

# EXHIBIT G

Antoinette M. Tease  
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Attorney for Defendant  
Fort Peck Paleontology, Inc.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

BLACK HILLS INSTITUTE OF  
GEOLOGICAL RESEARCH, INC., a  
South Dakota corporation,

Plaintiff,

vs.

FORT PECK PALEONTOLOGY,  
INC., a Montana corporation, JOHN  
RABENBERG, an individual, DICK  
BARSNESS, an individual, JOHN  
DOE(S), individuals and entities,

Defendants.

Cause No. CV-10-76-GF-SEH

AFFIDAVIT OF PETER MAY


PETER MAY, being duly sworn, deposes and says:

1. My name is Peter May, and I am the President and founder of Research Casting International, Ltd. ("RCI") in Trenton, Ontario.


2. In June of 1999, RCI entered into a Work Made for Hire Agreement with the Field Museum in Chicago for the molding and casting of SUE T.rex. A copy of this agreement is attached hereto as Exhibit A.

3. To the best of my knowledge, RCI is the only entity or person to which the Field Museum has ever granted casting or molding rights to SUE T.rex.

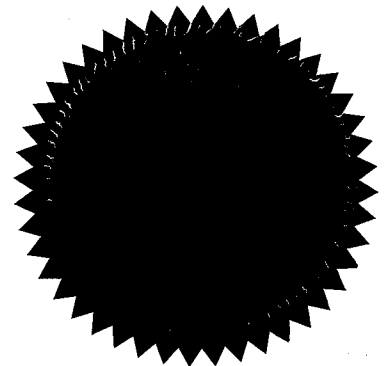
Dated this 31<sup>st</sup> day of August, 2011.

  
\_\_\_\_\_  
PETER MAY

**DECLARED** by the above-named )  
deponent before me at the )  
City of Quinte West, )  
in the Province of Ontario, )  
in the Country of Canada, )  
this 31 day of August, 2011. )

  
\_\_\_\_\_  
A Notary Public for the Province of Ontario

DAGNEY L. BENTON  
Fleming Garrett Sioui  
Barristers & Solicitors  
21 Quinte Street, Box 397  
Trenton, ON K8V 5R6  
Tel: (613) 965-6430  
Fax: (613) 965-6400



The **Field**  
Museum

exploring the earth and its people

THIS IS EXHIBIT **A**  
REFERRED TO IN THE AFFIDAVIT OF

**PETER MAY**  
SWORN BEFORE ME THIS 31<sup>ST</sup> DAY OF August, 2001 DS.

**WORK MADE FOR HIRE AGREEMENT**

**Jagnew B.**  
COMMISSIONER ETC

This Agreement is made and entered into on the 3 day of June, 1999, by and between the Field Museum, Roosevelt Road at Lake Shore Drive, Chicago, Illinois, 60605-2496 and Research Casting International Ltd., ("RCI") 4902 Union Road, Beamsville, Ontario, Canada. L0R 1B4.

**RECITALS**

This Agreement covers work-made-for-hire to be created by RCI. RCI shall 1) assist in the setting up of molding SUE on site at the Field Museum, 2) create "7" castings of SUE and "3" skull casts on the premises of RCI, 3) mount 5 castings for customers listed below, on the premises of RCI, using suitable and appropriate materials and methods for the final display or use of the skeleton. RCI shall consult with the Field Museum to coordinate desired pose, delivery and/or installation of the mounted skeletons. The customers and addresses the mounted skeletons are to be created for and sent to are as follows:

- 1) First cast for scientific study purposes. Delivered to Field Museum, Roosevelt Road at Lake Shore Drive, Chicago, Illinois, 60605-2496 (by June 2000)
- 2) Cast only for preparation and mounting of original material delivered to Phil Fraley (by January 2000)
- 3) Modular mounted cast for travel delivered to Murphy Catton, 115 Walton Nicholson Rd. Walton, Kentucky 41094 Cincinnati, Ohio (by March 15, 2000)
- 4) Modular mounted cast for travel delivered to Murphy Catton, 115 Walton Nicholson Rd. Walton, Kentucky 41094 Cincinnati, Ohio (by March 15, 2000)
- 5) Mounted cast for permanent outdoor exhibit, materials and methods to suit climate delivered to Walt Disney World, Orlando, Florida (by May 2000)
- 6) Mounted cast for permanent exhibit - location and timing to be determined
- 7) Mounted cast for permanent exhibit - location and timing to be determined
- 8) Two mounted skull casts delivered to Cincinnati, Ohio (by March 15, 2000)
- 9) One mounted skull cast delivered to Field Museum (by May 2000)

