NEVER SHAKE HANDS AGAIN

PITFALLS OF VERBAL CONTRACTS

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Never Shake Hands Again: Always Have A Contract

Dedication

For this work, I am indebted to the conversations with clients, the brainstorming and editing comments from Jennisa Thissen-Betts and Emilea, the support of my loving wife, Cinthia, and countless others across the years.

Introduction

Why Consider Handshakes and Contracts

I am an attorney…but not the kind of attorney you might be thinking of. I'm not the attorney in a stuffy suit and tie arguing in front of a judge, charging you everything you have in order to represent you. Instead, I am a lawyer who works collaboratively with you to address your legal and tax needs with the ultimate intent, to minimize confusion, limit stress, and maximize efficiency.

For my business, I am constantly speaking with business owners, executives, and entrepreneurs who are wondering about how to keep their dreams alive, their businesses safe, and their families secure. Central to nearly all of these concerns is the natural question surrounding the role of contracts.

In reply, many of my clients have admitted that they didn't have a written agreement, or that the agreement was simply a handshake between friends. When hearing this, I simply shake my head and think to myself, "Here we go again!" The reality is that handshakes are confusing. What do they actually mean? How do we enforce them? What should we do to make sure that a deal is exactly what we intended?

While I take a pragmatic, entrepreneurial approach to business, I would not be serving my clients well if I did not try to have contracts in place to protect their interests and make sure that the person shaking hands completely agrees with and understands the deal that we're finalizing.

This following discussion is intended to share some general thoughts, a few war stories, and provide some insight into why handshakes just aren't what they used to be, and how each business owner, investor, physician, or entrepreneur can protect what they've labored for years to build.

This is not to be confused with an exhaustive "How-To" Guide, but it is my hope that this will start the discussion that you finish either with myself or another business-minded counselor that you know and trust.

If you have questions about your own "handshakes", please reach out to me. I'm always happy to be a resource.

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Chapter 1

Handshake History: Peaceful Intentions Turned Meaningless

From earliest history, shaking hands was a sign of peace, accord, and agreement. Enemies became friends. Offenses, forgiven. When two prior adversaries extended their hands toward the other, it was a sign that neither party was concealing a weapon and had come with the intention of reconciliation and peace. It was understood that handshakes were ironclad and binding.

THEN

Although handshakes in some form or another have existed for hundreds if not thousands of years, recorded history can date handshakes back to at least 5th Century Greece. Ancient Greece reveals carved images on vases, relief carvings, and gravestones, referred to by a name that literally means "joining of the right hands".[1] Sometimes the carvings were of city leaders joining hands to symbolize an agreement of peace, sometimes it was images of a leader joining hands with a god, and on Roman gravestones, it was often the deceased with their spouses in the afterlife.

Religion can also dictate the significance of a handshake, who should and should not shake hands, who shakes first, etc. This is especially true for Islam where unrelated men and women (with few exceptions) do not shake hands at all.

Noted historian Walter Burkert explained that "[a]n agreement can be expressed quickly and clearly in words, but is only made effective by a ritual gesture: open, weaponless hands stretched out toward one another, grasping each other in a mutual handshake."[2]

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[1] "Dexiosis" (Greek δεξίωσις dexiōsis, 'greeting' to δεξιόομαι dexioomai, 'to give (someone) the right (hand)' δεξιός, dexios 'right', Latin dextrarum iunctio, 'joining together of the right hands'), in the fine arts, is the representation of two people offering each other their right hand.

[2] "The History of the Handshake" https://www.history.com/news/what-is-the-origin-of-the-handshake. Originally published August 9, 20-16, updated March 16, 2020. Accessed April 10, 2024.

"One of the earliest depictions of a handshake is found in a ninth century B.C. relief, which shows the Assyrian King Shalmaneser III pressing the flesh with a Babylonian ruler to seal an alliance. The epic poet Homer described handshakes several times in his "Iliad" and "Odyssey," most often in relation to pledges and displays of trust.

The gesture was also a recurring motif in fourth and fifth century B.C. Greek funerary art. Gravestones would often depict the deceased person shaking hands with a member of their family, signifying either a final farewell or the eternal bond between the living and the dead.

