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# Is There a Safe Way to Use Business Forms Found on the Web?

Sometimes clients bring me a form from the web or an on-line legal service, hoping the form will be “good enough” to protect their assets or document their deal. Unfortunately, my experience is that many times, the proposed form will instead cause legal harm by creating new liabilities unappreciated by the client. Just as unfortunate, in nearly all cases, the form fails to provide the legal protections, deal certainty, enforcement provisions, or statutory compliance that the client desires.

What is so different from my use of forms and adapting them to a business’ legal needs compared with the results when even experienced business people grab forms from the internet or a question-and-answer legal service?

**In my opinion, success with business writings requires a thorough understanding of contract law combined with practical experience interpreting and enforcing business writings.**

First, the common – but false – belief that a “standard form” exists leads some businesses to adopt a form based on the title and general context alone. Business contracts are not fungible commodities reusable from one situation to another.

Second, in my experience, most business people do not understand how particular contract terms benefit one party, disadvantage the other, or may create undesired tax liabilities.

Third, careful identification of business goals and needs is essential to successful development of effective business forms. All business writings must contain language that promotes and reinforces the needs of that specific business.

Fourth, unless a business has suffered from a previous bad contract, folks do not understand what types of contract terms are practical to implement and what

terms make enforcement so burdensome that the contract is, effectively, illusory.

**The take away: The precise words of a business contract must match that business’ objectives.** Casual use of a form without legal insight can create a tax headache, expose the business to unnecessary liabilities, cause the loss of trade secrets, waive enforcement opportunities, and create an expensive legal challenge where a proper writing could have simplified resolution.

An attorney preparing standard business forms, employment policies, or transaction documents, should review with the client:

- How the business operates: talk through both typical and atypical business sales and transactions.
- The key business goals for the contract, such as, protecting personal assets from business liabilities, enhancing profits, solidifying a proposed business deal with enforcement terms, legal compliance, saving face with an opponent, or limiting a potential tax problem.
- Anticipated challenges facing the business.
- The pros and cons of critical paragraphs, including dispute resolution provisions, guarantees and securities, loss responsibility pending sale, and liability waivers.
- Coordinating insurance provisions with liability exposures.
- Other existing or contemplated agreements between these parties or their affiliates.

Quality business agreements and forms provide essential protections from liability and expense that cannot be obtained any other way. Remember, in business law, an ounce of legal protection is worth 16 tons of cure.