



North Carolina Law Life

2 Steps to Minimize Your Company's Risk

By: Donna Ray Berkelhammer. Monday, January 7th, 2013

A lot of what lawyers do is look for risks in our clients' businesses and figure out how to minimize them. Aside from forming an entity to separate your personal assets from your business assets, the two best things you can do for your company are to have good form documents and adequate insurance.

Forms.

Your form documents are your invoices, purchase orders, standard terms and conditions or services contract. A well-drafted form will consider your specific risk factors and protect you by carefully defining the responsibilities of each party, clearly stating the payment terms, clarifying who owns the work product at the end of the contract, determining who pays for shipments that get stolen in transit, or what happens if a product or service isn't up to snuff.

Many business owners, however, don't consider the meaning of the forms or the source — to their great detriment when a transaction goes sour. Take a look at your form contracts. Consider the following:

- Where did you get your form? Was that person in the same type of business? Or are you offering services and they were selling products?
- Has the law changed since that form was drafted?
- Does it limit your liability? Does it cap your damages?
- Does it provide for mandatory **alternative dispute resolution** or can you sue if things go sour?
- Can you collect interest, late fees and attorneys' fees?

A good use of a **business attorney** is to review and improve your forms.

Insurance.

Insurance is probably the most cost-effective protection for your business, but you have to ask the right questions and get the right coverage. New business owners often don't realize that their personal lines insurance agent (home and auto) may not sell commercial policies, or that even home-based businesses might need additional coverage. Talking to a commercial insurance agent at the start, and reviewing coverage periodically, can save lots of heartache down the road.

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Business owners should consider the following policies:

- General commercial liability (GCL). This is the basic coverage for personal injuries and property damage caused by your negligence or omissions in operating the business.
- Property insurance to cover fire, flood, etc.damage to real property if you own your building, or the contents. Retail establishments are also often required by their leases to insure the plate glass windows. This is a separate rider or policy.
- Automobile insurance if vehicles are used in the course of your business.
- Workers Comp. This is required at the third employee, full or part-time, including the owner. If you don't carry it, your company will be liable for the medical bills of your employee for a proper workplace claim. Workers Comp is priced by risk, so construction companies might be on the highest premiums, but web design firms might be on the lowest.
- Restaurants/food companies and manufacturers should consider products liability coverage in case your product injures someone.
- Service providers should consider errors and omissions coverage to protect against negligent mistakes.
- Umbrella Coverage is is an extra layer of insurance that can pay for medical, legal or other expenses you may be required to pay after basic business insurance policies are exhausted. Common cases are where there is a wreck with an uninsured or underinsured motorist. I call this "\$500/year of I can sleep better at night. " To qualify for umbrella policies, you may have to have higher coverages on your underlying policies.
- **Business interruption Insurance** pays the loss of income to a business owner if a catastrophic event closes the business for a period of time.
- Health insurance.

A good commercial insurance agent can help you assess your risks and make a **cost/benefit analysis** about how much coverage is appropriate. The best agents won't pressure you into buying more than you need, but will take a proprietary interest in helping your business succeed.

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