

Tips for Business Owners on Handling Contracts

Sarah Sawyer: Welcome to this week's OK at Work with myself, Sarah Sawyer, my colleague Russell Berger, both attorneys at Offit Kurman, and today we are talking about contract review. So obviously in a business there's a ton of different contracts that business owners might come in contact with, whether it be their own contracts that they're negotiating or ones that are incoming from vendors or related to these new purchases or, just any given thing on a day-to-day basis or addendums to agreements.

And sometimes it can be something that they look at and say, I just need to get this done. Right. So, I think sometimes that business owners, because it's just one of the many things, especially when you've got a smaller, medium sized business that comes across your plate on any given day that it can be a little intimidating to say, well, what do I really need to pay attention to?

How long is this process gonna take? And most importantly, from a [00:01:00] business owner's point of view, is this gonna slow me down? Right? So what are some things that business owners should be thinking about on the contract process and when they've got these contracts coming their way and they're just trying to get things done?

Russell Berger: Yeah. Well, we've talked about it before, but the thing to speed it up and that helps you get through it the fastest is to have your own contracts where you know exactly what the terms are. And you use your documents and you don't have to worry about these things. But of course, that's not how it always works.

Even when you use your documents, you get modifications to them, changes to them. I think for business owners look, ideally there's an easy answer to say well call your lawyer and have your lawyer explain what all these changes are. You can decide whether you like it or not, but as you said that slows the process down.

And that's certainly adds an hour a time for a lawyer to look at and give you feedback on it. I think it's probably best to understand, and you should do this with your lawyer when you're looking at standard type agreements, what provisions are, like really, truly business terms? A lawyer's not gonna be able to give you a whole lot of

analysis or feedback [00:02:00] on that. Which ones are legal terms and which ones are ones like, Hey, these are ones you can give on, these are ones that have a greater consequence. And in every business and every type of contract, those terms might differ a little bit, but I think for your specific use, when you get that form agreement in place, you should have a conversation with your lawyer and say, Hey, if someone pushes back on this term, should I be calling you about this? Is this a deal breaker type term? Is this a critical term or is this just like Yeah, whatever. It'll probably be fine no matter what.

Sarah Sawyer: Yeah, I think at its base level, a contract is obviously a way that, a tool for having some mutual understanding about whatever is taking place.

And so if you can really, hone in on what are the goals of this document and what is the intent? Or what are we trying to make sure we get across? And then when you do engage with counsel on it I know that helps us be able to be really clear on, 'cause we've got the legal knowledge in the background to be able to cut through what from a business perspective, it might look like a

lot of like mumbo jumbo out to some people. Right? [00:03:00] Or if it's poorly drafted sometimes that makes it even a little crazier and more challenging. But you do wanna take that time to make sure you have an understanding. 'cause I know

it's not a great feeling when you think that a contract says one thing and then something happens. And down the road you realize that it's not protecting you in the way that you thought, the mutual understanding is not there. There is some disconnect. Because that's a failed contract at that point, right?

For both sides because it's gonna lead to conflict and issues. So it does take some time upfront. I agree with you, Russell having, control of the process as much as possible, even though it might be a little bit more extra work upfront to get your own contracts in place it does help you just to start with that understanding and then make some tweaks and things. But it is worth the time and can still be done pretty effectively, but you don't wanna be finding out that your contract lacks what you're looking for when something goes wrong. That's definitely key.

Russell Berger: Yeah. And along Those lines, especially when you're not working off your form you should be able, as a business owner, you should be able to look at the contract and [00:04:00] understand. OKay, I got it. Like I know what these business terms are. I know the payment term.

I get that. I understand that. I can conceptualize that even without a law degree. But some of these other terms I don't even know what that means. And just as a general rule, like you probably shouldn't be signing things if you don't know what the provisions means. When it gets more into that territory and look, you can read it and say you can find a forum selection clause, which most contracts have to say, if we get into a dispute, we'll litigate in this forum. And you might say that's the statement is in the template that I got. That seems fine enough to me like you could reach that conclusion. There's some complicated insurance requirement or indemnification, things like that where you might say this is dense. I'm not sure what I'm signing. Probably a good sign where, a good alert to say, Hey I better ask for help on this.

Sarah Sawyer: Yeah. Well, great advice, Russell. We'll see you next time.

Russell Berger: Thanks, Sarah.

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