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TO DRAFT A CONTRACT OR NOT DRAFT A CONTRACT: THAT IS THE QUESTION

After multiple negotiation sessions the deal has been struck and all that is left is to draft a contract. Who should draft the contract, isn't it easier and cheaper to let the other party's lawyer draft the contract and just have your attorney review the draft. Answer: No.

The party who drafts a contract usually has an advantage in negotiations since they can frame the issues. Whenever I have to review another attorney's agreement I spend most of my time figuring out what has been left out of the agreement. Its typically more cost effective for me to start with my own agreement that I already know very well. The review, process, moreover, usually results in a negotiation over the language in the contract. Many parties, especially landlord's in lease negotiations, employ the strategy of making most contract provisions one sided with the expectation that the opposing party will just relent to the contract language as opposed to spending additional time negotiating it.

When you have a choice always readily agree to draft the contract instead of reviewing a contract drafted by the other side.

As always, your trusted legal resource for practical advice.

For more information about me, click below.

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