In ancient Rome, meanwhile, the handshake was often used as a symbol of friendship and loyalty. Pairs of clasped hands even appeared on Roman coins."[3]

NOW

Today, there are books written about how to shake hands, when, why, and whether culture should impact this relatively western cultural construct.[4] Brad Feld, an American entrepreneur and venture capitalist observed that "[w]hile I'd like to be able to simply do all of my financings with a handshake or, possibly, on a napkin, written in crayon, I also wish I had a herd of unicorns surrounded by rainbows, a balanced U.S. government budget, and agreement on how to address the debt ceiling issue". The sad commentary is simply that handshakes no longer mean what they used to.

What happened? When did handshakes fail to pass the test of being enforced? When did the phrase "my word is my bond" become empty and meaningless? When did the shaking of hands move from the sacred to the mundane, from the binding promise to the casual greeting?

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[3] *Id.*

[4] Kathleen Elkins explains how to properly shake hands in 14 different countries in Business Insider Australia; https://www.businessinsider.com.au/how-to-properly-shake-hands-around-the-world-2015-3; originally published on March 6, 2015, but accessed on April 10, 2024.

Never Shake Hands Again: Pitfalls of Verbal Contracts

Why is it that two business owners can't simply shake hands and know that the deal will be honored? As I ponder this question, I look back through the conversations I have had with my clients throughout the years. My musings often lead me back to a conversation with a particular client I had years ago.

This client was a rough old cowboy. He had worked for decades on his ranch and had done extremely well for himself. His skin was as tough as leather, but his character had not been weathered and was above repute.

Throughout the years as a businessman he had made countless deals without a written contract in sight. Preferring memory and handshakes to seal the deals, he said that if he couldn't trust those with whom he was entering into business relations, then he shouldn't be going into business with them at all.

Hearing him speak, I admired his passion for honesty, and his willingness to stand up for what he believed to be the sign of true character. It was the kind of world that, to some degree, I wished I lived in. A world where lawyers weren't needed, and men and women lived their lives with integrity and honesty. However, such a thought process didn't align with the reality of our times where the world was filled with finding technical loopholes and high paid lawyers trying to skirt responsibility for their clients.

While I agreed with his philosophy, I also knew that the business world had changed and in order to protect himself, his family, and his employees, he was going to have to change some of the ways that he approached business. He didn't agree, at first.

He declared that if I couldn't see things his way, then he was going to walk away and find another lawyer who did, smiling in satisfaction at what he presumed to be his victory in convincing me to see things his way. At that moment, I felt like I was a new stallion that he was

working on breaking. Thinking quickly, I decided to take an analogy from the ranch he had built over the years.

"Here on the ranch," I said, "Why do you have fencing around the property? And why do you have fencing for the chickens, the horses, and the cattle, within the fenced property?"

The old cowboy looked back at me and I braced myself for impact. His eyes seemed to ask about my intelligence level for asking such a stupid question. I persevered, doubling down on my previous question. There was no backing down now.

Eventually, the old cowboy responded with some trite response about how the fences were intended to outline the property and keep the animals separate and keep them safe, then, he looked at me, his face filled with bewilderment as he waited for the conclusion to this insane question.

Smiling, I explained, "That is the same reason we need to have written contracts in place. Contracts outline our boundaries and keep certain assets separate and safe."

His bewilderment faded and was replaced with understanding and quiet surrender. Then, slapping me on the back, he said, "You're right. Thanks for keeping this old cowboy on the straight and narrow."

NEXT

Are you the Cowboy? Just like those animals needed to have clearly outlined boundaries to keep them safe and protected, your business needs to have those same clearly outlined boundaries to keep you, your family, and your employees safe.

Over the next few chapters, I will share a number of ways that handshakes in business can leave you on the hook for some big risks, and offer insights on how you can do a better job

of protecting what you have built and put up those protective fences around your business and personal life.

Chapter 2

Handful or Empty Hands: Avoiding Ambiguity in Agreement

A man I met years ago while living in England judged every man by how he shook hands: how hard they squeezed, how quickly they embraced, and which one released first. Of course, as an impressionable young man, I was eager to show that I had the "right stuff" and wore proudly the badge that I could give a hard, firm handshake. I thought that the white-knuckled, squeezing handshake was the epitome of a professional introduction, until one day when I shook the wrong hand.

