

Virginia Business Lawyers

Do It Yourself Contracts – What’s the Risk?

By: Thomas L. Bowden, Sr. on Wednesday, September 28th, 2011



Image via Wikipedia

In the last post we talked about **boilerplate clauses**, specifically, the “**integration clause**.”

There are lots of other boilerplate sections that might seem to just be boring and unnecessary text, something you might drop if you didn’t know why they exist. Let’s look at two more.

Example one is the jurisdiction and **choice of law clause**. The fundamental purpose of a **contract** is to be able to enforce your rights if there is a dispute. You might assume that you can sue on your contract in the city and state where you made the deal, but that might not be the case. If the other party is in another city or state, they may have asked their attorney to specify that all disputes be resolved in the courts of that city in that state. If they did, it’s also likely that they specified that their local state law would apply.

The contract that requires you to cross several time zones just to make your case is a lot less useful. If your contract requires you to sue in Nevada applying Nevada law and you’re in New Hampshire, it’s going to be a very expensive lawsuit. You’ll probably be hiring a new attorney in another state, who doesn’t know you or your business or anything about the deal. That’s not a good way to start a lawsuit. But the other side will certainly take that all into account in any settlement offer. They will know that your settlement calculations

<http://vabizlawyers.com>

[Richmond](#) • [Christiansburg](#) • [Fredericksburg](#) • [Research Triangle](#) • [McLean](#)

Copyright Sands Anderson PC

THE INFORMATION CONTAINED IN OUR WEB SITE DESCRIBES LEGAL MATTERS HANDLED IN THE PAST BY OUR ATTORNEYS. OF COURSE, THE RESULTS WE HAVE ACHIEVED DEPEND UPON A VARIETY OF FACTORS UNIQUE TO EACH MATTER. BECAUSE EACH MATTER IS DIFFERENT, OUR PAST RESULTS CANNOT PREDICT OR GUARANTEE A SIMILAR RESULT IN THE FUTURE.

will be more favorable to them because your legal costs will be higher than if you sue in your home court. See how the boilerplate works?

The law of the other state may not be favorable to your case. Although the **Uniform Commercial Code (UCC)** has been enacted in all 50 states, the case law can vary significantly in the rules of interpretation of the Code. What's more, there are large areas of law, like employment, that are not covered by the UCC. Some states are "employment at will", others give employees greater rights to maintain their jobs. If you are preparing an employment agreement, you would certainly want to control whether a California court would interpret a **noncompete clause** or whether a Virginia court would. I bet the interpretations would be different.

Example two is the "assignment" clause, another boilerplate clause that can dramatically affect your rights. This is not about homework. The assignment clause determines whether or not you or the other party can assign the benefits and obligations of your contract to a third party. Many contracts are designed to be assignable, and for commercial reasons, they have to be. Bank loans are a good example. On the other hand, if you contract with a company because of its specific expertise you may be disappointed to learn that they have assigned it to another company, whose standards are not as high. Sometimes it's appropriate for one party to be allowed to assign its rights, while the other is restricted. The main point is that there is no single rule, and it's always better to be clear in advance by using the proper boilerplate.

How will you be sure your contract protects your interests? Well, that's what a good **Virginia business lawyer** is for. And all that boilerplate that some might think just increases your cost may eventually save your business, wouldn't it?

<http://vabizlawyers.com>

[Richmond](#) • [Christiansburg](#) • [Fredericksburg](#) • [Research Triangle](#) • [McLean](#)

Copyright Sands Anderson PC

THE INFORMATION CONTAINED IN OUR WEB SITE DESCRIBES LEGAL MATTERS HANDLED IN THE PAST BY OUR ATTORNEYS. OF COURSE, THE RESULTS WE HAVE ACHIEVED DEPEND UPON A VARIETY OF FACTORS UNIQUE TO EACH MATTER. BECAUSE EACH MATTER IS DIFFERENT, OUR PAST RESULTS CANNOT PREDICT OR GUARANTEE A SIMILAR RESULT IN THE FUTURE.