

DRAFTING TIPS FOR ALL CONTRACTS AND PRACTICE POINTS

1. Arbitration clauses. Cases can be very expensive to arbitrate. Don't put in a contract such a clause unless it involves damages potentially over \$150,000.
2. Venue. Where will the case be tried? Do not agree to have disputes heard in another state. You don't want to be "hometowned." If you can't agree on venue, then leave it blank as to this issue.
3. California law. Insist that any tribunal use California law as the law to be followed.
4. Prevailing party gets attorneys fees and costs. Lawyers and litigation costs too much. Bet on yourself, that you'll be in the right. It may make the difference as to whether a contingency lawyer will take the case.
5. Mandatory mediation before filing litigation. Consider requiring mediation before an action can be commenced. Attempt in a neutral setting to resolve disputes with a third party, who doesn't have to be an attorney, just someone knowledgeable and trustworthy.
6. Audit rights. Ensure that you have the right to audit and get the results of any audits done by any contracting partner that affect your rights. When you do an audit, where discrepancies are more than 10%, costs of auditor are reimbursed.
7. Register copyrights. If they are not registered a lawsuit cannot be filed, and there will be no right to obtain certain damages, and attorneys' fees.
8. Require deals with affiliates to be at arms-length standards. Otherwise, with self-dealing there may be no revenues.

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