The introduction was similar to countless other times when meeting a person for the first time. The individual extended his hand and I immediately reverted to my default approach. I quickly engaged, firmly shook, and squeezed tightly. The recipient of my handshake screamed in pain. I then learned that the other person had arthritis in his fingers. I felt horrible, but my sincerest apology did not remove the pain I inflicted. What I failed to appreciate was that handshakes, like business agreements, need to be tailored to each unique situation, and the parties involved.

So, what's in a handshake? How do you communicate what you intend to the parties receiving your hand? Similarly, how do we make sure that contracts are clear and the parties understand what it means?

WHAT'S IN A HANDSHAKE

Recognizing what each party means when they "shake hands" is one of the main reasons why agreements often end in disputes before judges. Often, contract litigation comes down to the issue of whether all of the parties understood what was required under the terms of the contract. Avoiding ambiguity in agreements is therefore one of the most important goals for reaching an understanding that all parties can live with. Reaching this lofty goal is best assured when we follow three simple steps:

Never Shake Hands Again: Pitfalls of Verbal Contracts

(1) Use clear language

(2) Do deals with those you trust

(3) Explain it to a 10th grader

Clear Language

Relying on clear language not only improves the likelihood that all parties to an agreement understand the terms, but also makes it easier in the future to enforce the agreement if a dispute about the contract arises.

Lawyers often describe the need to use clear language by invoking the prohibition to avoid "legalese". You know what I'm talking about…using Latin words, having sentences so long they become paragraphs by themselves, or needing a dictionary just to understand what is being said. Now, to be fair, there are some words that law requires to be used because they have specific and significant meanings, especially when drafting contracts with industry specific terms, but this is the exception rather than the rule.

When I was in law school, I enjoyed the courses that focused on practical writing and contract drafting, rather than those taught by professors who insisted on the arcane and clumsy mouthfuls that lawyers tend to be known for.

Trust the Other Party

Implied in a handshake is some level of trust and a willingness to negotiate.

Recently, I met with a client about a two-year, ongoing litigation case about a broken contract. Trust between the two parties had broken down and dissolved as each party claimed that the other party had been the one to break the contract. As my client and I discussed potential terms for a settlement agreement, we found ourselves stuck on one particular clause. Initially, my clients said that if we didn't get the other side to agree to this particular clause, then they would

walk away from settlement talks. This caused me to realize that, before we tried to finalize any terms, we would have to figure out some way to build up some level of trust between the warring parties again. After all, if the parties could not trust that the final agreement would be honored, why would they spend time negotiating?

While talking with this client, I realized that if they couldn't find a reason to trust the other party signing the agreement, then they would, at least, need to trust me to find the best solution to an expensive and emotional problem they were facing in their business. The client ultimately agreed to trust me.

When we did get the final agreement with what we were looking for, in writing, my client didn't sign the agreement because they trusted the other party, but because they trusted me - and I trusted that the other party would honor the terms of the agreement.

At the end of the day, there is never a guarantee, and we have to figure out the delicate balance of being "wise as serpents, and harmless as doves."[5]

Trust is an integral part of the process of negotiating and reaching an agreement. Walking through life or business without the ability to trust others may leave a person stressed or paranoid. You need to make sure that there is someone in your corner that you trust, someone who can help you reach the right kind of handshake.

Explain Simply

We've all been there, someone is talking about a subject that makes absolutely no sense to you, and the words are just swirling around your head, creating a white-noise effect inside your brain, instead of telling them that you don't understand a word they are saying, and possibly looking like an idiot, you simply smile, nod your head, and pretend that you know exactly what

[5] Matthew 10:16, KJV Bible.

they are talking about, and that it all makes perfect sense. That should NOT be how you approach drafting or signing contracts.

You want to make sure that all parties involved in the contract know EXACTLY what is happening. You want everyone to have a clear picture of who is responsible for what and how it will get accomplished, and what the 'finished result' will be.

We've known it from grade school, "KISS" really stands for "Keep It Simple, Silly[6]", so…"Keep It Simple, Silly."

