Norris Legal Consulting – American Law Specialists

In partnership with the American Chamber of Commerce New Zealand (“AmCham”), our objective is to provide AmCham members with information on the complex US legal landscape, which might assist in US-NZ business relationships, and to assist NZ businesses expanding into the lucrative US markets. In our monthly column, we write about legal issues which we deal with in our representation of NZ businesses doing business in and with the US, however, we are also open to suggestions on topics about which members are interested in learning. So, please feel free to email us with your comments, questions and any suggested topics at [info@nz-uslegal.co.nz](mailto:info@nz-uslegal.co.nz).

**Jurisdiction Selection Clauses\***

Most agreements contain clauses which select the law of the jurisdiction which controls the interpretation of the agreement. Many business people fail to realize that this selection will also, for the most part, determine the law which controls any dispute over the contract as well.

We have run into several cases where clients do not understand the significance of this factor. For instance, if you are buying goods from a Turkish company and the purchase order has language which states that Turkish law controls the agreement, then you have a significant limitation which is placed on you once you accept goods under an invoice. Specifically, Article 23 of the Turkish Commercial Code contains a provision which stipulates that “A person in receipt of an invoice is deemed to have accepted its contents unless there is an objection to the invoice or its contents within eight days from its receipt”. This kind of law catches the unsuspecting foreign purchaser of non-conforming goods by surprise by specifically limiting the purchaser’s right to sue for breach of contract by placing a short trigger period and notice requirement on the claim. One may not suspect that by the simple statement that the “purchase order is controlled by Turkish Law” that this brings into effect other provisions of the law which may be vastly different from your home jurisdiction’s laws.

This same sort of issue comes up daily with foreign businesses entering into transactions with US businesses. US businesses will often insist that transactions have agreements controlled by the law of a specific US state in which that business is located. While most US states have very similar contract law to other nations following the English Common Law tradition, there are some very substantive differences which are singular to American law, and other important differences on how a conflict will be treated depending on what state’s law applies to the contract or any dispute.

- **Zachary D. Norris, JD, LL.M. and Ada Echetebu, JD, LL.M.**

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