

PLAN FOR CONFLICT



By William P. Brogley, William P. Brogley Law Offices

You, your business, your family, your community. Inseparable. You want to do it all well, without conflict. But conflicts arise and you need to be ready to address them. This means you have a plan in place: for contract issues, employment issues, health issues, family issues.

Whether your business is manufacturing or service, professionally licensed or otherwise, the law will impact you, your employees, and families in very, if not always, predictable ways. Where does a breach of contract really leave you? A failure of performance, poor workmanship, or impossibility? Do your best intentions matter? What is the plan for addressing employee or employer conduct claims such as discrimination, harassment, violation of wage and hour statutes? How do you value litigation and your business to business relationships? These are everyday issues. Somedays they are bigger than others, but they are there every day.

Then there is the more personal. An employee walks in Monday and informs you he or she got a DUI over the weekend and will lose their license for a month, or a year, and may spend time in prison. Or it happens to you. Is the employee's position protected? Parents and children and spouses

will get sick. Does the Family Medical Leave Act apply to your business? Does it apply under the circumstances? Does the FMLA protect your employee who takes her mother to Las Vegas as part of her mother's recovery? Whether FMLA applies or not, you are dealing with a human situation. Can you temporarily lay off someone for the benefit of unemployment? Do you have an employee handbook that, unbeknownst to your HR guru, constitutes an employment contract? Be careful with the handbook.

And then there are the big issues. Your partner is misappropriating funds and not showing up at the office. Is there a way to get your partner the help they need – criminal defense, mental health – and see restitution for the company? Does the shareholder agreement address this scenario? Or you or your spouse discover that life is better on the west coast, without the other and you need to address this business you have both invested in for the past 30 years. Is there an equation for the sweat equity? Is there a contingency in your LLC or partnership agreement?

There will not be a black and white answer for every question. But there is a map and compass for every circumstance, whether you are in a proactive or reactive position. Legal counsel should instill confidence and calm the seas. Here and elsewhere over the next few months, I will share some tips and strategies as to how that can be done, for you, your business, your family and community.

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