

8 Ways To Protect Your Business From A Lawsuit



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The 17th century French author Jean de La Bruyère wrote, “Avoid lawsuits beyond all things; they pervert your conscience, impair your health, and dissipate your property.” Few things can derail a business as efficiently and ruthlessly as a lawsuit. Whether you win or lose it will cost you money, time, and energy that few business owners can afford to spare. Fortunately, there are things you can do to limit your exposure to lawsuits and minimize their impact when they inevitably occur. Here are eight tips to get you started.

1. Be Proactive

The worst thing you can do is ignore that you are exposed to litigation. The head in the sand approach just doesn't work. Even ostriches don't actually do this, despite what you may have heard. Analyze your business and locate potential hazards. Do you sell potentially dangerous widgets? Do you have difficulty keeping your employees satisfied and working hard? Are there competitors in the market that may attempt to put you under by utilizing the courts? Think now so you can minimize these risks with proper legal planning.

2. Always Get it in Writing

In this day and age, there is simply no excuse for not getting every single agreement in writing. I don't care that your father sealed deals with a handshake. We know better now. Whether you are providing services, engaging a vendor, hiring an employee, or even providing an in-kind trade of services, get it in writing.

3. Arbitration and Liquidated Damages

Every agreement you enter into should contain language that dictates how disputes between the parties to the contract will be settled. A couple of common methods are arbitration clauses and liquidated damages. Arbitration can keep you out of the courtroom, and limit your legal costs. Liquidated damages set forth beforehand the amount that will be paid by a party breaching the contract.

4. Don't Ignore Angry Customers

It is easy to assume that your disgruntled customer or client is off their rocker and ignore them in the hopes that they will go away. Unfortunately, the irrationally angry customer is often the one most likely to take you to court. Many people seek litigation in order to simply be heard. Isn't it a better practice to listen to them now rather than in a courtroom?

5. Have an Attorney Draft or Review All of Your Agreements

Yes, attorneys cost money. However, they cost less when they are reviewing contracts than they do when they are litigating them in court. Too often business owners find themselves in legal trouble due to small discrepancies or omissions in their contracts. Build a relationship with an attorney you trust and make sure they are part of your team when it comes time to enter into contracts. Remember the number one tip? Be proactive rather than reactive.

6. Pay Your Taxes

Anyone who reads the paper knows that even established businesses seem to ignore this necessity. No one enjoys paying taxes, especially small business owners. Nonetheless, you have to stay on top of your payroll and gross receipts taxes or the government will come after you – and they always win.

7. Don't Forget About Intellectual Property

Before choosing a name for your business, or naming a new product, you must conduct careful trademark searches to ensure you are not infringing upon the intellectual property rights of another. Trademark and copyright litigation can be very costly. Additionally, it is important to register your trademarks and copyrighted materials so that you can more easily protect them from others who may attempt to benefit from the goodwill of your business.

8. Invest in Risk Management

Most business owners are aware that they need insurance coverage of various types. This is a crucial step to ensure that your business will not go under do to a simple mistake or accident. It is also important to assess and prepare for legal exposures before they occur. Whether it is a properly drafted employee handbook, the right entity structure, a well drafted operating agreement, or even proper warning labels on your products, there are many ways a business owner exposes herself to litigation that can be avoided by spending a bit of money up front to ensure everything is in place.

Business owners must constantly reevaluate aspects of their business to ensure they stay one step ahead of the competition in order to keep their doors open. Don't forget to include legal exposure in your ongoing analysis of your business or a lawsuit may destroy everything you have worked so hard to build. Careful planning and a proactive approach will minimize your risk and minimize the impact when legal issues rear their ugly head.