was a  
24 pretty gray area to try to claim reimbursement for and I tried  
25 to stay away from that. And if it meant I had to eat a little

1 bit of wear and tear, that's what I did. But I think it -- it  
2 always seemed difficult to me to start defining wear and tear  
3 and using campaign funds for that.

4 Q So you have not done that for the Chevrolet  
5 Suburban?

6 A I wouldn't really know how.

7 Q In actuality isn't it true that your parents lived  
8 in Vinings just outside of Atlanta?

9 A They do.

10 Q And you didn't have to have an apartment in Atlanta  
11 because you were living with your parents during session,  
12 weren't you?

13 A During the first probably four years I used their  
14 house as kind of my base there. And it just became  
15 increasingly difficult because we will sometimes work until 11  
16 or 12 at night and sometimes leave very early for meetings at  
17 the Capitol. For a year I had meetings with the governor  
18 every morning at 7:30. And it just became difficult for me to  
19 come and go at those hours in their house and to be able to  
20 use their house for that purpose. They didn't have -- you  
21 know, there was no use of the internet there. There was  
22 limited access to things that I needed. And so ultimately --  
23 and I made a decision this last year to make it a little bit  
24 easier and more efficient by getting a legislative apartment,  
25 which is what most legislators do in Atlanta.

1 Q When did you first get that legislative apartment  
2 that you decided you needed?

3 A I would say it was in January of '08.

4 Q So, in other words, these months when you were out  
5 of work after leaving your firm and you were only making  
6 income of \$900 a month from the general assembly, you thought  
7 it was worthwhile to have an apartment for \$900 a month?

8 A Wrong.

9 Q Well, let me ask you. Did you or did you not  
10 testify that after you lost the job with the firm in '08 until  
11 you got your new job I believe you said -- was it in August?

12 A Uh-huh.

13 Q In that interim were you making \$900 plus from the  
14 general assembly?

15 A Right.

16 Q Were you also paying for an apartment in that  
17 interim?

18 A No. You made an assumption and your assumption is  
19 incorrect.

20 Q So you had no apartment expense during any of those  
21 months?

22 A I limited the apartment to a term that you didn't  
23 ask about. And the term was for the length of the general  
24 assembly. And it was --

25 Q When did it start and when did it end?

1 A January --

2 Q The first term -- let me finish my question --

3 A I'm sorry.

4 Q -- and then you can answer.

5 A Okay.

6 Q When was the first term when you decided you didn't  
7 want to live with your parents in Vinings anymore during  
8 session? During the weeks when you were in Atlanta, when was  
9 the first term that you made that decision I need a separate  
10 apartment?

11 A Well, I signed the lease in January of '08.

12 Q January of '08. And it went until when?

13 A It was, I believe, a three month term.

14 Q So it would have been --

15 A It may have been a four month term.

16 Q -- January, February and March?

17 A It was -- it may have been a four month term. I  
18 know that it was a legislative expense tied to the length of  
19 the session. And so it was not an expense that came out of  
20 our pocket. It expired quickly and before I lost the job.

21 Q When did your lease end on the apartment?

22 A It was either April or May.

23 Q So through April or May of 2008 you still had an  
24 apartment in Atlanta. Correct?

25 A Paid for as a legislative expense.



1 Q And you had that apartment in Atlanta. Correct?

2 A Correct.

3 Q What was the address of that apartment?

4 A 225 Central Avenue, Atlanta. I believe it's number  
5 1601.

6 Q When did you lose the job with the firm?

7 A Well, they communicated to me the loss of the job in  
8 early April.

9 Q Why?

10 A They said that it had become increasingly difficult  
11 to manage the demands of a legislative lawyer in their office  
12 coupled with the decline in the real estate market. There  
13 just wasn't enough legal work to support the kind of  
14 accommodation we needed to have a lawyer-legislator in the  
15 office.

16 Q When did you get that communication in April of  
17 2008?

18 A I believe April the 7<sup>th</sup>.

19 Q How did you get it?

20 A It was communicated to me orally by one of law  
21 partners, I believe, Bill Byington.

22 Q When was your last paycheck or payment from the  
23 firm?

24 A They gave me a -- the final paycheck was March 31<sup>st</sup>.  
25 And they issued a date -- a notice of separation dated March

1 31<sup>st</sup>. And then there was some confusion that had arisen about  
2 whether or not they had promised me an additional couple of  
3 weeks through the end of the session because at that time  
4 session had not even ended. And so there was discussion, a  
5 negotiation, and they ended up issuing one more paycheck.

6 Q How much was that?

7 A I would say approximately \$2,400.

8 Q And when did you receive that?

9 A I probably did not receive it until May or June.

10 Q So you received a paycheck at the very end of March,  
11 on March 31<sup>st</sup>, and then you didn't get any other paychecks  
12 other than the 2,400 and other than your general assembly pay  
13 until you started work in August.

14 A That's not what I testified to. I did represent  
15 some individual clients and received some additional money  
16 from that. But including them, yes, you're correct.

17 Q What was -- and you said the total in the interim  
18 that you did your individual legal work was \$7,000?

19 A I think that's right. That may include expenses  
20 that I was reimbursed for.

21 MR. MEDLIN: Thank you. Nothing further.

22 MR. JONES: I have no further questions.

23 THE COURT: You may go down, Mr. Smith. Any other  
24 witnesses?

25 MR. JONES: We rest, Your Honor.

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THE COURT: Okay. Any rebuttal?

THE WITNESS: Where do the exhibits go?

THE COURT: It's up to the lawyers, sir.

THE WITNESS: I have seven defense exhibits.

THE COURT: Just ask your lawyer.

MR. MEDLIN: Your Honor, I have P8 I'd tender. This is a past and projected summary -- may I approach -- of legal fees.

THE COURT: Wait a minute. Mr. Jones, any objection?

MR. MEDLIN: May I hand exhibit 8 to the Judge?

MR. JONES: Oh, sure. I have not seen it, but I have no objection.

MR. MEDLIN: I'm sorry. We sent it out and I apologize if you haven't gotten it yet.

Your Honor, I would represent to you that \$3,500 a month in view of the income of this individual is fair and reasonable. We don't -- we agree that he probably does not have the capability of writing a \$10,000 or so retainer check. It's obviously, Your Honor, different in a case when you're representing somebody that has income versus somebody who doesn't have income. I'd certainly appreciate the difference from Mr. Jones. You might have a very low retainer, which we ourselves might have, if we were representing somebody who was not -- or was an income producer versus who wasn't an income producer.

