

Protecting your business against lawsuits

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No one likes to find a sheriff serving your company paperwork for a lawsuit.

Some business owners say this has made them fearful. Some freeze up and stop thinking about what they are doing to grow their business while the lawsuit is going on.

Invariably, they call their outside attorney who will have to draw on the owner's team to find out what facts that they have on the lawsuit. The owner talks with their chief financial officer about setting aside enough money to cover the legal costs of handling and/or settling the lawsuit.



Losses also occur with a cyber or ransomware attack that many businesses are not prepared to handle. This defensive mode is not the best way to protect your business.

Here are some ways that you can proactively protect your business from loss:

1. Have a great insurance broker who knows the risks you are facing. The right insurance broker is one who can review your existing policies, knows your business, and what issues may pop up to haunt you. Your business, besides the standard G/L policies may need a separate policy to cover cyber and ransomware attacks, that can also cover the specialist who is going to deal directly with the ransomware attacker to negotiate a way of getting your records back so your business can go back to work.

Another policy may be business interruption insurance. While this type of insurance may be pricey, what is the cost if your business is shut down for a week or two?

Your insurance should also cover sexual harassment claims and discrimination claims. Every business needs to have their policies tailored to what the business does and the types of claims that could cause problems.

2. Work with your team to eliminate problems when they are small. Let the eyes and ears of your team help you spot potential issues. This may be identifying safety issues in a plant and perhaps reward the team worker who identified the problem and came up with a solution.

Another way is working with your human resources manager to identify issues that they have found among the team members, so you can nip problems in the bud.

3. Provide adequate training to the entire team. It is surprising to see how many problems can start at the manager level, as they have not been trained in how to resolve issues properly. All team members come in with preconceived notions on what is acceptable from what they learned at prior jobs.

You need to train your team to let go of bad habits and processes that aren't appropriate at your business.

4. Have clear and proper procedures in place. This can relate to human resources policies, contract reviews, problem resolution and reporting, compliance issues, and more. How do complaints get reported? Who is allowed to review and sign contracts? What is the procedure for making sure the business is compliant with industry, state, and federal regulations? Having these types of procedures properly documented and shared with staff can prevent costly mistakes from happening.

5. Seek help from a general counsel. The key person for protecting your business from losses or lawsuits is a good general counsel who has a wealth of experience seeing what can and has gone wrong for others.

You may not desire, or can't afford, a full-time in-house general counsel, but you can find an outside general counsel who can help to alleviate the risks to your company going forward. They can provide a review of your business and perform a risk assessment, make suggestions for proper

procedures, reviews, and needed changes and adjustments that will better prevent problems from occurring.

This relationship should be tailored to your business and have an agreed upon monthly fee with no surprises. You should work with one attorney who will learn about you and your business, so they are always up to speed when a situation arises. This is a cost-effective, proactive way to protect your business -- and it's a great investment in your company.

Legal issues may be impossible to avoid altogether, but you can certainly prevent most of them with a good plan, proper oversight, and the right people by your side.

Denice Gierach is an attorney, CPA, Northwestern University business master's graduate, and has owned several businesses including in real estate and manufacturing. She is the lead attorney at Gierach Law Firm in the Chicago area. With more than 30 years of experience, she has been a respected and sought-after resource for businesses looking to grow, sell, solve problems, and succeed long term. Her insights across business areas gives a fuller lens to business issues and solutions, and helps businesses grow and succeed with less time spent on legal issues and other time-consuming problems.