**PRICE**

In full payment of RCI's services in performing the project, the Field Museum shall pay RCI a total of US\$533,350 (Agreed Price) for Work covered by this Agreement according to the cost breakdown listed in Addendum A: Cost Breakdown. The Agreed Price shall be payable in accordance with the PAYMENT SCHEDULE hereof and shall not be escalated unless the scope of the project changes. The Field Museum agrees to pay one half (50%) or up to \$3,000, whichever is less, of the costs associated with RCI providing the Field Museum a performance bond in the amount of US\$150,000. RCI's portion of such performance bond shall be added to

the Agreed Price. The Agreed Price includes the goods and services required to produce the molds and mounted casts, shipping costs for the six casts from RCI's facility to the locations as designated by the Museum, repair kits for each mounted cast, installation/assembly manuals and all other production costs required to complete the work. The Agreed Price shall not include the cost of local labor, any on site or local storage charges required by delays in installation caused through no fault of RCI, structural, architectural and mechanical provisions. In addition, the Agreed Price shall not include the cost of any state or local taxes, permit fees, union fees, if necessary, for RCI's employees to work on any job site.

### **PAYMENT SCHEDULE**

- 1) \$161,000 due upon signing of letter of agreement by RCI and the Field Museum
- 2) \$161,000 due , within 30 days of submission of invoice, upon proof of completion, satisfactory to the Field Museum of casting all 7 skeletons
- 3) \$161,000 due within 30 days of submission of invoice, upon proof of completion of mounts satisfactory to the Field Museum.
- 4) \$50,350 upon satisfactory delivery to the various customers, payment due within 30 days of submission of invoice.

Time is of the essence for this agreement. The Field Museum may grant additional delivery extensions upon reasonable cause, such extensions to be in writing and signed by duly authorized Field Museum staff.

### **EXPENSES**

The Field Museum agrees to reimburse RCI for expenses relating to travel, food, accommodations and per diem for the employees of RCI, as set out in Addendum B: Travel Expenses upon submission of such expenses itemized and supported with receipts, not more often than monthly.

The Field Museum agrees to reimburse RCI for all shipping costs, shipping insurance, and customs fees upon submission of such expenses itemized and supported with receipts, not more often than monthly.

The Field Museum agrees to pay the above expenses, which shall not exceed US\$50,000. The Field Museum's Amy Louis must authorize any expenses above this amount in writing. Invoices for expenses should be sent to:

Amy Louis  
Sue Project Director  
Field Museum, Roosevelt Road  
At Lake Shore Drive, Chicago,  
Illinois, 60605-2496

## **WARRANTIES**

- 1) RCI represents and warrants to the Field Museum that all material and workmanship furnished hereunder (a) shall conform to Specifications (b) shall be free from all defects or faults in material or workmanship, and (c) shall be properly designed, engineered, and fabricated in accordance with the Specifications.**
- 2) If any material or workmanship of RCI is found to be defective, and such defects are reported to the Field Museum prior to the time when, or within twelve (12) months after any of the mounted skeletons is delivered to the customers, RCI shall repair or replace at its cost including paying all transportation and incidental cost (but not consequential damages or losses due to down time) arising out of such defective material or workmanship as soon as reasonably possible after receipt of such report.**
- 3) RCI shall not be obligated to repair or replace any material or workmanship which becomes defective as a result of improper maintenance, vandalism, accident, theft, physical abuse, neglect, natural disaster, labor not performed in accordance with specification or conditions more severe than those specified.**
- 4) The Field Museum does not grant RCI permission to use the Field Museum's name or trademarks in advertising or promotional material, or in connection with this agreement. (Except upon the Field Museum's express written consent, after review of the proposed use.) RCI understands and agrees that any work produced pursuant to this agreement is a work for hire as defined in the U.S. Copyright laws and that the Field Museum will be the owner of all copyright or other intellectual property rights in the casts and molds made under this agreement. (RCI shall not retain and/or sell duplicate casts or molds, unless agreed in writing by the Field Museum.**
- 5) RCI represents that the molds and casts will be RCI's original work and that the molds and casts are not in the public domain and have not been previously published elsewhere. RCI further warrants that the molds and casts contain no matter which infringes on proprietary rights, whether common law or statutory, or which would otherwise give rise to any cause of action by any other person or entity.**
- 6) RCI agrees to defend, indemnify and hold harmless the Museum from and against all costs, claims, damages, and expenses, including legal fees, arising from or related to any breach or alleged breach of these warranties by RCI or its representatives, including copyright infringement .**

