

Preventive Measures for Business Owners



Gregory L. Ulrich

Although the current economy shows inconsistent trends, reviewing basics of business practice remains important. Whether digging out from a losing product line or seeing significant up-ticks in revenue from new marketing opportunities, the focus over at least the next five years should be on prudent management of the legal side of a business. Organization, employment and risk management are ripe areas for attention.

Organization

The start of the new year brings endless ads for storage boxes, files, scanners and organizational software. With tax season in

full swing, it is often a chore to dig through the personal information you may stuff away in glove boxes, desk drawers and countless envelopes full of receipts. In business, that accumulation of information has to be structured, and often is with expert tax and accounting advice. Yet sometimes the basic organization of a business is overlooked. This is especially true with small businesses that start up with a simple Limited Liability company format, known as the LLC, but fail to mature in how the structure should protect an investment. A corporate structure is costlier to maintain, but its governance and record keeping tends to be more formalized.

The easier establishment of an LLC, with articles of organization, must be followed up with an operating agreement and related

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Eileen Husband, a Partner in our Livonia office, will present a seminar on the *Legal Aspects of Franchise Ownership*, including the *Franchise Disclosure Document* during a two day event January 25 and 27, 2011 at Washtenaw Community College in Ann Arbor, MI.



Eileen K. Husband

This seminar is designed for individuals who are interested in exploring franchise ownership and want to learn everything about this type of business model before making a commitment to a specific franchise. Ms. Husband will discuss the legal aspects of franchise ownership, financing experts will discuss financing strategies and franchisors/franchisees will share their own franchise experiences.

If you are interested in the possibility of owning a franchise, you do not want to miss this opportunity!

For a complete agenda of the seminar, please visit our website at www.cmda-law.com. Please register online for the seminar with Washtenaw Community College Life Long Learning Classes at www.wccnet.edu.

Eileen Husband concentrates her practice on Franchise Law and Labor and Employment Law and has over 17 years of unique specialized experience in the franchise industry. She represents and provides legal counsel to several prominent Michigan franchisees and restaurant developers.

Franchise Ownership Seminar

January 25 and 27, 2011
8 a.m. to 11:55 a.m.

Washtenaw Community College
Business Education Building
Room 170
Ann Arbor, MI

For additional information, please
visit www.cmda-law.com or
call Ms. Husband at (734) 261-2400.

Preventive Measures for Business Owners (cont.)

legal documents that provide for succession, key employee and staff responsibilities, and protections from potential liability or loss of valuable intellectual property. The growing number of tax sales, foreclosures and short sales have increased the use of real estate LLCs. They run the gamut from a single investor with one rental property to those who pick up properties on a regular basis. Insurance should be a concern that should be reviewed with an attorney and an insurance agent.

To Save or Not To Save

Business records flow in and out daily like wilderness rapids after a rainstorm. We tend to think that in the present age of technology, all that information can be easily tamed. However, that information can pose a trap for the unwary.

The paperless office does exist, but there is usually a “paperfull” place where all the emails are printed off, all the memos and reports are stored, and those work orders are squirreled away. “Paperlessness” is a goal that has the unintended consequence of making it more accessible when you least desire it—when you are in litigation. The inadvertent or stray note or paragraph in a human resources file comes to roost because it was scanned in with everything else.

Access to business information is part and parcel of commercial and corporate litigation. Electronic discovery related to the litigation is an accepted practice that judges take seriously. It often imposes great expense to search for and produce documents. “Documents” can mean anything written or electronically stored, including audio and video recordings. In the early days of computers, retrieving electronic information meant taking a hard drive to a forensic computer engineer to retrieve the information. Today, it may mean a subpoena to a cell phone carrier, or cloud computing site, or pulling voice mails from a phone system.

Electronic document storage is, however, extremely useful. Easy-to-use software that searches documents means you do not have to build elaborate file structures. Just choose a word, and the software runs through the documents and locates the items, whether you are searching for numbers or text. The method to managing this madness of information is a retention policy crafted with legal and records management guidance.

Employment is Where the Heart is?

Employees are dusting off handbooks, public sector employees are picking over union contracts, and staff are peppering HR departments with questions on health coverage, Family Medical Leave or the Americans with Disabilities Act. In the current economy with unemployment hovering at greater than 9%, people are focused on how they are employed and pro-

ected by law. Claims involving Fair Labor Standards or Wage and Hour issues, Americans with Disabilities Act compliance and Family Medical Leave disputes are on the rise.

Handbooks must keep up with changes in federal and state employment law. Departing employees will be looking for vacation and sick time payoffs, or worse, the wages they did not receive because comp time was used.

Ensuring that intellectual property (IP), the ideas and trade secrets of a business, is not headed out the door when a key employee finds a new job with better pay also requires legal guidance. Protecting IP requires an interplay between HR and recommendations from IP professionals.

