

ANALYZING YOUR CONTRACT THROUGH THE EYES OF A LITIGATOR AND JURY

Contract Provisions That Shape Future Litigation

UT LAW CLE
CONTRACT DRAFTING ESSENTIALS: A PRACTICAL GUIDE
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Indemnity – What Is It

- Indemnification refers to the obligation of one party to pay for (cover) the liability of another party for certain defined events
- Indemnity provisions are risk shifting terms that require the indemnitor to cover the legal liability and/or the defense fees and costs of the indemnitee

Indemnity Clauses: Considerations

- **Identity of parties** - define parties covered by indemnity
- **Scope indemnity** – What losses are covered
 - Only third-party claims?
 - Does indemnity cover indemnitor's own negligence – must be express & conspicuous; construction Anti-Indemnity Statute
 - Legal fees & expenses – when paid
- **Caps and Baskets** – Minimum thresholds and liability limits
- **Triggers** - What triggers indemnity
- **Survival Period** – When does indemnity end

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"Analyzing Your Contract Through the Eyes of a Litigator and Jury"