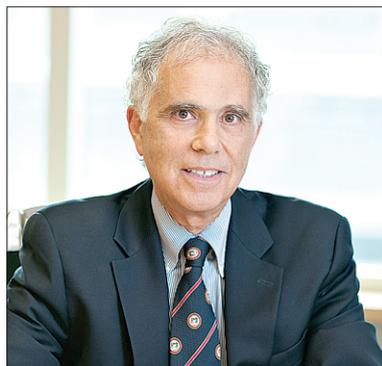


Workable,
innovative, cost
effective solutions
for clients.



Jay Rosenblatt

Jay Rosenblatt is a partner in the firm and is engaged in a Business Law practice. He counsels Stakeholders at Risk, including Business Owners, Board members, Senior Management and Municipalities on legal and business-related issues.

Jay assists Stakeholders at Risk to identify and create solutions for their problems.

Jay has a special focus on Business Continuity, Disaster Management, and Emergency Preparedness, having presented at M.I.T. in Boston and at the FEMA/DHS Annual Training Conference in Maryland.

Q

Are you aware of the potential traps and pitfalls in a Contract?

A

A Contract is an agreement between 2 or more parties in which there is a promise to do something in return for a valuable benefit known as consideration. The existence of a contract must contain: a) an offer; b) an acceptance; c) a promise to perform; and d) valuable consideration.

A Contract is one way to manage the relationship between different Stakeholders and to also manage the risks of those Stakeholders.

A properly drafted Contract must contain the appropriate terms and conditions to ensure that the Stakeholders' respective interests are protected. Omission of those appropriate terms and conditions can be fatal for one or more of those Stakeholders.

Five very important Contract provisions that are either not fully understood or not properly drafted are:

1. The 'Promise To Do That Something'
2. Default
3. Cures
4. Termination
5. Limitation of Liabilities
6. Arbitration of Disputes

Make certain that the 'Promise To Do That Something' is clearly set out so the Stakeholders know what is to be performed and how it is to be performed. Vagueness will only result in additional costs and delays.

What happens in the event that one of the Stakeholders defaults in performance of the terms and conditions.

Does the Contract permit the defaulting party a reasonable period of time to cure that default before the other party has the right to terminate the Contract.

What happens in the event of termination of the Contract: what remedies are available to the respective Stakeholders.

A provision limiting liability in the event of any default under the Contract is essential. No Stakeholder wants to have unlimited liability.

Arbitration is a more cost-effective and quicker way to resolve differences that the Stakeholders may have in the interpretation of the Contract. Arbitration provisions set out the procedure for the Stakeholders to resolve these differences.



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