Risky Business

Inadequate insurance coverage can be as bad as no insurance. A business must have coverage that matches its risks, type of work it does and property that it owns. More risk exposure arises from technology in ways few have previously imagined. Sometimes insurance is not a panacea.

For instance, cell phone use on a trip to a customer in a city that bans any cell use or distracted driving, calls for clear rules for employees. Remaining efficient and competitive merits discussion with an attorney, who can balance the issues and the protections needed to avoid liability.

You should also review the responsibility of key employees or partners, and obtain key employee insurance.

Even more risky is predicting the federal estate tax structure. The recent congressional free-for-all on taxation finally brought some certainty to estate planning, but only until 2012. The \$5 million federal estate tax exemption is but fleeting solace, as small and medium business owners will be seen as a vulnerable group of federal deficit reducers. Multi-state businesses, and owners who might relocate must listen to legal and accounting advice when moving into a state that imposes its own inheritance taxes.

Increasing your business's bottom line requires careful management of all facets of your business. An annual review of these practices can keep your company running like a well-oiled machine, regardless of the products or services you offer.

Gregory L. Ulrich

Gregory L. Ulrich is a partner in our Livonia office where he concentrates his practice on Real Estate, Land Use and Zoning, Employment and Labor Law, Estate Planning and Corporate and Business Law. He can be reached by calling (734) 261-2400 or via e-mail at gulrich@cmda-law.com.

CMDA Happenings

Attorney Gives Presentation on Sexual Harassment



Ethan Vinson

Ethan Vinson, a Partner in our Livonia office, recently presented a series of workshops at Wayne County Community College on sexual harassment, hostile work environment and discrimination. A variety of administrators at the college attended his presentations.

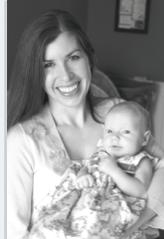
Attorney Gives Presentation on Safety and Liability Issues

Sarah Overton, a Partner in our Riverside, CA office, recently gave a presentation entitled "From the Drivers Seat to the Witness Seat." Her presentation was part of a larger seminar geared for school bus drivers, and included safety driving presentations by the California Highway Patrol and Safety for Kids. Ms. Overton's presentation discussed safety and liability issues from a legal perspective and general overview of the court system.



Sarah L. Overton

Newest Addition to CMDA Family



Susan and Giada

Congratulations to Susan Lumetta, an attorney in our Livonia office, and her husband Kevin who recently welcomed a healthy baby girl, Giada Lumetta Mills, into their family. Everyone at the Firm is thrilled for the newest (and sweetest) addition to our CMDA family.

Happy New Year from Managing Partner T. Joseph Seward

As we begin a new year, I want to take this opportunity to thank all our clients for allowing us to assist them over the past year. We appreciate your business and the confidence you place in us.



T. Joseph Seward

Have a wonderful 2011!

Attorney Profile: Ronald G. Acho



Ronald G. Acho

This month we are profiling Ron Acho. He joined the Firm in 1974 and is a co-founder of the Firm.

Ron grew up in the service industry. His father owned a grocery store, and he saw firsthand the importance of serving customers while watching his father interact with them. That service-oriented background has shaped Ron into the attorney he is today. He strongly believes that the service our attorneys and support staff provide our clients is what separates CMDA from all others. He believes our Firm's ability to respond to the needs of every client, coupled with our expertise and experience, is what makes us unique.

A senior trial attorney specializing in labor related matters including workers' compensation, discipline, discharge and employment civil rights, Ron also has extensive experience in collective bargaining, contract maintenance, grievance

arbitration and seminar lectures. For over 37 years, he has represented local and national businesses, including some of the largest corporations in the world and hundreds of small businesses.

Ron's practice areas also include labor contract negotiation and administration, arbitration of contract disputes, preparation of affirmative action plans, defending occupational safety complaints, employment contracts, preparation of employee manuals, litigation under state and federal civil rights laws and employment-related tort litigation, and representation before the National Labor Relations Board and Michigan Employment Relations Commission in unfair labor practice claims.

He received a Juris Doctor degree, from the Detroit College of Law and a Bachelor of Arts degree, *summa cum laude*, in Marketing and Business Administration from the University of Detroit.

Ron lives with his wife Rita in Farmington Hills. They have three adult children: Jim, also an attorney at CMDA; Stephanie, owner of Chocolates by Renee in downtown Northville; and Greg, president of a computer repair firm in California. They have four grandchildren.

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Our Vision

To meld our legal expertise, professional support staff, technical resources and variety of locations to deliver first rate legal services at a fair value to a full range of business, municipal, insurance and individual clients.

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Comments and questions regarding specific articles should be addressed to the attention of the contributing writer. Remarks concerning miscellaneous features should be addressed to the attention of Jennifer Sherman.

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