Don’t Assume That Closely Related Agreements Will Be Interpreted As One Contract

Insight

Even very closely related agreements still may be viewed as completely independent if there is a claim that only one of them has been breached, warns Burns & Levinson.

Defining the Limits of Arbitral Authority

Insight

Sometimes arbitrators issue awards that impose their own view of a “just” remedy at the expense of the painstakingly negotiated provisions in the parties’ contracts, writes Robert J. Kaler of Holland & Knight.

Protecting Privileged Pre-Merger Communications Through Contractual Provisions

Insight

Sell-side counsel are well advised to negotiate provisions

akin to the retention clause, or privileged communications may fall into the hands of acquirors to be used in post-closing litigation against the sellers, advises Pepper Hamilton.

To Indemnify, Hold Harmless and Defend; Frequently Used and Frequently Misunderstood Contract Terms

Insight

A post on the Vandeventer Black LLP website provides an overview of contract terms addressing indemnity and requirements to hold harmless or responsible for the defense of another.

Is Your Bank Reviewing Its Technology Contracts?

Insight

The FDIC letter reaffirms the long-standing regulatory notion that a financial institution cannot discharge its responsibilities, which includes managing its business continuity and incident response processes, by outsourcing activities to third-party service providers.

Limiting Liability: Three Clauses to Consider in Construction Contracts

Insight

Gordon & Rees LLP’s Construction Law discusses three clauses to consider when writing construction contracts, with an eye to limiting liability and maximizing profits.

Podcast: Key Contractual Provisions for Employers to Incorporate in Confidentiality Covenants

On-Demand Podcast

An on-demand podcast episode of The Proskauer Brief discusses potential pitfalls that lurk in employment agreements and other employee compensation arrangements.

Blockchain: Understanding Smart Contracts

Insight

Smart contracts still have a long way to reach maturity and overcome traditional text-based contracts, according to Hogan Lovells.

Burlington v. Texas Crude – Another Texas Supreme Court Case on Post-Production Costs

News

The Texas Supreme Court has denied motion for rehearing of its opinion in a case that addresses deductibility of oil and gas post-production costs in the context of an overriding royalty.

Are Contracting Parties Treated the Same When it Comes to Notice Obligations?

Insight

Prudent construction professionals, particularly those doing business with the government, should understand and comply

with all notice provisions in their contract, advises Smith, Currie & Hancock.

Releases and Covenants Not to Sue – Seeming Legal Redundancies That Aren't

Insight

A recent decision by the New Hampshire Supreme Court provides an illustration of the benefits in a private equity deal of an independent covenant not to sue in addition to a release agreement.

Ninth Circuit Enforces Online Arbitration Clause That Tested 'Outer Limits' of Reasonable Conspicuousness in Consumer Contract

Insight

The class action complaint in *Holl* alleged that UPS systematically overcharged its retail customers.

Employee Non-Solicitation Provisions Are Under Attack in California and Elsewhere

Insight

Until recently California courts have generally enforced covenants restricting individuals from soliciting their former employer's employees.

Crumbling Concrete Not Covered Under 'Collapse' Provision in Homeowner's Policy

Insight

In recent years, the foundations of approximately 35,000 homes in northeastern Connecticut have begun to deteriorate as a result of faulty concrete used to build homes during the 1980s and 1990s. Dozens of homeowners have been suing their insurers for denying coverage for claims based on the deteriorating foundations.

Indemnification Agreements and Insured Contracts

Insight

When a general contractor engages a sub to perform work on projects, the parties should always reduce their expectations and agreements to a written document in which both sides agree and acknowledge the terms.

Lease Agreements: Beware of the Lease Renewal Language

Insight

A recent appellate ruling points out that parties must be specific in negotiating renewal terms and what the rent to be paid during the renewal period will be.

Security Incident Mitigation Strategy: Effective Negotiation of Technology Contract Limitations of

Liability

Insight

Vendors have become increasingly reluctant to provide unlimited liability to protect customers against harms caused by security incidents, according to BakerHostetler.

Supreme Court: Rejection of Executory Contract Constitutes Breach, Does Not Terminate Non-Debtor Counterparty's Rights

Insight

The Supreme Court's decision has far-ranging implications, as the opinion's reasoning can be expanded to apply to the vast majority of contracts that may be rejected in bankruptcy, reports Paul Weiss.

Avoiding Mishaps When Drafting Agreements at the

End of Mediation

Insight

Holland & Knight offers some tips for preparing a memorandum of understanding or similar agreement executed at the conclusion of the mediation.

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4 Steps to Ensure the Enforceability of E-Signatures

Insight

Carl Rincker discusses practices that should be implemented to ensure that a business' electronically-signed agreements are binding.