1           So what we've done, Your Honor, is totaled out what  
2 we thought was a conservative effort if we had to try  
3 this case. Obviously, it's less if we don't have to try  
4 this case. But I would testify that in this particular  
5 case our retainer would not be less than \$12,000. We are  
6 asking for \$3,500 per month on an ongoing basis for legal  
7 fees, which we do think is within the capability of the  
8 defendant. And I do think that this is fair and  
9 reasonable based on our experience and the efforts that  
10 would be undertaken in the domestic relations case such  
11 as this.

12           THE COURT: Any questions of Mr. Medlin about his  
13 fees, Mr. Jones?

14           MR. JONES: Your Honor, if I can have just a moment  
15 to look at this.

16           THE COURT: Surely.

17           (MR. JONES REVIEWS DOCUMENT)

18           MR. JONES: I don't have any questions, Your Honor.

19           THE COURT: Okay. Any other --

20           MR. MEDLIN: We rest, Your Honor.

21           THE COURT: You rest. Both sides have rested?

22           MR. JONES: Yes, Your Honor.

23           THE COURT: Then Mr. Medlin you would have opening  
24 and concluding argument.

25           MR. MEDLIN: I'll reserve my time, Your Honor.

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THE COURT: Okay.

MR. JONES: Your Honor, I think you have the numbers. I believe the financial affidavit of Mr. Smith is correct. I think it has disclosed the income from the general assembly as well as his gross income from his employment.

I see in this case a lot of debt, unfortunately, that was created over the marriage. There is -- are no assets. I think the obvious answer is that the other spouse, the partner, is qualified, has a college education, has a degree in business administration, arts, has a real estate license, has the time now that the children are in school to participate in gainful employment to help support herself.

I do not think that Mr. Medlin's request is unreasonable. And if we can have an auction of the lot out there, we'll do it. His hourly rate is in line. And I think his approach and method about paying monthly is reasonable. The problem is how to get that paid. And I think Mr. Smith will do the very best he can to do it. I have found him to be forthcoming with all the documents that have been requested. I don't think we've had any difficulty in discovery. We can certainly do things informally. We produced things in a timely manner to Mr. Medlin and have not heard that documents are missing.

1           So I would request that the child support be set  
2 according to our child support worksheet. With regard to  
3 the amount that Ms. Smith needs for support or  
4 maintenance, I would suggest to the court that \$1,000 per  
5 month would be sufficient with her obtaining outside  
6 employment. \$3,000, obviously, is tax free and \$1,000  
7 would be \$4,000 a month or approximately \$50,000 a year  
8 for her and she'd take on the responsibility of paying  
9 the obligations that Mr. Smith has been paying and that  
10 is the expenses of the house, the household expenses,  
11 mortgage payment, and so forth.

12           With regard to the vehicle, we realize that she  
13 needs a vehicle. We also realize it's not her parents'  
14 responsibility and the court can't say, well, use that  
15 \$4,000 because that money was returned to her parents by  
16 Mr. Smith. However, the vehicle that she said she was  
17 looking at was about ten or eleven thousand dollars. I  
18 think she said eleven and not \$15,000. And, I think,  
19 that is a reasonable request also. And perhaps with the  
20 insurance check Mr. Smith could sign a note for the  
21 balance and she could sign it also. They could both be  
22 there. But she's got to pay that. It shouldn't be too  
23 much if it's a \$5,000 or \$6,000 note.

24           I think that addresses all the issues. I'll be glad  
25 to respond to any questions. But we would simply

1 request that the child support be set in accordance with  
2 the child support worksheet. That she be paid support in  
3 the amount of \$1,000 a month. That -- Mr. Medlin, I  
4 think, initially he had requested \$3,500 per month until  
5 the case is over. I would submit that perhaps there is  
6 some way that Preston can come up with an initial payment  
7 of what he paid me and then pay maybe a thousand a month  
8 in addition. And, hopefully, we'll get this lot sold and  
9 maybe we'll both get paid at the end of this case.

10 Thank you.

11 MR. MEDLIN: Your Honor, let me first deal with the  
12 easy subjects. I think there has been testimony both  
13 ways on how these children are doing under the parenting  
14 plan submitted. You've heard the mother talk about the  
15 disruption the children had the following day.  
16 Obviously, the court also has the interest of not  
17 disrupting the schedule they've had.

18 I think we have to listen to what the mother is  
19 saying because she is there every day. Mr. Smith doesn't  
20 know how these children have been doing. I suggest one  
21 way of doing a Solomon and cutting the baby in half is  
22 maybe do it the every other Wednesday night and that way  
23 the children have one less overnight prior to a school  
24 day. That's just a suggestion of what might be a way of  
25 splitting the baby.

1           Let's now deal with the harder subjects of the  
2 money. It sounds good when Mr. Smith is on the stand,  
3 but, Your Honor, there is enough money to make this work.  
4 And let me just illustrate.

5           First of all, \$1,666 (sic), as a minimum, is what  
6 he's bringing home. As a minimum as to his net. Because  
7 you've got the general assembly money plus you've got his  
8 insurance money. And here's the other factor of this  
9 money, Your Honor. You've got almost \$12,000 but look at  
10 the expenses that are paid by the general assembly. He  
11 can't have it both ways.

12           On the stand he said the 915 is a legislative  
13 expense. Well, he can't put that on his DRFA and say  
14 that has to come out of his personal income. He gets  
15 food money. He gets gas money. So if he's got all of  
16 these reimbursements he can't then turn around on the  
17 DRFA and say, yes, give it to me both ways. Let me  
18 deduct it as reasonable expenses.

19           I heard him testify, Your Honor -- and only the  
20 court can decide these issues -- but what I heard was  
21 that he's got \$1,000 of real rent that he pays every  
22 month. I don't begrudge him that. I also heard he has  
23 real utilities of 249 and he has eating out expenses of  
24 300. And we added up what Mr. Jones sent us and it was a  
25 little bit different, but lets just use that number.



1 That's a total of 1549. That includes his utilities, his  
2 eating out personally, not his business, and his rent.  
3 1549 of those kinds of fixed expenses. We know from  
4 looking at the exhibits I've already tendered the court,  
5 he gets an auto allowance. It was, I think, about two  
6 forty or something. So you can't then come on and say,  
7 well, I want another set of money for my personal  
8 vehicle. So we've got money here. Why do we have money  
9 here? If you take the 1549 and you look at the 11,666,  
10 you can take the 5670 which my client -- I think you can  
11 tell we didn't use extravagant numbers on her DRFA. And  
12 the 5670 are the real figures of the mortgage, of the  
13 utilities, of minimal eating out, of \$100 a month  
14 entertainment -- which isn't much, it's maybe one or two  
15 movies. So the 5670 given to her each month adds about  
16 \$2,000 to what he said on the stand was what he pays  
17 every month now for their benefit plus the money he gives  
18 to her. And you may remember, Your Honor, he said that  
19 it was 3880 plus, he said, I give another 500. Well,  
20 that totals about 4380. I'm asking -- I'm telling the  
21 court that's not generous for a man who makes almost  
22 \$12,000. He can afford 5670. She can't buy groceries.  
23 She's had to live off the kindness of strangers.