## **RISK OF LOSS**

**RCI will assume all risk of loss for damage or destruction of the molds and casts, from any cause whatsoever, during the time materials are on their premises, from the effective date of this Agreement until the casts are delivered in satisfactory condition to the shipping company selected by the Field Museum. RCI will be responsible for preparing and packing the casts properly for shipment. In the event of a loss by fire, theft or other cause at RCI's facility during construction of the molds and casts, RCI will recommence the construction of the molds and casts at its own expense.**

## INDEMNITY

RCI hereby agrees to defend, indemnify, and hold harmless the Field Museum and its trustees, officers, and employees from and against any and all loss and expense (including reasonable attorneys fees and court costs) arising out of or relating to personal injury, death or property damage caused in whole or in part by the services of RCI its officers, employees, agents and subcontractors, if any, under this agreement, except where caused by the sole negligence of the Field Museum.

## INDEPENDENT CONTRACTOR

For the purposes of this agreement, RCI is an independent contractor, and, as such, is responsible for any and all applicable payroll taxes. RCI shall withhold all payroll taxes for individuals under its supervision that are required to be withheld under the Internal Revenue Code and other laws, including taxes on non-resident aliens and foreign corporations. RCI is not nor will be considered an agent, employee, joint venturer, or partner of the Field Museum for any purpose whatsoever. None of the benefits provided by the Field Museum to its employees, including, but not limited to, compensation, insurance and employment are available from the Field Museum to RCI.

## INSURANCE

RCI shall maintain insurance during the performance of this agreement in the amount and scope as reflected in the attached certificate of insurance. RCI shall name the Field Museum as an "additional insured" under its commercial and general liability policies; and as a "loss payee" under its property policies. The insurance shall be primary and non-contributory with respect to any insurance maintained by the Field Museum. RCI shall provide a copy of the insurance policies upon request.

RCI shall provide and keep in force during the term of this agreement:

- a) a policy or policies of commercial general liability insurance (including without limitation, products liability and broad form contractual coverage) and automobile liability insurance (for all vehicles) with combined single limits of not less than Two Million Dollars (\$2,000,000) and Two Million Dollars (\$2,000,000), respectively, combined single limits per occurrence, protecting RCI, the Field Museum and the officers, directors, trustees, agents, assigns and employees of each from claims for personal injury, bodily injury (including without limitation, death) and property damage arising or occurring out of services provided by RCI under this agreement or any act or omission of RCI.
- b) property insurance (including, without limitation, transit) on a replacement cost basis protecting RCI and the Field Museum against any and all loss to any of RCI's personal

property, including without limitation, the casts, molds and equipment and supplies;  
and

c) Workers' compensation and employer's liability insurance (as required by law), covering all persons employed by RCI in connection with the work performed under this agreement.

All such insurance policies shall:

- i) be with companies and on forms approved by the Field Museum;
- ii) (other than worker's compensation) name the Field Museum, its trustees, officers, employees, agents and assigns, as additional insureds thereunder;
- iii) (other than worker's compensation) contain a waiver of subrogation with respect to the additional insureds;
- iv) (other than worker's compensation) be primary and non-contributory
- v) provide that written notice of cancellation of or any material change in such policy shall be delivered to the Field Museum at least thirty (30) days in advance of the effective date thereof ;
- vi) be written by companies with a Best Guide rating of B+VII or better; and
- vii) be on an occurrence basis. Upon execution of this Agreement, RCI shall provide to the Field Museum Certificates of Insurance (and, if required by the Field Museum, copies of policies) evidencing such coverages.

