Timing is Vital in a Release Clause in Any Settlement Agreement

Lawyers – particularly those representing plaintiffs – should give thoughtful attention to the timing of a release clause in any settlement agreement, advises **Lisa B. Markofsky** in a post for **Proskauer Rose LLP**.

Failure to do so, she writes, could result in the plaintiff finding that its "compromise" was nothing more than a unilateral agreement to reduce the value of its claim.

The case could turn on "whether the settlement agreement is construed to be (i) a "substituted contract" wherein Plaintiff accepted the ***promise to perform*** the compromise as satisfaction of its underlying claim or, alternatively, (ii) an 'executory accord' wherein Plaintiff accepted actual performance of the compromise as satisfaction of its underlying claim."

Read the article.

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