24 I'm not asking him to go out and invent \$15,000 to  
25 buy a vehicle. All I'm saying is if he gets \$4,000 from

1 the insurance money you can either use that \$4,000 toward  
2 what we should be paid as our fees at least to some  
3 initial amount and then let him finance all fifteen or  
4 let him finance a vehicle for eleven and use the four  
5 from the insurance proceeds. That's not unreasonable,  
6 Your Honor.

7 We don't want a brand new car. She wants like a  
8 Toyota Sienna or an Acura. She doesn't want any fancy  
9 car. She wants something that's reliable for her and the  
10 children.

11 Now regarding my fees, \$3,500 a month, yes. Is that  
12 something that crunches on the budget? But it doesn't  
13 make it impossible. If you add \$3,500 every month to the  
14 5670 plus the 2,000 that he needs for his real expenses,  
15 you're at \$12,000. So I'm not talking about pulling  
16 rabbits out of hats. I'm talking about dollars that are  
17 there. He'll need to live frugally. She's not the only  
18 one that should live frugally.

19 And here's the other thing, Your Honor, I'm only  
20 asking for less than half of his actual take home and  
21 she's got eighty percent of the family. It's her plus  
22 four children versus him alone. That's not unreasonable.  
23 We're not even asking for three-fourths of his take home.

24 Now I am asking that part of his income be given for  
25 attorney's fees every month because I think it's only

1 fair that we should be able to represent Ms. Smith and be  
2 able to participate in whatever we need to participate.  
3 And I hope that it's relatively easy. You've seen the  
4 fees to date are somewhere around nine or so in the  
5 exhibit I gave you. And then we project some more  
6 conservatively. If we try to get it all over in less  
7 than twenty, wonderful. We will try to do it for Ms.  
8 Smith.

9 The court knows me. We don't try to mess around  
10 with unnecessary stuff. I will work with Mr. Jones.  
11 We've worked well together. We'll continue to work well  
12 together. It is a lot of document intensive because  
13 there is a lot of debt out there. We've got some other  
14 things we've got to figure out. We don't want to waste a  
15 lot of time with unnecessary depositions. But we are  
16 asking for three things: the 5670 each month, the 3500  
17 for attorney's fees, and the financing of the vehicle.

18 We appreciate the court's concern today. It is  
19 somewhat difficult in that these parties have, you know,  
20 two households that they have to take care of now. But  
21 you heard unrefuted testimony that his real expenses  
22 every month are right about \$2,000 a month.

23 Thank you, Your Honor.

24 THE COURT: Mr. Jones?

25 MR. MEDLIN: Your Honor, I believe I had closing

1 since -

2 THE COURT: Yeah, you had closing.

3 MR. JONES: I'll be glad -- if you had a question.

4 THE COURT: Let me -- I'm thinking. And I do that.  
5 I think judges are suppose to think. And that's  
6 something that I do. There is not enough money to go  
7 around. And that's kind of a wild thing to have to say  
8 with as much income as we've got, but it just ain't  
9 there.

10 This is a temporary hearing. And these parties have  
11 not been living together -- and I choose those words  
12 advisedly -- for a number of years. However, they have  
13 never actually been separated. And I say that in this  
14 fact: they have to be separated and we're going to start  
15 today. And he's not going to pay all those bills. He  
16 just ain't going to pay them all. She's going to start  
17 paying them. She has got to start her life as it's going  
18 to be, whether it's what she wants or not. That happens  
19 to all of us sometimes. It may not be what you want,  
20 hey, grab the bull by the horns and it's time to go  
21 forward. And she's going to handle the finances for her  
22 family. And that will cut down a lot of the contact  
23 which, I think, is causing her problems.

24 Ma'am, with due respect, you need to go get a job.  
25 Your kids will do just fine. You'll be surprised. There

1 are a lot of working women out there whose kids are doing  
2 very, very well. You can get too enmeshed with your  
3 children particularly in situations like that. I'm not  
4 saying you have, but it can. So it's time to look  
5 forward.

6 I'm going to do a temporary today. I'm anticipating  
7 that we can't do a final while the legislature is in  
8 session. At least Mr. Smith could insist on that. But  
9 as soon as it's over we're going to do a final. And  
10 we're not going to waste any time. This needs to be  
11 over. People need to go on with their lives. You need  
12 to go on with your life, ma'am. I know -- I know it's  
13 hard. But you'll be surprised how good it is when you  
14 actually get there. But she's going to have to do it.

15 And I say that -- I'm going to cover her right now  
16 on a temporary basis, but I'm saying that in the long run  
17 when we get to a final, you're going to have to go do  
18 something.

19 Now selling real estate right now is the pits. But  
20 there's lots of things you can do if you look at it.  
21 Okay.

22 So I am -- what I'm going to do is I'm going to make  
23 - Mr. Smith is to continue paying the first and second  
24 mortgage on your house. Apart from that -- and he will  
25 keep the health insurance and the car insurance. And

1 apart from that you will pay all your household bills.  
2 It will give you a sense of ownership, a sense of  
3 understanding of what's going on.

4 I can't make my program work right. Mr. Hart got it  
5 up for me, but I cannot make it work right. So I'm just  
6 going to have to do a sheet -- I'll do one when I get  
7 back to my office because mine comes up automatically.  
8 It keeps giving me blanks and I'm not sure what's going  
9 on.

10 So we'll do a child support worksheet that shows  
11 that Mr. Smith's income is \$18,111.80. When I calculate  
12 it I get a little less. But if that's what he tells me  
13 it is, we're going to go with it. Her income right now  
14 is \$100. Okay. Now when we get to final I'm going to  
15 impute income to her if she's not found something. Okay.  
16 But today those are the numbers. Whatever that bottom  
17 number is -- it's going to be \$3,000 and a little bit.  
18 It's not really going to make that big a difference to  
19 the money that we've got. But it's going to be \$3,000  
20 and a little bit. So -- and I don't have that number.  
21 So I'm going to give you a formula for working out what  
22 everything is.

23 He'll pay the full amount of child support. He'll  
24 pay the first mortgage, the second mortgage. And he'll  
25 pay whatever is left between those three figures and

1 \$5,000 a month. And he'll start making -- he gets paid  
2 on the 15<sup>th</sup> of the month, which makes it a little  
3 difficult. You're going to pay -- you're going to pay  
4 the first mortgage as of the first of the month. And  
5 then you're going to give her the bills -- let me see.  
6 I'm trying to make it -- it's just the -- between the one  
7 and the other. And I don't know when the utility bills  
8 and all of those things usually come in.