### **TERMINATION OF AGREEMENT**

If RCI fails to timely deliver Work according to the satisfaction of the Field Museum, or fails to perform any other responsibilities under this Agreement, then the Field Museum shall notify RCI in writing to what extent the Services are not acceptable, in which RCI shall have fifteen (15) business days following the receipt of such notice to rectify that which is unacceptable to the museum.

### **INTEGRATION CLAUSE; WAIVER; ASSIGNMENT**

This Agreement contains the whole understanding of the parties, superscdes all previous oral or written representations or agreements, and may not be changed, modified or discharged orally. No waiver, modification, change or discharge of this Agreement shall be valid unless it is in writing and signed by the partics or their representatives. No assignments or transfer of rights under this Agreement shall take place without the express written consent of the Muscum.

### **APPLICABLE LAW**

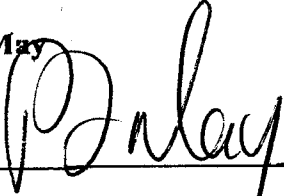
This agreement shall be construed and enforced in accordance with the laws of the State of Illinois.



**ARBITRATION**

Any dispute under this Agreement not resolved by the representatives of the contracting parties shall be resolved in Chicago, Illinois in accordance with the rules of the American Arbitration Association in effect on the date of the signing of this Agreement, and judgement upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

Peter May

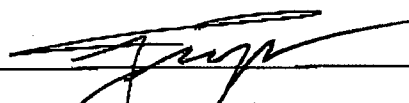


Title: President, Research Casting International, Ltd.

Date:

JUNE 30/99

Field Museum of Natural History



Title: Vice President, Finance + Admin.

Date:

6-17-99

Jim Croft

**ADDENDUM A: COST BREAKDOWN**

Cost per cast of complete skeleton - US\$44,500

Cost per cast and mounting of complete skeleton of SUE using modular mounting methods and materials for indoor display – US\$77,440

Cost for crating, shipping armatures, packing per skeleton – US\$3,500

Cost for installation/assembly manual and 1 repair kit per skeleton – US\$650 x3

Contents of Repair/Installation kit for travelling skeletons – US\$2,500 x2

3/8" cordless drill	1 quart – raw umber acrylic paint
20 ft extension cord	1 quart – burnt umber acrylic paint
1 set drill bits	1 tube – yellow ochre acrylic paint
pin stock – 3/8", 1/4", 1/8"	1 tube – burnt sienna acrylic paint
1 quart epoxy putty, A+B- 3 hour cure	1 tube – black acrylic paint
4 rolls of 5 minute epoxy putty	1 tube – white acrylic paint
5 sets(tubes) 5 minute epoxy adhesive	1 rolling metal tool box – 48" x 24" x 24"
5 1 oz bottles cyanoacrylate (super glue)	assorted brushes
1 3/8" drive ratchet set	mixing containers
1 set assorted screwdrivers	Olfa knife/blades
1 set wrenches	Sandpaper
1 hammer	tape measure
1 hacksaw with blades	adjustable wrench
replacement bolts	vise grips
1 set pliers	Dremel tool kit
1 bolt cutters	

Cost per cast and mounting of complete skeleton of SUE using specialized mounting methods and materials for specific display purposes are to be determined by the specifications required by the end user. These specifications will be supplied to RCI by the Field Museum and the price will be adjusted according to time and materials required to adjust the modular mounting methods and materials to the required specification.

**ADDENDUM B: TRAVEL EXPENSES**

Charge for employees of RCI – US\$60.00 per hour, including travel time, to be billed on an 8-hour day. Any time worked over 8 hours in a single day will be billed at time and a half (US\$90.00).

Expenses to be billed upon receipt of invoices are hotel, food, travel.

Installations of casts of SUE, if necessary, will be billed at the same rate.

**ADDENDUM C: SHIPPING COSTS**

Molds from Chicago to Beamsville	US\$2,000
1 skeletal cast from Beamsville to New Jersey	US\$1,500
1 Skeleton from Beamsville to Chicago	US\$2,500
1 Skeleton from Beamsville to Orlando	US\$3200
2 Skeleton from Beamsville to Cincinnati, Ohio	US\$3,500*
1 Skeleton from Beamsville to (location TBD)	US\$3,500*
1 Skeleton from Beamsville to (location TBD)	US\$3,500*
Estimated Total for shipping expenses	US\$19,700

\* prices will be adjusted upon confirmation