WHAT DID I ACTUALLY GET?

When discussing contracts and the need to have clear communication, if parties implement the principles of clear contract drafting and clear communication then it's pretty rare that parties don't fully understand their responsibility within the agreement.

As I think about lack of communication and deals gone wrong, I am reminded of the scene in the Disney® movie titled "The Princess and the Frog". In this scene - depicted below - Dr. Facilier promises Prince Naveen and Louis all of their respective heart's desires. All of their deep, dark wishes were seemingly granted by Dr. Facilier and they shake hands, sealing the deal, each one believing that they had just made a great deal and were coming out on top of the situation. However, Prince Naveen and Louis had no idea what they were really getting themselves into. They didn't fully understand the 'contract'. Not surprisingly, the consequences would be much different than the assumed expectations implied by the mere handshake.

[6] OK, I understand that everybody likely uses a different word here. Feel free to insert your favorite, whether "Sweetheart", "Stupid" or other "S"-flavored appellation.

While each person was “shaking on it”, they found themselves receiving a lot less than what they thought they were agreeing to, while simultaneously receiving obligations that were not explicitly stated because no one really knew what was contained in the actual contract.

Just like in “The Princess and the Frog”, if you fail to clearly prepare an agreement that all parties fully understand and agree to, you are setting the stage for a dispute later, and figuring out the meaning and understanding of this “agreement” may turn out to be far more costly than if you had simply slowed down at the beginning and made sure that all parties are shaking hands with a hand that is full of understanding.

Chapter 3

Washed Hands: Understanding Motives, Promises, and Representations

When we are young, we are taught the importance of washing our hands. Reminders to wash your hands to help prevent the spread of germs abound. There are signs in bathrooms all about washing hands. By now, you should understand how important washing your hands is. It not only keeps them clean, but can also help prevent sickness. However, the importance of 'washing hands' in business deals isn't talked about quite as often, if at all.

We know that we need to physically wash our hands to keep us safe and healthy, but often, as business owners, you may not take into consideration the need to 'wash your hands' when getting into business deals.

Just like you want to protect yourself from harmful germs, you need to protect your business from harmful deals, and if you are relying on the good old handshake to seal a business deal, you may need to consider washing your hands to help prevent business germs from spreading.

Sure, the hand may look clean, it may look healthy, but you have no way to truly know when they were last washed, how clean they are, or if they are host to issues that can cause all kinds of problems within your business.

Getting a written contract for your business deals is like washing your hands. While it may not be able to catch everything, it can help prevent some serious damage to your business, and keep you from having to deal with a costly problem that could have easily been avoided.

HARMFUL MOTIVATIONS

Not all motivations are bad, motivations are what drive you to do things. Motivations are the why, the driving force behind what you are doing. Each person has their own motivations and that's not a bad thing, especially if some of those motivations coincide with each other and you find you can work together and make a great team. However, not everyone is going to have the

same motivation that you do, and not everyone is going to go into a business deal with the same desired outcome. You may find yourself at odds with the other side and end up working against each other rather than with each other.

It reminds me of the Disney® movie, "The Little Mermaid". In the movie, Ariel longs to be part of the human world. So, she goes to the sea witch, Ursula, to help make her dream a reality. Ursula sings the song, "Poor Unfortunate Souls," which makes Ursula sound like someone who simply wants to help people. She talks about all the people she helped get their dream, she's a dreammaker.

However, as the story unfolds, Ursula didn't really care about Ariel's dreams and desires. Ursula actually didn't care about any of the 'poor, unfortunate souls,' that she had supposedly helped. She didn't care about any of their dreams or desires. She wanted power and was willing to do anything she had to do in order to get it, even if that meant destroying people's lives and exploiting a naive mermaid to do it.

Just like Ariel, sometimes we want something so badly, or we want to believe in the goodness of other people, that we don't stop and take a moment to try and figure out what their motivation is. Just like Ariel, you might just shake their hand and believe in the goodness of their word and find out the hard way that they had less than stellar ulterior motives and are acting in their best interest, even if that means throwing you under the bus.

I have seen this countless times with business partners. You want to trust your partner, but, in time, their true colors come out and you may find yourself out of the business.

