



Solicitor

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The Devil In The Detail

Are your contracts doing what you think they're doing?

LET'S be honest; how many of us have a bulging bottom drawer of paperwork somewhere, filled with signed contracts, insurance PDSs (Product Disclosure Statements), lease agreements, loan documents... the list goes on. The answer is that most people do, and, typically, this mystical drawer of paperwork remains firmly shut, collecting dust, until the proverbial hits the fan and then suddenly the contents of that lease you entered, or that personal guarantee you didn't think twice about signing, become the difference between making or breaking you financially.

There's no doubt about it; times are tough, and in tough times parties need to squeeze every ounce of their entitlement out of a contract. During a boom, a landlord might be more willing to forgive the onerous make good provisions in your lease, because they have another tenant knocking on their door that is willing to pay twice the square meterage rate that you were. In a slower economy, chances are that the same landlord is now facing an empty tenancy once you move out, so they need to mitigate their losses as much as possible by enforcing every last of inch of that make good clause, and suddenly you're faced with enormous costs you haven't budgeted for.

How can you protect yourself? Well, it's time to get active and get your contractual house in order. Let's get started:

Step 1: What do you have?

- **Categories:** separate your business and personal documentation. If you have multiple entities, identify the documents relevant to each.
- **Dates:** What is expired, what is current, and are there any trigger dates for contract renewal, termination, or review?
- **Liabilities:** what are you liable for if the worst case scenario precipitates? Does your liability end with the contract, or continue on? Does the value of your liability exceed your insurance coverage?
- **Descriptions:** read your PDSs and schedules. Are they still sufficient for your needs? Do you really need that supply contract with a personal guarantee attached? Or can you buy the same product across the counter, without the personal exposure?

Step 2: Does the puzzle fit together?

- Your documents need to fit together like the pieces of a puzzle. If they don't, you're faced with gaps that can expose you legally. For instance, did you know that your Terms of Trade can nullify your insurance, if they don't align correctly? This can lead to you being totally exposed in the event of a claim, which is a devastating, and totally preventable, outcome.

Step 3: Addressing your gaps and weaknesses

- Take a step back and assess: what do/don't you have? What are your exposures? And, perhaps most importantly, what don't you understand?

Step 4: Need help? Call your lawyer!

- Don't be embarrassed to ask your lawyer to review your documents and help you identify any exposures you might have. Contracts are complicated and very easy to misinterpret; a few choice words can make the difference between you being protected or totally exposed.
- Think of it this way; would you rather have the conversation now, or when you're staring down the barrel of a situation you thought your contracts protected you from?

No matter what state your affairs are in, it's better the devil you know. Get active and get on top of your contracts, so they never get on top of you.

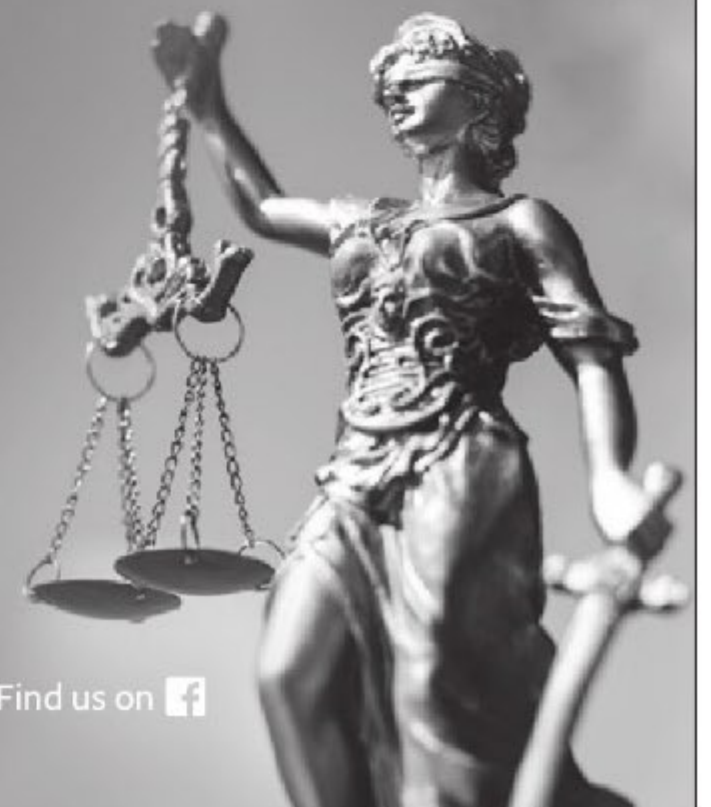


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