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May 17, 2006

Mr. Mark E. Mustola
ValueCheck Home Inspections
1122 N. Leroy, Suite D
Fenton, MI 48430

RE: Damone v. Value Check Home Inspections

Dear Mark:

I wanted to alert you as to a decision made by the Michigan Court of Appeals yesterday. The court was asked to review the enforceability of a provision in a home inspection contract that required the customer to assert a claim for negligence, breach of contract, or violation of the Consumer Protection Act, within six months of the provision of services. The general statute of limitations for breach of contract actions is six years and three years for negligence actions. In this unpublished decision, the Court of Appeals held that the shorter statute of limitations set forth in the inspection contract could be enforced, and if the customer failed to assert its claim within six months, the customer was forever barred from pursuing a claim against the home inspection company. This was an unpublished decision by the Court of Appeals, which means that courts are not required to follow this decision; however, it clearly sets the tone for how courts should review shorter limitation periods in contracts. Therefore, you should consider inserting a provision in your home inspection contract that requires your customer to assert any claim within six months of the date of service; otherwise, such claims would be barred. Therefore, on page 2 of your standard contract under the heading "Limitation of Liability", I would suggest adding the following language:

Further, unless a demand for arbitration is filed and served upon ValueCheck within six months of the date inspection services are rendered hereunder, any subsequently asserted claims against ValueCheck, whether based on negligence, breach of contract, or any other legal theory, shall be forever barred.

If you have any questions about any of this, don't hesitate to contact me.

Sincerely,



SCOTT R. FRAIM

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