Don't let the Ursulas of the world take advantage of you. Get a contract in place….and read it….before committing to anything that matters.

REPRESENTATION

Everyone likes to paint themselves in the best light and put on certain acts around different people in order to achieve different goals in life. You aren't the same person with your siblings as you are with your parents. You may be a different person around your boss than you are with your coworkers. You represent yourself in a different light depending on the people you are with. Now, most of the time, these different representations of yourself aren't done with malicious intent and are fairly harmless in nature. However, you never really know what a person is truly hiding beneath the mask that they wear.

I have heard so many clients tell me that they were friends or they seemed like such a nice guy or something along those lines. I can't help but roll my eyes and sigh. People thought that Ted Bundy was an upstanding, nice guy as well, in fact, that was one of the ways he was able to stay under the radar for as long as he did.

Ted Bundy often made himself appear to be injured in some way in order to garner sympathy or would impersonate authority figures, like police officers, in order to gain the trust of his victims before luring them to their deaths.[2]

However, he seemed like an upstanding citizen, who showed great promise in law or politics, he seemed like a nice guy, and even the people he was closest to never guessed at the skeletons that were hiding in his closet.

While most people you meet aren't going to be hiding the fact that they are a serial killer, you still never know what they are hiding. You have no idea if they are truly who they say they are, or if they are simply pretending in order to further their agenda.

WASH YOUR HANDS

The bottom line is that you never really know how well someone else has washed their hands. You don't know what is hiding behind what appears to be a clean hand. Are they misrepresenting who they are and what they are capable of doing? Are they hiding what their true motivations are? You can hope that they are being as honest as you are and that it will all turn out perfectly, however, the world isn't as black and white as we would like and there are varying shades of gray.

Just like washing your hands can protect you from getting sick, having a written and clear contract in place can help keep your business safe from those that want to take advantage of you.

Chapter 4

Hands Have No Memory:Memory and Recall Issues When Dealing with Handshake Deals

In the Disney® movie, “Frozen 2”, Olaf gives a fun fact that “Water has memory.” This statement becomes a theme in the movie, and there are scenes within the movie that help prove their statement that water has memory by using the water to show Anna and Elsa memories of their past and the pasts of their parents.

While water may have memory, at least according to Frozen 2, handshakes don’t have the same memory capacity. The people behind the handshake also don’t have the best track record when it comes to remembering things. Things have a tendency to get forgotten or “misremembered”, and that memory glitch can sometimes be extremely convenient for the person who can’t remember, and can cause a devastating loss.

In one case, a client lost over $200K because the different parties had different recollections of what they shook hands on. Whether there’s malicious intent or simple human fallibility, you can’t rely on memory alone for your business deals.

THE TROUBLE WITH MEMORY

I’m sure we’ve all been in a situation where there is something important that you need to tell someone, and so you hurry to tell them, but the minute you are about to, the thought flies right out of your head. You remember that it was something important, and you had to tell them, but the actual information is lost to you. You can’t believe it. It was something super important, and it wasn’t even a long time between finding out and getting ready to tell them, but somehow, within mere moments, it has slipped your mind and you are left struggling to remember what it was, and hoping that it wasn’t time sensitive or really as important as you initially thought. That is because, unfortunately, we are human and human memory is far from infallible, and things get forgotten, no matter how important.

Never Shake Hands Again: Pitfalls of Verbal Contracts

I was recently reminiscing with some friends, and while we all had the same general remembrance of the event and what happened, our perceptions of what happened, when, how, and even how we felt about the event, differed ever so slightly. Now, was the memory all that important? Not really, it was just good times, but it just goes to show that even people who lived the same event each have their own perceptions and view point, and so little details can get changed and altered and differ from one person to the next.

If you are relying on a simple handshake or someone's word about something, you can find yourself in a situation where an important part of the deal was forgotten about or misremembered, and both parties might find that they have different memories of what was decided upon when the handshake took place.

