

Yet more evidence emerges that contractors must get contracts checked before signing

Contractors who enter into agreements with agents or clients without having their contracts first checked by an expert are putting themselves at unnecessary risk of expensive litigation.

In a recent [Court of Appeal ruling](#), the judge has said that the courts must interpret poorly drafted contracts so that they can be enforced, rather than coming to the decision that the contract is void simply because it is badly written.

This means that if a contractor gets into a dispute with an agent or a client, and the contract has not been checked by a legal expert, the contractor might have to meet the expenses of a court case. And the chances are the result of the case would be a ruling that neither the contractor, nor the agency or client are happy with.

Action better than inaction

Lady Justice Arden said that the courts must now look for an interpretation of a badly drafted contract that would make it work. If there is a solution, then the court must direct the parties in the dispute to take this option, rather than render the contract void.

In ruling over a contractual dispute between two organisations over a property sale, Lady Justice Arden said: "If the agreement is susceptible of an interpretation which will make it enforceable and effective, the court will prefer that interpretation to any interpretation which would result in its being void."

She went on to say: "The court will also prefer an interpretation which produces a result which the parties are likely to have agreed over an improbable result."

Mark Surguy, a litigation expert at law firm [Pinsent Masons](#), commented on the ruling: "This underscored the long-standing rule of law that a court will always try to declare a contract effective by ruling on what it intended to mean, even if that is what neither party thinks it means."

In other words, by contractors failing to have their contracts checked by a solicitor, they could end up being forced to do something which neither they, nor their client or agency, ever intended would happen.

Pay a little at the start - not a lot at the end

The dispute in this case between the two organisations was over less than ten thousand pounds in legal fees on a property transaction approaching £1m. It shows that investing even a relatively small amount in properly drafted contracts could have saved what became the significant legal fees of the dispute.

As Surguy says: "This just shows that the problems you can encounter if you do not clearly express your commercial bargains in writing are often underestimated. This is why companies should take care when drafting contracts and should pay to have them drafted by a lawyer in the first place, because if they don't pay at the start they could well pay much more at the end when they have to go to the courts."

Contractors should take note that this ruling only reinforces the need to invest a small amount in good legal advice at the start to reduce the risk of a dispute financially ruining them. And to make it easier to prove the intentions of a contract, if it comes to court, contractors should not only keep all emails surrounding contract negotiations, but also notes of the conversations they have with agents and clients.

"In contractual disputes it is very difficult to predict the outcome," says Surguy. "The costs are significant and the outcome may well be one that neither party was looking for."

Contractors take note, and get your contracts checked before you sign.

Published: Monday, March 30, 2009

[Tweet](#)

© 2011 All rights reserved. Reproduction in whole or in part without permission is prohibited. Please see our [copyright notice](#). If you want to use any content you have seen on this site then please [request our media pack](#) and ask for details of our Content Licencing Service.

“ In contractual disputes it is very difficult to predict the outcome. The costs are significant and the outcome may well be one that neither party was looking for ”

Mark Surguy Pinsent Masons

Readers Comments...



Be the first to comment on this article

Also of interest...

Related Guides:

- [Why contractors make more money than employees](#)
- [Contractors should take care with verbal agreements](#)
- [15 tips when renewing your contract](#)
- [When contractors terminate their contracts](#)
- [Legal issues for contractors: an introduction](#)

Related Calculators:

- [Contracting To Permanent Calculator](#)

Related Internet Links:

- [Pinsent Masons](#)
- [Court of Appeal ruling](#)



ABCe verified website - last audit confirmed **130,682 monthly unique visitors**

© Copyright 2011 Byte-Vision Limited UK. All rights reserved [Copyright notice](#)