9 After the first of January she will pay all of the  
10 utilities and all the household expenses. He'll pay them  
11 up to that day.

12 ME. JONES: They have been paid.

13 THE COURT: He can transfer those. But if he  
14 transfers them he needs to transfer the deposits -- okay  
15 -- so that everything goes in your name. You're going to  
16 start being responsible for your life. And it goes --  
17 but he transfers all the deposits so that there's no cut  
18 off. Okay.

19 And he'll pay the child support half on the 1<sup>st</sup> and  
20 half on the 15<sup>th</sup> starting the 1<sup>st</sup> of January. And half of  
21 whatever the differential is on the 1<sup>st</sup> and 15<sup>th</sup>. It's  
22 going to give him a crunch right now, but it will work  
23 out.

24 On the custody issues, of course, joint custody.  
25 She's primary. I'm going to adopt his parenting plan

1 with one change, okay, and that change is Wednesday  
2 night. I'm going to move it to Tuesday night and he has  
3 to have them back home by 9:00. It's very hard on kids  
4 to go overnight during the week. But he gets them every  
5 Tuesday night until 9:00. And he can pick them up from  
6 school if he's available. Okay. I think that handles  
7 that. That handles that.

8 House repairs. Unless there is an absolute  
9 emergency of more than \$500 we're not -- I'm not going to  
10 mess with that right now. Okay.

11 Vehicle. She's got to have a vehicle. She gets the  
12 insurance check. Whatever it is, she gets the insurance  
13 check. He makes up the difference to \$10,000. Okay.  
14 And she selects the car.

15 We do have an issue. It's Christmas. I know he  
16 wants to buy them Christmas himself and get  
17 acknowledgment for it. She does too. He's to give her  
18 another \$1500 -- excuse me, \$500 by Monday.

19 Attorney's fees. I am not going to award \$3,500 a  
20 month. I just don't do that. I -- I know that she's  
21 entitled to representation and I know she doesn't have  
22 any funds. He's got debt. And all the debt is going to  
23 be his. She's not going to pay any of the debt. Okay.  
24 And I don't know whether she's using any of the credit  
25 cards or not. If she is, it's over as of today. I don't



1 think she is or somebody would have told me. But he gets  
2 all the debt. The debt in this case is huge. Quite  
3 frankly, you can't afford this kind of litigation. But  
4 she's entitled -- he's got a lawyer. She's entitled to a  
5 lawyer.

6 I'm going to award \$3,500 on account that he can pay  
7 at \$500 a month. I will -- that's on account. I will  
8 look at the whole picture when we get to a final.

9 Did I leave anything out?

10 MR. MEDLIN: Your Honor, I would just ask if I could  
11 be -- if Mr. Jones would be kind enough to make the first  
12 payment 2,500. I think he said his client would try to  
13 do that. I would just ask if that's possible just so  
14 we're not totally --

15 THE COURT: If you work it out, fine, but my order  
16 is not that. That's not my order. Now if you work it  
17 out, fine.

18 MR. JONES: What I was proposing was contingent upon  
19 everything else I proposed, obviously. But he can't do  
20 it and pay the other things here. But he will --

21 THE COURT: That's what I'm looking -- that is my  
22 order. If the -- if the two of you can work out  
23 something -- this case needs to be resolved. I don't  
24 mind trying them, you know that.

25 MR. MEDLIN: Your Honor, can we get our first \$500

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within the next --

THE COURT: The first of the month.

MR. MEDLIN: The first of the month.

THE COURT: Which is difficult because he doesn't get paid until the 15<sup>th</sup>.

Did I leave anything out, Mr. Medlin?

MR. MEDLIN: Let's see. I think we talked about vehicle, the child support -- just to reiterate, Your Honor, the number -- it looks like the number is going to be around 3150 if I had to --

THE COURT: Whatever it is is what it is.

MR. MEDLIN: But half of that is going to be due on the first of each month starting January 1. Half of that will be due on the 15<sup>th</sup> of each month. In addition to that, he will pay first and second mortgage and keep up the insurance on the car and the house. And then --

THE COURT: No. I didn't say anything about the house. Don't do me that way, Mr. Medlin. Sometimes lawyers want to get up and tell me what I said so they can change what I said.

MR. MEDLIN: I'm sorry. I had H. Health is what you said.

THE COURT: I said health and car.

MR. MEDLIN: I'm sorry. I saw the H and I --

THE COURT: I said health and car.

1 MR. MEDLIN: It was an honest mistake, Your Honor.

2 THE COURT: Now if there's -- I don't know whether  
3 there is an escrow account. If there's an escrow account  
4 he pays into that because it's part of the mortgage. I  
5 don't know the answer to that question, so I can't really  
6 give you that answer.

7 MR. MEDLIN: And then the differential between the  
8 child support number, adding the first and second  
9 mortgage and --

10 THE COURT: And 5,000.

11 MR. MEDLIN: -- \$5,000. That will be another check  
12 due when, Your Honor? The 15<sup>th</sup>?

13 THE COURT: Half on the 1<sup>st</sup> and half on the 15<sup>th</sup>.

14 MR. MEDLIN: So that overage will be half. Okay.  
15 That was the only thing I wasn't sure about.

16 Thank you, Your Honor.

17 THE COURT: Okay. Anything I left out, Mr. Jones?

18 MR. JONES: No. I think the only thing was, as I  
19 understood it, the insurance check was to apply toward  
20 the vehicle.

21 THE COURT: The insurance check goes to the vehicle.  
22 She gets the insurance check and it goes to the vehicle.  
23 She's going to have to prove evidence to him -- evidence  
24 of what it was. But she gets that check direct.

25 MR. JONES: Yes.

1 THE COURT: Okay. And then he's got to give her the  
2 difference up to ten.

3 MR. JONES: Thank you.

4 THE COURT: Okay. Anything else?

5 MR. MEDLIN: Your Honor, on the timing of the last  
6 piece on the car, would that be when she locates --

7 THE COURT: When she -- the car -- she's going to  
8 drive it so she's going to pick it. She's going to get  
9 what it is --

10 MR. MEDLIN: And I'll notify Mr. Jones and then he'll  
11 either provide cash for the financing --

12 THE COURT: And then the insurance check when it  
13 comes in. Yeah. If you have a problem, you can find me.

14 MR. MEDLIN: Thank you, Your Honor.

15 THE COURT: Okay. Anything else?

16 MR. MEDLIN: I think that's all, Your Honor.

17 THE COURT: And then let me know when you want a  
18 final and I'll find a date. We can do it up here. We  
19 can do it down there. Whichever you want.