LOTS OF DETAILS AND CHANGES CAN LEAD TO CONFUSION

I've been in many meetings where a lot was discussed, plans were created, decisions made, and deals agreed upon, where the people involved in the meeting don't fully remember what exactly was discussed or what they had promised, and would rely on other people to remind them of what exactly was agreed upon and any of their action items that they needed to be working on. So, if there was no one there to take notes and create those action items, there was a lot that was discussed that might simply fall through the cracks because they aren't remembered. Or, if there was a lot of back and forth in the conversation, it may be difficult to remember what was actually decided on and what was simply an idea that had been bounced around before being set aside.

With no documentation or contract in place, you are putting a lot of trust on nothing. It's like stepping off a cliff because you got told that there was a net that you can't see that will catch you. Might there be a net? Sure, but you can't see it, and chances are, there actually isn't a net,

and you will find yourself having to deal with some hefty medical bills. With no agreement in place, you are trusting that other people's memories and intentions are good and may find yourself having to deal with some hefty legal fees and causing serious injury to your business.

KEEPING ALL PARTIES SAFE

There's a saying, "Pics or it didn't happen." Basically, this saying is asking for proof of what you're saying. Pics or it didn't happen….can you back up your story? If there's no proof, then did it really happen? Not in a court of law….if you can't prove your position then it becomes a 'he said, she said' situation, where there really is no way to tell who is telling the truth and who is lying, or what version of the truth is the most accurate representation of the agreement, and this can be detrimental to the health of your business.

Unfortunately, handshakes don't have memory, so, in order to keep you, your family, and your business safe, remember: "Pics or it didn't happen."

Chapter 5

Handshakes Are For Games Not Deals

As humans, we like to believe that we have this great intuition and would always know if someone had ill intentions or wasn't quite as trustworthy as they were pretending to be. We like to believe that, somehow, we would be one of the people who weren't fooled by the charming persona they were presenting.

While we think we aren't easily fooled, we also have a tendency to want to see the best in people as well. These two often don't go hand in hand, as the wanting to believe the best in people often wins out and overshadows our ability to see behind the mask and recognize the red flags that are being waved. As a result, you find yourself placing your trust in the wrong people and learning the hard way just how unpredictable and inaccurate your lying radar really is.

Even people you think you know, the people who are closest to you, can end up surprising you, which, is fine, if you're playing a board game, or it's a surprise party, but surprises aren't something you really want to deal with when it comes to business deals.

FRIENDLY DOES NOT EQUAL CASUAL

We are social creatures, and we thrive when we have connections with other people, so it's only natural that we want to build connections and relationships with others. Often, we have a tendency to treat all relationships the same, and want to have that same level of casualness that we have with our friends in our business relationships. Trying to separate the two relationships in our minds and create different boundaries for each one can be a difficult task, especially as a business owner.

As a business owner, your business relies on your ability to get new clients by being friendly, open, and approachable, so especially when you are just starting out, you might find yourself scared that by having a contract or appearing too business-like might end up costing you

business or causing you to lose out on a great business opportunity, so you try to overcompensate and treat it like a friendship, and treat it more casually than it should be.

There is nothing wrong with being friendly and having a good relationship with the people you do business with. You should be able to have that friendly relationship with them, but keep in mind, "You can be friendly, but you're not friends."

Not every relationship you have has to lead to the two of you being the best of friends and hanging out outside of working hours or work responsibilities. Business relationships and friendships are different ball games, and you can't treat them the same.

CONTRACTS KEEP EVERYONE SAFE

When I was younger, looking for an apartment, I was able to rent a basement from this wonderful, old, retired couple. I will never forget what the old gentleman said when he handed me the contract, "I hope that we never have to worry about this contract again, but it's here to keep us both safe just in case either of us realize we put our trust in the wrong hands."

At the end of the day, things went smoothly and there was no need to bring up the contract again, but it was always there to keep both parties safe just in case we had put our trust in the wrong hands, which is exactly what a contract is for.

Asking for a contract within a business relationship doesn't mean that you can't be friends or friendly with the people you are creating a deal with, it just means that you are protecting yourself, your business, and other assets in case something goes wrong, and if someone isn't willing to sign a contract for a business deal, you might want to be asking yourself why they are against a contract?

