

WOMEN IN BUSINESS

Family Law and its Impact on Your Business

By Michelle S. Robins, Esq.

Other than how it impacts a baseball or basketball team or the lives of politicians, family law is not generally a topic of discussion for many people. But if you're a business owner, it should be.

Family law can impact your business in several ways:

1. If you are going through a divorce;
2. If you have a business partner going through a divorce;
3. If you employ workers (especially those with complex compensation packages) going through a divorce.

The best thing any business owner can do for any of the above scenarios is to be prepared. Here is what every business owner should know:

If you are a business owner going through a divorce, your business will need to be valued to determine what interest, if any, your spouse may have in your business. You will also have to compute your income from the business and provide this information to the Judge so that s/he can calculate child support and spousal support.

If you and your spouse cannot agree upon the value of a business or the amount of income it generates, forensic accountants who specialize in family law may be retained. The forensic accountants review the books and records of your business to determine your business's value and the amount of income generated from the business. This may be a time consuming and disruptive process, especially if one party claims the other is not providing the



accountants with accurate records.

Some spouses agree to minimize these costs and disruptions by retaining a joint forensic accountant rather than hiring separate ones.

To avoid some of these issues, business owners who are contemplating marriage should consider signing a prenuptial agreement with their significant other. In such an agreement, the parties can agree how a business will be divided in the event the marriage ends in divorce.

If you have a business partner going through a divorce, you may need to take certain actions to limit the exposure of your private financial records during the forensic accountants' evaluation of the business. For example, many individuals in these situa-

tions enter into confidentiality agreements to protect their financial privacy. Contact an attorney to determine what limits you can place on the production of those records.

The protection of your business records becomes even more important if your business requires you to protect the rights of third parties, such as those shielded under the Health Insurance Portability and Accountability Act. Similarly, you should protect your client list and trade secrets by ensuring they are not made part of a public record in a divorce filed with the Superior Court.

An employee's divorce can also be disruptive to your business. You may be requested to produce a variety of records

about the employee. Before releasing any employment records, ensure the person seeking them has complied with all current laws involved with obtaining employment records from an employer.

If your employee's spouse has threatened your employee or employees, you should consider obtaining a restraining order to protect your business and your colleagues.

You may also receive an order that requires that you pay a certain portion of each pay check to another party. You should carefully read the instructions to employers that are attached to these wage assignment orders, and consult your corporate counsel if you have any questions about your obligations under these orders.

Another common concern for employers involves COBRA coverage for an employee's ex-spouse. You should consult your corporate counsel to clarify your obligations.

These are just a few of the ways divorce (yours or someone else's) can affect you as a business owner. The more prepared you are for the consequences, the better prepared you are to protect your business.



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