

Common Pitfalls Business Owners Should Avoid



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Owning a business is hard work. From marketing to managing employees, making payroll and meeting other financial obligations, business owners have a lot on their plate. When dealing with the operation of their business, owners often fail to recognize or address crucial legal issues which could significantly impact their success. Some issues to avoid are:

Failure to Limit Personal Liability. Business ownership has numerous risks which can create liability for the business or the owner. Owners should strive to structure and operate their business in order to minimize these risks. Operating as a sole proprietor poses the greatest risk to an owner's personal assets. General partnerships are also risky, because partners can be liable for each the other's acts. Consider limited liability companies or corporations which provide the most protection.

Lack of Clear Written Agreements. Businesses should have all of their important agreements in writing. The agreements should provide appropriate protections for the business and adequate enforcement mechanisms to allow for recourse in the form of compensation and legal action. The agreements should be well thought out, drafted in favor of the business and provide flexibility and protection.

Ignorance of the Law. There are many laws that affect owning and operating a business. To stay out of trouble, owners should educate themselves about the laws applicable to their business. Some areas to consider are:

- Labor and Employment
- Discrimination Laws
- Protection of intellectual property (copyright, patent, trade secrets, confidentiality)
- Immigration
- Occupational Safety and Health Administration (OSHA)

Failure to Keep Adequate Business Records. Failure to maintain proper business records makes it difficult to address disputes or to effectively handle governmental inquiries. Inadequate records may make it difficult to obtain financing or satisfy conditions imposed by lenders, landlords and lessors. Inadequate record keeping could also result in personal liability to an owner.

Failure to Maintain Proper Insurance. Every business should carry insurance related to its operation. Policies should be reviewed annually to ensure the amount and scope of coverage is related and appropriate and protects all areas of the business. Being over insured can be expensive, while being under insured can jeopardize the businesses future.

Having a good understanding of these common legal issues that impact business will leave owners better equipped to successfully operate and navigate pitfalls along the way.

About the author: Matthew Sloan is a partner with Jennings, Haug & Cunningham. He represents clients, including small, medium and large businesses in resolving disputes surrounding contracts, business partnerships, construction issues, credit issues, lease agreements, insurance claims and liability. Matt is a resident of North Central Phoenix for more than 30 years, and can be contacted at MHS@JHC-Law.com or 602.234.7858.



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