



Reporting on the practicalities

DON'T COMMIT TO A CONTRACT – SIGN A SERVICE AGREEMENT



**BACKGROUND SCREENING SERVICE CONTRACTS ARE AN AGREEMENT TO BE BOUND BY AN AGREEMENT – EVEN IF THE PROVIDER FAILS IN THEIR OBLIGATION?
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“Yes, they wanted me to sign a contract of exclusivity, and I refused. “

Claudia Cardinale

Contract Law is so complicated and is rarely understood by those making the contract. That is to say by those who have to use the services described in the contract. Often the vendor is also in the dark about the real meaning of the terms in a contract. So why are we all so wrapped up in them?

There are a number of considerations to be made when looking at this question. First of all what is it that leads to a contract? That question is fairly simple to answer. An agreement has been reached as to services and fees and now legal needs to role it all up into a multi page legal document. Why? So that in the event someone files suit for something, the lawyers will have something to argue about other than the something that probably amounts to nothing!

Then we come to the time period for the contract's life. The vendor will want as long as possible, while the client will want short renewable contracts with price increase limitations.

One of the major parts of a contract goes to performance. What will be done and most important,, when will it be done? What are the guarantees of accuracy, what happens if service levels are not met, and many more terms and conditions.

Locking in to a vendor of cornflakes at a given price for a given period of time seems like a great idea, and for such commodities it is. A truckload of cornflakes that is delivered in bad condition can be returned for a credit, and a replacement load sent out to replace it. But how do you undo unsatisfactory service – especially if you don't get to know it is unsatisfactory and take action based upon the information received?

So the big question really is **“Why sign a contract?”** Why not deal with this commitment by way of a service agreement? What is the difference?

In reality there is very little difference except that a Service Agreement is usually only a memorandum of understanding of what will be done, when it will be delivered and for how much. There will be statements about compliance with law, federal and state, and an understanding that both parties may end the agreement with notice for any reason. Any other desired conditions can be included by mutual consent.

The reality is that it makes no sense to sign a contract with a provider and be bound by that contract even if the provider fails in their obligation. The agreement ends the minute the provider fails to deliver in keeping with the agreement.

A recent situation illustrates the predicament only too well. One of the nation's biggest and most boastful background screening companies failed to identify a subject as a convicted and registered sex offender. The client wanted to end the contract, but the absence of a get out clause enabled the vendor to keep the contract until it expires in almost a year.

An agreement would have meant that the commitment can be ended immediately, which in these circumstances seems obvious.

Conclusion – if you must sign a contract there must be a get out for performance clause, and it must not be mutually exclusive.

About the Author

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From an exceptional career in law enforcement with the world renowned Scotland Yard to academic excellence to entrepreneurial success, Dymer's professional experiences, zest to learn and share knowledge make him uniquely qualified to lead SingleSource Services Corporation.

Seeking to utilize his combined human resource, academic and professional experiences, Dymer founded SingleSource Services Corporation in 1995 to provide employers with a full array of employment-related investigative services from a "single source."

Dymer is called on to provide expert witness testimony and assists media as an authoritative source. A frequent presenter and speaker to professional organizations, trade and business associations and civic groups, including as an executive professor at the University of North Florida where he speaks on fraud avoidance. He is the co-author of "The Warm Body Syndrome," a white paper presented to the annual convention of the International Society for Research in Healthcare Financial Management.

About SingleSource Services

SingleSource Services is a national employment screening company. With the belief that backgrounds are like fingerprints, our comprehensive research techniques will produce accurate, complete and thorough background checks that are Fair Credit Reporting Act (FCRA) compliant.

Our screening services help over 2,300 companies, throughout all industries, measure the character and integrity of applicants prior to hiring. Today, SingleSource Services is the Engine Driving HR for our recruiter, manager, and employer partners providing online tools to manage people. These leading-edge tools are efficiently delivered in a web-based environment, supported by a team of experienced professional and friendly advisors. Innovative cost cutting programs, custom created for every client, group, and association make Single Source the provider of choice for many national organizations of all sizes

Single Source is a founder member of the National Association of Professional Background Screeners (NAPBS) as well as Concerned CRA's an organization whose members do not send data offshore but use domestic agents thus protecting personal data.