20 MR. JONES: Thank you.

21 MR. MEDLIN: Thank you, Your Honor.

22 THE COURT: Okay. Thank you, gentlemen.

23 (PROCEEDINGS CONCLUDED)  
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EXHIBIT NO. 1 TENDERED AND ADMITTED

## EMPLOYMENT AGREEMENT

This Employment Agreement ("this Agreement") is made and entered into this the first day of August, 2008, by and between ApolloMD Business Services, LLC ("Employer") and Preston W. Smith ("Employee").

WHEREAS, Employer has partnered with Medical Mutual Insurance Company of North Carolina ("Medical Mutual") to provide professional liability insurance products and services to physicians and related health care providers ("ValorMD Insurance Program"); and

WHEREAS, Employer has agreed to provide sales and service resources to Medical Mutual in support of the ValorMD Insurance Program; and

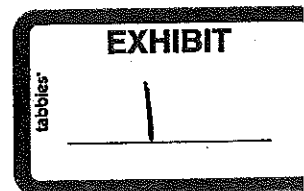
WHEREAS, Employer desires to employ Employee and Employee desires to be employed by Employer, pursuant to the terms and conditions set forth in this Agreement;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, Employer and Employee hereby agree as follows:

1. **Employment Status.** Employer hereby employs Employee as Senior Vice President, and Employee hereby accepts employment with Employer in that position. Employee understands and the parties agree that Employee is employed at will by Employer and that either Employer or Employee may terminate Employee's employment with Employer in accordance with the terms of this agreement. Nothing in this Agreement is intended or should be interpreted to guarantee Employee employment with Employer for any specified period of time.

2. **Duties of Employee.** Employee shall use his best efforts to perform the duties of Employee's position, and such other duties as may be assigned to Employee from time to time by Employer, diligently, loyally, conscientiously and with reasonable skill. Such duties shall include, but not be limited to, the following:

a. Develop, manage, and secure quality new physicians' and surgeons' professional liability insurance business for the ValorMD Insurance Program.



b. Promote and strengthen existing customer relationships for the ValorMD Insurance Program through means that include routine visits, conference attendance, phone calls and mailing campaigns.

c. Work aggressively to meet annual new business, retention and growth goals for the ValorMD Insurance Program as determined by Employer and Medical Mutual.

d. Coordinate and drive relationships with the Georgia Medical Group Manager Association (GMGM). Duties will include fostering relationship with the respective leadership, securing desired sponsorship level as determined by Employer and Medical Mutual, coordinating presence at annual meetings and taking the lead in all sponsored events. These sponsored activities include dinners, receptions, parties and event promotions.

e. Coordinate and drive relationships with the local GMGMs (county, city and/or regional) as well as the state, specialty and county medical societies in Georgia. Be the key contact for and establish and/or strengthen Medical Mutual's relationship with each group. Be the lead in garnering sponsorship and speaking opportunities. Coordinate speakers and topics for each event where applicable. Arrange at least one meeting with each group per year.

f. Attend all relevant conferences, tradeshow and conventions as a representative of Employer and Medical Mutual.

g. Provide feedback on market intelligence relative to customers, including all competitors and their products and services.

h. Offer feedback on potential product enhancements that will resonate with customers.

3. **Other Employment.** To the extent reasonably required by the duties assigned to him, Employee shall devote all his time, attention, knowledge and skills to the business and interest of Employer. Employer shall be entitled to all the benefits, profits and other issue arising from or incident to all work, service and advice of Employee and Employee shall not during the term hereof be interested, directly or indirectly, in any manner as partner, officer, director, shareholder, advisor, employee or in any other capacity in any other business directly or

indirectly, in any manner as partner, officer, director, shareholder, advisor, employee or in any other capacity in any other business directly or indirectly competing with the business of Employer or businesses contemplating entering into competition with Employer; *provided, however,* that nothing herein contained shall be deemed to prevent or limit the right of the Employee to invest his funds in the capital stock or other securities of any corporation whose stock or securities are publically owned or are regularly traded on any public exchange in an amount such that Employee's beneficial ownership of any such corporation does not exceed two percent (2%) of such corporation's outstanding capital stock on a fully diluted basis, nor shall anything herein contained be deemed to prevent Employee from passively investing in any other type business as long as such passive investment does not interfere with or conflict with the performance of services to be rendered hereunder. Notwithstanding the above, Employer acknowledges and agrees that Employee may devote a reasonable amount of time to service, civic, charitable and professional organizations in a non-compensatory capacity, and to his role as a Senator for the State of Georgia, so long as such service does not prevent Employee from meeting his obligations and commitments to Employer; *provided further, however,* that Employer's Board of Directors shall be entitled to review and request limitations of such participation if it is in the best interest of Employer to do so.

4. **Restrictive Covenants**. Employee hereby agrees to the following restrictions.

a. **Confidentiality Agreement.**

(1) As used in this Agreement, the term "Confidential Information" shall mean: all trade secrets, proprietary business information, and other data or information that in any way relates to the present or future business of Employer and/or Medical Mutual or any of their affiliates, which: (i) is maintained in confidence by Employer and/or Medical Mutual; (ii) is not generally available to the public or to the competitors of Employer and/or Medical Mutual; (iii) might permit Employer and/or Medical Mutual to obtain a competitive advantage over competitors who do not have access to such information; or (iv) might permit competitors of Employer and/or Medical Mutual to obtain a competitive advantage over Employer and/or Medical Mutual in the event they obtained access to such information. Without limiting the generality of the foregoing, Confidential Information shall include product or service



specifications, prototypes, computer programs, models, drawings, business plans, marketing plans, financial statements, financial forecasts, and statistical information, insurance policies, and underwriting information, customer information, technical data and any other business information in whatever form that is maintained in confidence by Employer and/or Medical Mutual.

(2) Employee acknowledges that Confidential Information constitutes a unique and valuable asset of Employer and/or Medical Mutual and that any disclosure or use of Confidential Information other than for the benefit of Employer and/or Medical Mutual would damage Employer's and/or Medical Mutual's legitimate business interests and cause them irreparable harm. Employee therefore covenants and agrees to maintain the confidentiality of Confidential Information to which Employee has access as an employee of Employer. Employee covenants and agrees: (i) not to use or disclose Confidential Information for any purpose other than that of carrying out his duties as an employee of Employer for the benefit of Employer and/or Medical Mutual; (ii) not to reveal or disclose any Confidential Information to any persons outside of Employer's and/or Medical Mutual's employ, including but not limited to any competitor of Employer and/or Medical Mutual, except with prior written consent of Employer and/or Medical Mutual; (iii) upon termination of the Employee's employment with Employer, not to make any use whatsoever of Confidential Information without the prior written consent of Employer and/or Medical Mutual; and (iv) upon termination of Employee's employment with Employer, to return to Employer and/or Medical Mutual any item or items containing Confidential Information within the Employee's possession, custody, or control.

