

Conquering Contract Negotiations: How to Protect Your Business and Still Win the Deal



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Meet the Panel



Lia Elliott, Esq.
Managing Partner
Staffing GC



Catherine Joiner
Vice President of Sales
CoWorx Staffing Services



Lauren Tucker McCubbin, Esq.
Shareholder, Practice Vice Chair
Polsinelli PC

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Due Diligence & Business Terms

- Payment terms
- Guarantees
- Rates
 - Regular
 - OT
 - Incentive / Bonus
 - Show up pay
- Volume discounts or rebates
- PPE
- Audit language
- Agreement to redlines



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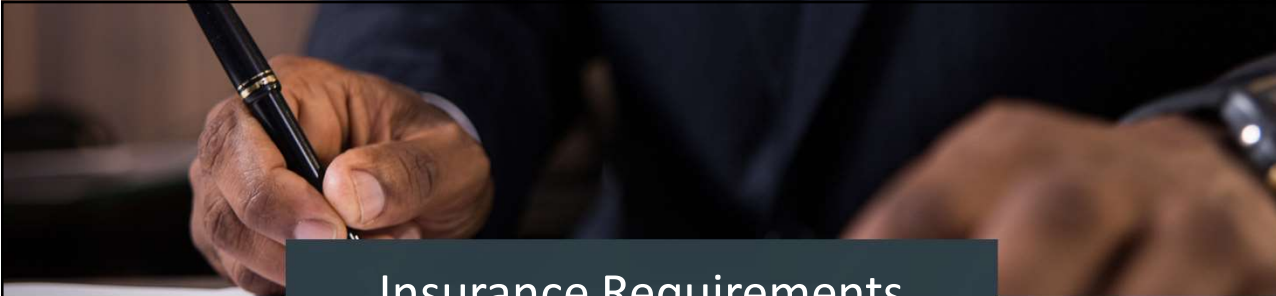
Contractual Commitments

Risk v. Reward Assessment Who Owns the Business?



- | | |
|--|--|
| <ul style="list-style-type: none"> • Pricing, Payment & Invoicing Terms • Conversion Schedule & Fee: Positive & Negative Conversion • Rebates & Discounted Markups/Bill Rates • Servicing Requirements & Costs <ul style="list-style-type: none"> • (Adjudication of Screening Results, Background/Drug Tests, PPE, Badges, Uniforms) • Safe Worksite | <ul style="list-style-type: none"> • Training: Site and Non-Site Specific • Service Locations • Guarantees: Refund or Replacement • Positions: Higher or Lower Risk (WC Codes) • Insurance Requirements • Liability Limitations • Indemnification |
|--|--|

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Insurance Requirements

<p>Policy Types</p> <ul style="list-style-type: none"> • Workers' Compensation • Employment Practices Liability • General Liability • Professional Liability • Auto • Other specialty coverages as applicable 	<p>Substantive Asks</p> <ul style="list-style-type: none"> • Make client "Named Insured" or "Additional Insured" • Staffing Company's insurance is primary and non-contributory • Waivers of subrogation • Notice to client of cancellation 	<p>Potential Landmines</p>
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Indemnification/Limitation of Liability

	
<p>Indemnification</p> <ul style="list-style-type: none"> • Including the client's own negligence? • When is fault determined? • Who provides/controls investigation/defense of claims? • Interplay with insurance 	<p>Limitation of Liability</p> <ul style="list-style-type: none"> • Caps • Determination of Fault • Interplay with Insurance

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Contract Negotiations

Listen, Ask Questions, Be Confident

DEFINE

Know what you are willing to concede

- Business terms
- Legal givebacks

FRAME

Set the tone for the conversation

- Help me understand why
- Can you clarify the spirit of the language or intention

OFFER

Anticipate—be ready with options

- Management fee in lieu of lower mark-up
- Bill back screening

COACH

Gain knowledge from advocates

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How to handle objections



Capping liability and 'not to exceed' insurance limits language



Mutual indemnity



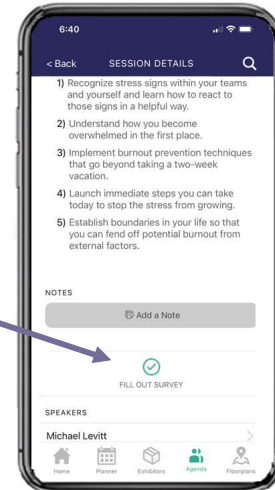
Not responsible to the extent of client's acts, omissions, breach

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