

WHY DO YOU NEED A CONTRACT

At any one time, more than 90% of all corporations are involved in some kind of business litigation, both as a Plaintiff and as a Defendant. It would appear that corporations often use litigation as an effective dispute resolution tool. Other than intellectual property disputes, disputes over contracts and employment are most frequent. Why?

Most businesses don't realize the importance of a good, solid contract, not only as protection but also to use as a roadmap for the working relationship between the parties. A good contract decreases misunderstandings, gives methods for working out problems, defines the exact relationship so chance for minimal damage if and when things go awry.

The 3 main purposes of a contract: detail what we have to do, detail how we will get paid, and give us a way out of the deal.

1. What we [both parties] have to do: Scope of services:
 - a. who does what and when,
 - b. contingencies,
 - c. amendments,
 - d. what happens when performance is late or insufficient,
 - e. what if performance is contingent on subcontractors,
 - f. insurance (what do they need, how and when do they prove),
 - g. when is performance complete,
 - h. notice of default (how and to whom?),
 - i. opportunity to cure,
 - i. provide professional certifications,
 - j. alternative dispute resolution,
 - k. hiring of experts
2. How we get paid:
 - a. Is this pay when paid (highly discourage this)
 - b. Installments
 - c. Upon completion of project
 - d. Who pays attorney fees if litigation or default
 - i. Define default (very important!)
3. How we can get out:
 - a. Default defined?
 - b. Failure to perform?
 - c. Anticipatory breach?

Every single case I've handled has been due to a lack of a good contract that would have protected my client if they called me BEFORE the deal rather than after the blow up.