(3) The restrictions on disclosure and use of Confidential Information in sub-paragraph (2) above shall not apply to Confidential Information which: (i) at the time of disclosure or use is generally available from public or published sources, provided that such publication did not take place in violation of this Agreement or through the error or omission of Employee; (ii) is lawfully obtained by Employee from a source under no obligation of confidentiality to Employer and/or Medical Mutual; (iii) has previously been disclosed to the public by or with the written approval of Employer and/or Medical Mutual; or (iv) at the time of the disclosure is required to be disclosed by the Employee pursuant to operation of law, provided that such disclosure shall be limited to that which is strictly required by law and provided further

that Employee provides prior written notice of such disclosure to Employer and/or Medical Mutual and takes reasonable and lawful steps to avoid and/or minimize the extent of such disclosure.

b. **Non-Solicitation/Interference.**

(1) For a period of 12 months after leaving Employer, for any reason, Employee shall not, directly or indirectly, solicit, interfere with, or seek to interfere with, the relationship between Employer and Medical Mutual and any customer(s) of Employer and/or Medical Mutual.

(2) For a period of 12 months after leaving Employer, for any reason, Employee shall not, directly or indirectly, hire, contract with, induce or attempt to influence, any individual or entity who is an employee, contractor, agent or representative of Employer and/or Medical Mutual to terminate or otherwise impair his or her employment or relationship with Employer and/or Medical Mutual.

c. **Non-Competition.**

(1) It is recognized and understood by the parties hereto that Employee, through his association with Employer as an employee shall have access to and control of confidential and proprietary information concerning Employer's and/or Medical Mutual's business; that Employer and/or Medical Mutual have expended significant resources in training its employees and developing its customers; that Employee shall acquire a considerable amount of knowledge and goodwill with respect to the business of Employer and/or Medical Mutual, which knowledge and goodwill are extremely valuable to Employer and/or Medical Mutual and which would be extremely detrimental to Employer and/or Medical Mutual if used by Employee to compete with Employer and/or Medical Mutual; and that Employer's and/or Medical Mutual's business depends a considerable extent on the individual skills, efforts and leadership of Employee. It is, therefore, understood and agreed that, because of the nature of the business of Employer and/or Medical Mutual, it is necessary to afford fair protection to Employer and/or Medical Mutual from such unfair competition by Employee. Consequently, as a material inducement to Employer to employ Employee, Employee covenants and agrees that

during the entire Restricted Period Employee shall not compete (as defined in Sub-section 2 below), directly or indirectly, with Employer and/or Medical Mutual in any Prohibited Location (as defined in Sub-section 3 below).

(2) The terms "compete" and "competition," as used herein, shall be deemed to include, without limitation, becoming or being an employee, owner, partner, consultant, agent, stockholder, director, officer of any person, partnership, firm, company or other entity (other than Employer) which engages directly in (i) provision of professional liability insurance and services to physicians and related health care providers and/or (ii) any other business conducted by Employer and/or Medical Mutual immediately prior to the date of termination of Employee's employment or in which Employer shall at the time of termination of Employee's employment with Employer be actively preparing to enter and of which Employee is knowledgeable at the time of termination. Notwithstanding the foregoing, ownership of five (5%) percent or less of any class of securities of an entity shall not constitute competition with Employer and/or Medical Mutual.

(3) The term "Prohibited Location" means the States of Georgia and North Carolina. If a court of competent jurisdiction determines that the area mentioned above is too restrictive, then the parties agree that the court may reduce or limit the area to enable the intent of this Sub-section 4.c. to be enforced in the largest acceptable area. With respect to the covenant contained in this Sub-section 4.c., it is acknowledged by Employee that Employer and/or Medical Mutual are in the business of providing professional liability insurance and services to physicians and related health care providers located throughout the States of Georgia and North Carolina, and that unfair competition can only be prevented by enforcing this specific covenant in these prohibited locations specifically set forth in Sub-section 3.

(4) The term "Restricted Period" shall mean the period commencing on the date of this Agreement and ending upon the one (1) year anniversary of the Termination Date as defined in sub-section 5; provided that, the Restricted Period shall be extended for a period of time equal to any period(s) of time during which Employee is violating the covenants under this Sub-section 4.c. or Employer and/or Medical Mutual are pursuing legal action to enforce Employee's covenants under Section 4.

(5) The term "Termination Date" means the date on which Employee's employment with Employer terminates for any reason or no reason.

5. **Compensation.** Employee shall receive the compensation more fully described in Attachments A and B to this Agreement, which are incorporated into and made a part of this Agreement. Employee understands and the parties agree that Employer may increase, decrease, or otherwise change Employee's compensation as described in Attachment A, ApolloMD Business Services, at its sole discretion, with or without cause. Employee understands and the parties agree that Employer, after consultation and agreement with Medical Mutual, may increase, decrease, or otherwise change Employee's compensation as described in Attachment B, ValorMD Insurance Program. Any such change in compensation shall be prospective only and shall not effect compensation for services which have already occurred. Employer shall provide prior written notice to Employee of any such change in compensation by creation of new Attachments A and/or B to this Agreement, which shall be incorporated into and made part of this Agreement and which shall supersede any and all previous versions of Attachments A and/or B to this Agreement.

6. **Employee Benefits.** Employee shall be entitled to participate in such employee benefit plans and shall receive such other employee benefits as may be established by Employer for the position which Employee holds, if and to the extent that Employee is eligible for such benefits. Employee understands and the parties agree that Employer may increase, decrease, or otherwise change its employee benefit plans and its employee benefits at its sole discretion, with or without notice, and with or without cause.

7. **Expense Reimbursement.** Employer shall reimburse to Employee those reasonable expenses incurred by Employee in carrying out Employee's duties, in accordance with all applicable laws and regulations and Employer's reimbursement policies and practices.

