

## **Contract Interpretation Checklist**

### **1. Canons of construction**

- a. Court interprets legal meaning of contract
  - i. Meaning is derived from language of contract
  - ii. Words are given ordinary meaning
    - 1. Terms of art and technical terms are given technical meaning
  - iii. Clear language is enforced
  - iv. Ambiguity occurs with multiple rational interpretations of language
    - 1. Difference of interpretation does not create ambiguity
    - 2. Avoid ambiguity in drafting- lose ability to enforce contract as contemplated by client
    - 3. Ambiguity is construed against the drafter
  - v. Contracts are construed for rationality and reasonableness
  - vi. Avoid surplusage

### **2. Drafting enforceable contracts**

- a. Use plain language
  - i. Use clear language that the parties understand in context of deal
    - 1. Contracts reviewed when there is a problem or misunderstanding
    - 2. Clarity is your friend
  - ii. Avoid unnecessary legalese; however:
    - 1. Use legal terms of art as needed for specific meanings
    - 2. Use “shall” as needed;
      - a. the word has legal import and can distinguish

between conditions and covenants or obligations

- iii. Avoid redundancies in language
- iv. Use and draft definitions carefully
  - 1. Tailor to context of deal