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BOILERPLATE LANGUAGE

When the occasion arises that you are given a contract or written agreement to sign off on, be sure not to ignore all of the so-called boilerplate language toward the end. Although it is common to place most of the general terms of a contract after the unique sections - such as the obligations, compensation and term - much of this seemingly inconsequential, innocuous and irrelevant language can be anything but that.

For instance, most contracts give the jurisdiction and governing law that will be used to interpret the agreement near the end. If there is a conflict in the future and you don't want to attend meetings and hearings and have your lawyer handle the case in another county or state (or have to retain an attorney there who can), be sure to look at this now. Also, see if there is anything that relates to alternative dispute resolution (ADR), like arbitration. If there is an arbitration clause, is it binding or non-binding and does it require you to waive your right to trial? Additionally, many agreements contain indemnification clauses within the miscellaneous sections, which can have costly consequences and were discussed in a previous post. Terms like these can have a significant impact on your ability to remedy any potential problems.

In addition to reviewing the standard paragraphs that already exist in the contract, there may be some missing that you will want added. Some important terms include the relationship of the parties, prior communication and supplemental documents, assignability, amendments, attorneys' fees, and notice. The agreement may also say that each side has had the opportunity to have their respective legal counsel review the document, which probably is a good idea even if it doesn't.

While many of these things may not be deal breakers, they are important and, thus, should be paid attention to, discussed with the other side, and understood by you before entering the agreement. Like the saying goes, "Read the fine print" and make sure that the devil isn't in the details.

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