8. **Term and Termination.**

a. **Term.** This Agreement shall be effective as of August 1, 2008, and shall continue in force for a term of one (1) year; provided, that either party hereto shall have the right to terminate this Agreement in accordance with the termination provisions of this section. Upon

expiration of any term of this Agreement, the Agreement shall be automatically renewed for successive one (1) year periods if no notice is given to the contrary. Either party may give notice of the intent not to renew this Agreement in accordance with the termination provisions of this section.

b. Events of Automatic Termination. This Agreement shall terminate immediately and without prior notice to Employee in the event of any of the following:

(1) Any legislative, judicial or regulatory authority suspends, cancels or declines to renew Employer's license to conduct its business or Employee's license to sell insurance, or Employee otherwise allows his certification or licensure to lapse;

(2) Employee misappropriates, converts or unlawfully withholds monies or property belonging to Employer and/or Medical Mutual under this Agreement; or

(3) Employee is convicted by final judgment in any state or federal court of a crime involving moral turpitude.

c. Other Termination Events. This Agreement may also be terminated:

(1) At any time by mutual agreement of Employer and Employee;

(2) By either party upon written notice to the other party in the event of fraud, insolvency, bankruptcy or the gross negligence or willful misconduct of the other party under this Agreement;

(3) By either party upon written notice to the other party in the event of any material violation by the other party of any provision of this Agreement;

(4) By Employer upon any violation by Employee of any personnel policy of Employer; or

(5) By either party, without cause, upon not less than thirty (30) days prior written notice to the other party.

d. **Effect of Termination.** In the event of termination pursuant to paragraphs b and c of this Section 8, Employee shall immediately deliver to Employer and/or Medical Mutual any client monies or checks in Employee's possession. Employer and/or Medical Mutual shall assume direct collections of any receivables due to Employer and/or Medical Mutual on business written through Employee. In the event of any termination pursuant to paragraphs b and c of this Section 8, Employee shall be entitled to be paid salary through Employee's last date of employment as determined by the termination date, and Commissions for any New Business premium, Renewal Business premium, and Extended Reporting Endorsement premium from assigned customers where the premium is received by Medical Mutual on or prior to the Employee's termination date, each pursuant to Attachments A and B (hereinafter the "final consideration"). Such final consideration that relates to Commission shall only be payable to Employee after Medical Mutual's receipt of payment from the customer.

e. **Employee's Duties Upon Termination.** All manuals, forms, records and other materials and supplies as are necessary in the conduct of Employee's business under this Agreement, including books, accounts and other documents relating to the business of Employer and/or Medical Mutual are the sole property of Employer and/or Medical Mutual, whether paid for by it or not, and shall be accounted for and returned by Employee to Employer and/or Medical Mutual upon demand and automatically upon termination of this Agreement.

f. **Ownership of Expirations.** Expirations of policies and related client records shall be the sole property of Medical Mutual. Upon termination of this Agreement pursuant to any provision of this Section 8, Employee shall return all records of expirations to Medical Mutual.

## 9. **Miscellaneous Provisions.**

a. Employee's obligations under section 4 of this Agreement shall survive the termination of Employee's employment by Employer, regardless of the manner of or reasons for such termination.

b. Employee acknowledges that the territory covered by Employee and the customers therein, are proprietary to Employer and/or Medical Mutual and that any interference

by Employee with the business opportunities of Employer and/or Medical Mutual associated with those customers will cause irreparable injury and damage to Employer and/or Medical Mutual. Employee further acknowledges that Employee's access, through employment with Employer and/or Medical Mutual, to Confidential Information of Employer and/or Medical Mutual gives Employee the ability to compete unfairly against Employer and/or Medical Mutual and thereby damage its legitimate business interests. Employee also acknowledges that Employee's contact with Employer's and/or Medical Mutual's customers, through employment with Employer, gives Employee the ability to compete unfairly against Employer and/or Medical Mutual and thereby damage their legitimate business interests. Employee therefore acknowledges and agrees that the provisions of Sub-section 4.c. of this Agreement are necessary for the protection of Employer's and/or Medical Mutual's business and goodwill, its competitive position, and its legitimate business interests and that such provisions are reasonable for such purposes.

c. Employee acknowledges and agrees that any breach by Employee of the covenants contained in this Agreement will cause irreparable injury and damage to Employer and/or Medical Mutual, as to which money damages alone would not adequately compensate Employer and/or Medical Mutual. Accordingly, Employee consents, in the event of any breach of the covenants contained in this Agreement, to the granting of preliminary and permanent injunctive relief against any continuing breach, in addition to and not in limitation of any other rights, remedies or damages available to Employer and/or Medical Mutual at law or in equity. In the event Employer and/or Medical Mutual is granted injunctive relief as provided for herein, whatever portion of the one (1) year period stated in paragraphs 4b. and c. above that has not expired at the time the breach first occurred shall be tolled by the breach, and shall begin to run again as of the date injunctive relief is granted.

d. In the event of a breach or threatened breach by Employee of this Agreement, Employee shall be liable to Employer and/or Medical Mutual for all costs reasonably incurred by Employer and/or Medical Mutual in enforcement of the provisions of this Agreement, including but not limited to reasonable attorneys' fees and court costs.

e. If any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement, which shall otherwise remain in full force and effect. If any one or more of the provisions of this Agreement is for any reason held to be excessively broad as to time, duration, geographical scope, activity, or subject, it shall be construed by limiting and reducing it so as to be enforceable to the maximum extent compatible with the applicable law as it shall then appear.

f. Failure of Employer and/or Medical Mutual to insist upon strict compliance with any of the terms, covenants or conditions in this Agreement shall not be deemed a waiver of such term, covenant or condition.

g. This Agreement shall be governed by and construed in accordance the laws of the State of Georgia, and the parties agree that in any dispute jurisdiction and venue shall be in Fulton County, Georgia.

h. This Agreement shall be binding upon and shall inure to the benefit of the respective parties and their respective heirs, legal representatives, successors and assigns.

i. No modification, renewal, extension, waiver or termination of this Agreement or any of the provisions herein contained shall be binding upon Employer and/or Medical Mutual unless contained in writing and signed by an authorized officer of Employer.

IN WITNESS WHEREOF, the parties to this Agreement have indicated their consent to this Agreement by signing below.

Witness:

Rauna Hartzell 11-17-08  
By: Date

Witness:

Rauna Hartzell 11.17.08  
By: Date

Employee:

Preston W. Smith 11-17-08  
By: Preston W. Smith Date

ApolloMD Business Services, LLC:

[Signature] 11/17/08  
By: Date



Employment Agreement  
Attachment A  
ApolloMD Business Services, LLC

Employee: Preston W. Smith

Effective Date: August 1, 2008

Base Salary: 

- \$100,000 for the period August 1, 2008 to July 31, 2009
- \$100,000, plus an annual amount equal to the net difference between the Base Salary of the ValorMD Insurance program listed in Attachment B and \$100,000, for the periods beginning and following August 1, 2009

Commission: None.

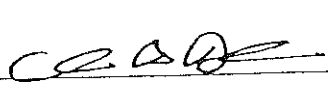
Draw: None.

Annual Bonus: None.

Car Allowance: None.