GREAT FOR GAMES - NOT BUSINESS DEALS

Playing games in my family, especially if the games involve my brothers, can be an…interesting experience, to say the least. My brothers have an uncanny ability to, as they like to say to, "Find loopholes," and get away with cheating to win any game they are playing. While their antics are funny and are laughed about during game night, it's not quite so funny to deal with in business. There is a time and a place to allow for being casual and your business isn't on that list.

Keep your business safe, get a contract signed, and leave the 'He's a great guy,' for birthday cards and game nights.

Chapter 6

Washed Hands: Talk Is Cheap, So Are Handshakes

Does anyone really like lawyers? Most people try to avoid lawyers at all costs, and I don't blame them. Lawyers can seem like an unnecessary and costly expense, and especially now, an expense that seems more frivolous than anything. After all, you are a business person, and the person you are doing business with seems like a great person. So, instead of being proactive and hiring a lawyer to help guide you through your contracts and help make sure that you are protected, you decide to cut costs and avoid a lawyer and do it all on your own.

While it may seem like a money saver and good advice at the time, you could find yourself dealing with a costly mistake.

TALK IS CHEAP

You have probably heard someone who went out fishing and caught an average size, or maybe even slightly larger than average, fish. As they tell the story about the amazing fish they caught, the wilder the story gets until the fish turns into a whale that they wrestled into the boat with their two hands. Now we all know that these stories are constantly changing and are highly exaggerated and are more for entertainment value than to be taken seriously. When done in the right setting, with friends and family, these stories can be extremely fun to listen to and even participate in. However, when it comes to business, these stories take on a more subtle form and it's not quite as easy to tell that they are exaggerating, or that they will constantly be changing the details, and the once exciting new deal becomes a nightmare that leaves your reality in a mess of trouble.

Talk is simply empty words ringing out into the silence and without a contract, words are worth less than the paper it's written on.

ALL FOR THE WANT OF A NAIL

There is a poem called All For The Want Of A Nail,[7] where it talks about how even something as simple and seemingly insignificant as a nail in a horseshoe can have large and far reaching consequences, and you may find that the kingdom is lost all for the want of a horseshoe nail. At the beginning of the poem, a nail is simply a nail, but because you didn't have that nail, the shoe was lost, which caused the downfall of the horse and thereby the rider and then the battle and ultimately the kingdom.

Just like people never would have thought that an insignificant piece of metal, or lack thereof, could have such detrimental effects, often people don't think how the lack of a signed contract can have long lasting and costly consequences for your business. To make this poem more applicable, I rewrote it for you:

For want of a contract, the deal was unclear.

For want of a deal, the obligations were missed.

For want of obligations, the deliverable was delayed.

For want of the payment, the business was lost.

And all for the want of a clear contract.

Don't let your lack of a contract be the thing that brings down your projects or business.

SPENDING DOLLARS TO SAVE PENNIES

It is tempting to cut corners and save some time and money by using the honor system and seal the deal with a handshake, and in that moment, it might even seem like it makes the most financial sense for you and your business. However, although that approach might work some of the time, I have worked with several clients who have thought the same thing, and had

[7] Anonymous. (n.d.). For want of a nail. Retrieved from https://wordsforlife.org.uk/activities/for-want-of-a-nail-the-shoe-was-lost/

put their trust in the voice of a handshake, and found themselves in a bad situation, and in the end, they have to hire a lawyer anyway in order to help clean up the mess left behind. They find themselves realizing that they had spent dollars in order to save some pennies, and if they had been proactive and gotten a contract at the beginning and took care of things on the front end, they wouldn't have had to spend even more time and money trying to figure everything out at the end.

In the long run, it takes more money to fix a mistake than it does to prevent one.

Conclusion

Get It In Writing: The Importance of Contracts

Creating and honoring contracts is more than simply avoiding risk and keeping your business safe from others, it is about respecting the commitments that we make to each other.

Taking the time to establish clear terms will free us from ambiguity and will help bolster confidence as we build stronger relationships and create foundations that can withstand misunderstandings. Clear terms help set expectations, build trust, and foster collaborations that can be stronger than the contracts.

Contracts aren't a symbol of distrust between parties, but a symbol of commitment to clarity, security, and success.

Irvine Legal is committed to helping businesses stay safe and flourish with the power of a strong and clear contract. We provide support for contracts, and other services, nationwide.

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