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## CONTRACT COMPLIANCE IS MORE IMPORTANT THAN EVER!!!

For the last decade or more, we have been telling our clients how important it is that their contracts comply with the law. Since the Home Improvement Contracts radically changed effective January 1, 2006, we have prepared hundreds of Home Improvement Contracts for our clients and directed hundreds more to retailers who sell forms that comply with the law. However, despite this, there are many contractors, including some of our clients, who believe that the pages of notices and clauses required by the license law will cause them to lose a potential sale out of fear by homeowners regarding the number of notices and clauses in the contract. Some of these people tell us that they have never had a problem before, they have never been sued before, they have never had a problem collecting before, or many other reasons why they do not need to comply with the law when it comes to their contract. While we hope that trend stays true for all contractors, in the economic downturn we are facing, contractors already are feeling not only a downturn in their business, but also problems collecting from their clients.

There have been a number of cases holding that the failure to comply with the license law can preclude a contractor from collecting. The failure to have a written contract or written change order that complies with all of the provisions of the Home Improvement Act can arguably cause a contractor to be unable to collect. While a homeowner may previously had paid a contractor despite any contract deviations when money was freely flowing from their bank or equity lines, there will be situations where people simply cannot pay and will use the fact that your contract does not comply with the law as a valid legal excuse from paying.

Thus, we cannot urge you enough to comply with the license law. Whether you buy a contract from us, or a retailer that sells contracts, you should follow the law or else you may find yourself unable to collect.

You may visit our website to see what is required in your contracts, and for links to some retailers who sell forms if you do not desire to buy your own custom forms.



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Knock Knock  
Who's there ?  
Donut  
Donut who ?  
Donut open till Christmas !



Knock Knock  
Who's there ?  
Mary  
Mary who ?  
Mary Christmas !



## 8 Days Of Gifts

Stan and John are walking to school one day and Stan is describing his new Playstation 2 to John. "Where did you get that?" John asked "I got it last night for Hanukkah," said Stan. "What's Hanukkah?" John asked.

"It's the Jewish holiday where we get presents every night for eight nights to celebrate the festival of lights."

"Wow, I wish we got that!" John exclaimed. The next day on the way to school John runs up to Stan, curious to see what he got. He sees that Stan is upset, "What's wrong? Where's your present from last night?" asks John.

Stan holds up a ball of crumpled wrapping paper, "It was leftovers night."



## PRIVACY RIGHTS OF EMPLOYEES

In this case, an employer led employees to believe their text messages sent on the employer's equipment were private and would not be monitored by the employer. However, it appears that the employer violated the California Constitutional Right of Privacy and the Fourth Amendment of the United States Constitution by accessing such messages.

The Ontario Police Department had a written policy notifying the employees that the computer and e-mail system of the department was for official business and that users of the system had no expectation of privacy or confidentiality in the

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messages or information sent or stored. However, a Lieutenant in the department told the staff that he would not audit the text messages on their department-furnished pagers. The court held that there was an "unofficial" policy. However, the employee had a reasonable expectation of privacy of the context of the text messages and that a search of those messages was unlawful.

In this case the policies were not clear.



What do snowmen wear on their heads?  
Ice caps !

What do snowmen eat for lunch ?  
Icebergers !

Where do snowmen go to dance ?  
Snowballs !

How do snowmen travel around ?  
By iceicle !

What sort of ball doesn't bounce ?  
A snowball !

What do you get if cross a snowman  
and a shark ?  
Frost bite !



## HEARSAY

Although this case dealt with products liability, it provides a very good understanding of what testimony will and will not be admitted to show liability and who wins and loses.

The case dealt with a person who was killed as a result of a motorcycle accident. Family members sued the manufacturer and others for products liability. There was testimony from at least two people who testified that the product was not manufactured by them. On the other hand, the court excluded Plaintiff's declaration that Defendants mailed a package with a sheet showing that the Defendants did manufacture and distribute the products.

The moving party (Plaintiff) must make a showing that there was no triable issue of material facts. The Defendants met their threshold burden by presenting the testimony. This then turned the burden to the Plaintiffs to raise a triable issue of fact. However, the Plaintiff's reading of written information on a package and inspection sheet, was nothing but hearsay. There was no one who could actually testify to the fact that the box containing the Defendant's product was not appropriate. Someone reading from a package was not enough. There was no testimony by anyone who had actual knowledge from the Plaintiffs side.

The trial court granted the motion of the Defendants to dismiss them. This was affirmed on appeal.

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*Season's Greetings*



From the Gang at  
Abdulaziz, Grossbart  
& Rudman

*From all of us at  
Abdulaziz, Grossbart & Rudman,  
we would like to take this time to thank you  
for your friendship and business throughout  
the year. We wish you and yours a happy  
and healthy holiday season and a wonderful  
New Year!!!!*