ApolloMD Business Services, LLC

Witness:

 11/17/08  
By: Date

Launa Hartzell 11.17.08  
By:

Employee

 11-17-08  
By: Preston W. Smith Date

Launa Hartzell 11.17.08  
By:

Employment Agreement  
Attachment B  
ValorMD Insurance Program

Employee: Preston W. Smith

Effective Date: August 1, 2008

Base Salary:

- \$100,000 for the period August 1, 2008 to July 31, 2009
- \$75,000 for the period August 1, 2009 to July 31, 2010
- \$50,000 for the period August 1, 2010 to July 31, 2011
- \$25,000 annually beginning August 1, 2011

Commission:

- Four percent (4%) of New Business premium collected
- Two percent (2%) of Renewal Business premium collected
- One percent (1%) of Extended Reporting Endorsement premium collected

Draw: None

Annual Bonus: None

Car Allowance: None

Lines of Insurance: Medical Professional Liability

ApolloMD Business Services, LLC

Witness:

CB. Duda 11/17/08  
By: Date

Launa Hartsell 11.17.08  
By:

Employee

Witness:

Preston W. Smith 11-17-08  
By: Preston W. Smith Date

Launa Hartsell 11.17.08  
By:

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EXHIBIT NO. 2 TENDERED AND ADMITTED



# TRAVEL EXPENSE REPORT

Name: Anton W. Smith  
 Address: PO Box 1957  
 City/State: Rome, GA 30162  
 Entity/Department: ValorMD

Report Date: 08/26/08

Amount Due: **\$ 602.47**

*588.49 REIMBURSED*

Purpose of Trip/Expenditure: Meeting with Medical Mutual Insurance Co management team.

Date	08/25/08	08/26/08							Totals
<b>Transportation</b>									
Business Miles Traveled									
Mileage Allowance @ \$ 0.585					\$ -	\$ -	\$ -	\$ -	\$ 264.00
Airfare Travel	264.00 ✓								\$ 264.00
Auto Rental	169.98 ✓								\$ 169.98
Fuel	14.00 ✓								\$ 14.00
Parking & Tolls									\$ -
Taxi									\$ -
Other Transportation									\$ -
<b>Business Meals</b>									
Maximum - \$25 per day									\$ -
Breakfast									\$ -
Lunch									\$ 9.04
Dinner		9.04 ✓							\$ -
Business meals for others									\$ -
Other meal expense									\$ -
<b>Lodging</b>									
Maximum \$120 per day									\$ 145.45
Lodging	145.45 ✓								\$ -
Other									\$ -
<b>Other Reimbursable Expenses</b>									
Phone/Cell Phone									\$ -
Postage									\$ -
Office Supplies									\$ -
Miscellaneous (Explain below)									\$ 602.47
<b>Daily Totals</b>	\$ 593.43	\$ 9.04	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 602.47
<b>Explain-Other/Misc:</b>									<b>Total Expenses</b>
									Less: Cash Advance
									<b>Balance Due:</b> Employee Company
									\$ 602.47

*REIMBURSED at take payroll*

Employee's Signature: [Signature] Date: 8/26/2008

Supervisor Signature: [Signature] Date: \_\_\_\_\_

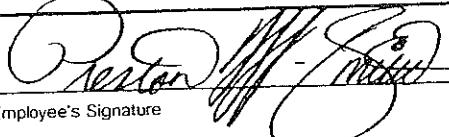
# TRAVEL EXPENSE REPORT

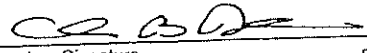
Name: Preston Smith  
 Address: PO Box 1957  
 City/State: Rome, GA 30162 Report Date: 08/29/08  
 Entity/Department: \_\_\_\_\_

**\$ 215.10**  
Amount Due

Purpose of Trip/Expenditure Attendance at local Medical Group Managers Association meeting in Augusta.

Date	08/28/08								Totals
<b>Transportation</b>									
Business Miles Traveled									\$ 215.10
Mileage Allowance @ \$ 0.585	\$ 215.10	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Airfare Travel									\$ -
Auto Rental									\$ -
Fuel									\$ -
Parking & Tolls									\$ -
Taxi									\$ -
Other Transportation									\$ -
<b>Business Meals</b>									
Maximum - \$25 per day									\$ -
Breakfast									\$ -
Lunch									\$ -
Dinner									\$ -
Business meals for others									\$ -
Other meal expense									\$ -
<b>Lodging</b>									
Maximum \$120 per day									\$ -
Lodging									\$ -
Other									\$ -
<b>Other Reimbursable Expenses</b>									
Phone/Cell Phone									\$ -
Postage									\$ -
Office Supplies									\$ -
Miscellaneous (Explain below)									\$ 215.10
<b>Daily Totals</b>	\$ 215.10	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 215.10
<b>Explain-Other/Misc:</b>								<b>Total Expenses</b> \$ 215.10	
								Less: Cash Advance	
								<b>Balance Due:</b> Employee \$ 215.10 Company	

 8/29/2008  
 Employee's Signature Date

  
 Supervisor Signature Date

# TRAVEL EXPENSE REPORT

Name  
 Pr n W. Smith  
 Address  
 PO Box 1957  
 City/State  
 Rome, GA 30162  
 Entity/Department  
 ValorMD

08/27/08

Report Date

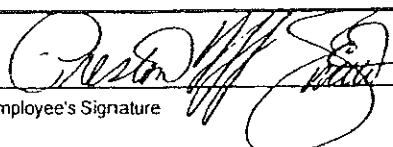
\$ 63.53  
 Amount Due

88/105  
 (12)

**Purpose of Trip/Expenditure**

Meeting of Gainesville Medical Group Management Association

Date	08/27/08							Totals	
<b>Transportation</b>									
Business Miles Traveled									
Mileage Allowance @ \$ 0.585	\$ 63.53			\$ -	\$ -	\$ -	\$ -	\$ 63.53	
Airfare Travel								\$ -	
Auto Rental								\$ -	
Fuel								\$ -	
Parking & Tolls								\$ -	
Taxi								\$ -	
Other Transportation								\$ -	
<b>Business Meals</b>									
Maximum \$25 per day									
Breakfast								\$ -	
Lunch								\$ -	
Dinner								\$ -	
Business meals for others								\$ -	
Other meal expense								\$ -	
<b>Lodging</b>									
Maximum \$120 per day									
Lodging								\$ -	
Other								\$ -	
<b>Other Reimbursable Expenses</b>									
Phone/Cell Phone								\$ -	
Postage								\$ -	
Office Supplies								\$ -	
Miscellaneous (Explain below)								\$ -	
<b>Daily Totals</b>	\$ 63.53	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 63.53	
<b>Explain-Other/Misc:</b>							<b>Total Expenses</b>		\$ 63.53
							<b>Less: Cash Advance</b>		
							<b>Balance Due :</b>		\$ 63.53
							Employee Company		

Employee's Signature:  Date: 8/27/2008

Supervisor Signature:  Date:

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EXHIBIT NO. 3 TENDERED AND ADMITTED