

Message From Chris....

While some deals are bigger and merit a lawyer's attention, some deals don't. With that in mind, I wanted to hand out a few, handy bits of information for those who economically have to figure out legal contract language on their own. This should be helpful to everyone... (and don't forget to click on my Facebook or YouTube links below to also see my short video on this material).

Contract Self-Help

Basic, essential contract concepts, there are many. *What are some of them?*

- 1) **Recital of Consideration.** The concept of consideration is presumed to be implied in all contracts, written or oral. However, if contested by one of the parties to the contract as not having, in fact, been provided by the other party, this implied presumption can be rebutted at trial. Accordingly, you always want to recite consideration up top in the agreement. Something like this usually works well to cover your bases:

“**NOW, THEREFORE**, in consideration of the foregoing promises, terms, provisions, covenants, warranties, representations and agreements contained within this Agreement and the exchange of the sum of ten and no/100 Dollars (\$10.00) by and between the parties hereto, and for the exchange of other good and valuable consideration by and between the parties hereto, the receipt and sufficiency of which are hereby acknowledged by both Seller and Buyer, Seller and Buyer hereby agree as follows:”

If the contract isn't dealing with real property or the granting of easements but rather with personal property (e.g., a tractor, a car, an airplane, machinery), switch the amount from \$10.00 to \$1.00 instead.

- 2) **Indemnity Language.** If you're looking at the indemnity provisions of a contract, at a minimum, you're going to want to make sure that whatever you're having to indemnify the other party for, they're indemnifying you for the same/similar things (subject to proper revisions, depending upon the circumstances, so don't just change all the names in the paragraph from landlord to tenant or buyer to seller - read the language to get a feel for what's going on). Simply put, you're going to want to make sure that the indemnification provisions “mirror” one another for each party – that's only fair.
- 3) **Insurance Language.** If the contract doesn't discuss this, it should. Big picture, insurance language ensures that the indemnity provisions aren't unfunded liabilities for either of the parties. Call up your insurance agent and send over the insurance language for your agent to walk through with you – they're great folks who have a good eye for

identifying unaddressed concepts and they usually have a knack for knowing what should stay in and what needs to come out of the document.

What My Clients Are Saying

“I have been very pleased with Chris’s legal work on real estate matters. He gets a project completed when he says it’s going to be completed. He is a real estate law expert. I not only use him for our legal work, but have referred him to several of our customers. And they have been pleased with the attention and follow through he devotes to the project.”

J.R. “Bud” Fulton, SIOR, CCIM / President, J.R. Fulton & Associates / Oklahoma City, Oklahoma

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