

Business Law Series

So Many Laws...

By Michelle Bomberger, JD, MBA

I am honored to be a new columnist for Eastside Business and to share with you some of my insights on starting up and growing a business. As a business consultant turned small business attorney and entrepreneur of my own law practice and a local restaurant and wine bar, my perspective on business management and ownership is broad. In this column, I offer tidbits I've learned through experience or client interactions that will, hopefully, help you more effectively plan, startup, or manage your own venture. I'll touch on business law topics that I see as most critical for operational and strategic planning and risk management such as corporate governance requirements, protection of intellectual property, exit strategy planning, negotiating tactics, and managing employees and contractors.

To start, I want to offer some context of business law and its complexity. Business law is comprised of many topics but generally is an attempt by government to protect certain parties that may be otherwise vulnerable in a business relationship. Some of these rules, such as intellectual property law and contracts law, clearly support the business owner. Others, such as corporate governance rules, securities laws, and employment laws, primarily exist to protect other business stakeholders such as investors, employees and consumers. A business owner would be overwhelmed trying to understand how these rules alone impact a business.

To provide some perspective on the vast amounts of information, I encourage you to view business law as a tool set to help you mitigate risk. The more information you have about the rules governing your business, the better prepared you are to make decisions that are impacted by those rules. For example, I recently advised the members of a limited liability company regarding the breakup of their business relationship. The members never signed a governing document for the business and couldn't agree on the breakup provisions after the fact. Therefore, the relationship was legally treated as a partnership, having different buyout and tax implications than what the members would have otherwise preferred. They likely would have been more proactive in signing a governing document had they realized the implications of not signing one. Similarly, a client recently encountered a restaurant in another state using his restaurant's name for which he holds a federally registered trademark. The other party didn't perform sufficient due diligence on the business name before using it and that mistake will likely cost him a pretty penny in renaming and rebranding the business.

I begin my column series with these anecdotes in an effort to show the impact of nuances in the law and the importance of being well versed in the areas of the law that most impact your business. The critical areas are typically corporate governance (especially important if you have a corporation), contracts, intellectual property, employment, landlord-tenant, and consumer protection. Think about your business and the important relationships you have developed. Consider what could go wrong in each of these relationships and whether you have the mechanisms in place to protect the business and yourself if any of those situations should occur. If you don't know if you're protected, you should talk with your attorney, CPA or other business advisor to determine what steps you should take to mitigate those risks.

I look forward to sharing some tips and best practices for incorporating some risk mitigation techniques into your business. I'd love your feedback on the column and ideas for future topics.

The information contained in this article is of a general nature and is not to be construed as legal advice. You should contact an attorney familiar with your particular circumstances before taking or refraining from any action.

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