

Should Buyer or Seller Beware - Or Both - in Upholding Contracts?

When buyers and sellers enter into business agreements, does one have a greater responsibility to uphold their end of the bargain than the other? Does the old axiom of "buyer beware" always pertain to all forms of contracts? Are consulting contracts or independent contracts any different from some of the more standard contractual arrangements found in the business world? Some answers to these questions might go a long way to help better understand what business owners need to know about contractual rights.

To begin with, it's important for business owners to understand the importance of contractual arrangements in and of themselves. Any business dealing you enter, whether it is the hiring of an employee, or the quick delivery of a routine service or good, involves an implicit contractual arrangement that comes with duties and obligations for all sides. Even if it's a verbal agreement, or a handshake deal, a contract is a contract is a contract. And all contracts lay out the responsibilities of all the parties involved — no matter what.

It's why, whenever possible, smart business professionals should be in the business of pulling out those contracts whenever entering into a business arrangement with someone else. Whether they be consulting contracts, independent contracts, or any contract you can think of, if you have one ready when entering into important business transactions, you can avoid disputes and hassles down the road that can cost you in terms of time, money, and even prestige.

Now, the basic principles behind a contract are pretty straight forward. When parties enter into some sort of contractual arrangement, whether they be between a buyer or seller, or between a professional and a client, terms are essentially worked out detailing the duties and obligations associated with each party of the contract. To put it in simple terms, the buyer is supposed to pay for a good or service according to an arranged time frame, often when the job is done. The seller has to provide that good or service also in accordance to what's worked out in the contract. The more specific those obligations are, the more rights the buyer ends up gaining for themselves.

It's perhaps this aspect of things like consulting contracts and independent contracts that don't get as much scrutiny, especially from the perspective of the buyer. Although what constitutes a seller and buyer can be as various as the kinds of business transactions out there, normally it's the buyer who is at least seen to be in a position of some vulnerability. It's probably where the term "buyer beware" comes from. It's the buyer who puts up the money and expects a good or service in return. Good consulting contracts, for example, in fact help protect the rights of the buyer because they place specific demands on the kinds of services to be received.

Getting back to the question of who has the greater responsibility to uphold their end of the contract, the buyer or seller, there are actually two basic components in answering that question. One is pretty simple: the contract itself should spell it out. The other one isn't so simple. It has to deal with the jurisdiction you're in and the laws that apply to particular types of contracts like consulting contracts and independent contracts.

Regarding the contract itself, it should clearly spell out what both parties are supposed to do in order to ensure the fulfillment of the contract. So, to the extent that the terms for the buyer and seller are set out in the contract is the extent to which one or the other has the obligation to fulfill the terms of the contract. A one-sided contract for either buyer or seller, even with respect to consulting contracts, will make the fulfillment of the contract a one-sided affair, too. It's why all good contracts avoid such a set of circumstances.

Indeed, part of the purpose of a good contract is to ensure that both the buyer and seller are satisfied once the contract is complete, and that any potential difficulties possible in the fulfillment of that contract be avoided. In other words, while a contract can be seen as a tool by which others are forced to meet terms, ideally speaking it should also be seen as an instrument of good customer service. Good consulting contracts and independent contracts provide an environment where both buyer and seller can feel more confident that their purposes for engaging in the contract will be met. That's what a good contract should ultimately accomplish.

Having stated that, some of the most cleverly and mutually beneficial contracts in the world might not accomplish what you think they might accomplish. On the one hand, there is the negotiation and writing of the contract. On the other hand, there is carrying out the legality of the contract once a problem arises. While a good contract should clearly state the dispute mechanisms involved if a problem arises, what might get in the way are the laws prevailing in your particular jurisdiction, especially as they relate to the contract in which you're involved.

Contract law can be as complex as lawyer talk. You can have a contract in place and believe that you have certain rights, but the law might say something else about it. Ultimately, it's the law that decides how contracts are to be carried out, especially if a problem arises. While these instances may be rare, and are to be avoided with good contracts, you never really know what a particular law has to say about a particular contract until a judge makes their ruling. It's why some knowledge of jurisdiction and applicable laws can be beneficial in the making of good consulting contracts, and might ultimately decide whether it's the buyer or seller that needs to be aware.

About the Author

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