

AVOIDING LITIGATION

Businesses can reduce bottom line exposure by taking steps to avoid litigation

BY VALERIE L. SMITH

There's one thing all parties in a lawsuit have in common: No one wants to lose money. When the thought of litigation crops up in business circles, the common reaction is how to avoid it. The very word — litigation — causes many to think of dollar signs traveling to the wrong side of a balance sheet.

Businesses can reduce exposure to their bottom line by taking steps to avoid litigation. When parties employ measures to prevent events that result in

litigation or are open to methods of resolution, the overall cost associated with litigation can be substantially reduced.

The best way to reduce the expense of litigation is to prevent the disputes that lead to lawsuits in the first place. Businesses that engage in proactive training, consulting, reviews of existing policies and procedures and proper planning for legal proceedings will spend far less on litigated issues than businesses that are less flexible to change.

Some common issues that often result in a claim and subsequent litigation are

well known. Keeping your eyes open and being proactive rather than allowing events to be swept under the rug will prevent future problems.

Examples include employment issues, premises liability and contracts. All businesses that have employees should engage in periodic review to see how employees get along and intercept problems that could lead to possible harassment complaints. Being proactive rather than allowing a potentially damaging situation to escalate should prevent problems.

If a business is open to the public as well as its employees, it is especially important to keep a careful watch for premises issues that may cause an injury. Simple repairs to the premises can prevent injuries that may be costly in the future. Businesses should be mindful of safety regulations for their own employees and be willing to bring in consultants with expertise in order to prevent injuries. A business that uses a form contract should have it reviewed periodically by a qualified attorney to make sure that its provisions are consistent with the intentions of the business or whether laws have changed and some amendment is required. Keeping up with the laws and making sure that there is a clear understanding of how those must be integrated into daily business is also key to prevention.

It is important to review and maintain insurance for potential actions to prevent exposure of the business assets. Making certain that insurance policies are appropriate not only in the amount of coverage, but what may also be covered, is imperative. Whatever the business, mistakes and injuries may occur which could result in damage to another person or to the business. By periodically assessing the possible exposure in the event of a mistake, an injury or an event as unforeseeable as a flood, a business can be certain that it has reduced its potential exposure and resulting litigation expense.

Consultation with legal counsel is another key element to reduce overall litigation expenses. As most business people will agree, lawyers think differently. It is invaluable to consult with an attorney regarding the operations of a business to make sure there is no unnecessary exposure.

When an event that could result in litigation arises, timely resolution of claims is another important way to reduce expense. Rarely is money saved by ignoring a problem. Addressing a problem early and proposing a path that will lead to a meeting of the parties involved often avoids litigation altogether.

When a claim matures into a lawsuit, seeking an alternative method of resolution is also very helpful. The cost associated with mediation is usually far less when compared with the costs of a trial.

It is important to realize that the legal system is present for everyone. Everyone can have a claim at some point, whether it is a contractual dispute, the result of an injury or a dispute over applicable insurance coverage. By welcoming proactive measures for prevention, resolving issues in a timely manner and pursuing means short of a trial, litigation costs can be sharply reduced.

The money spent on these measures will lead to a greater return than the unpredictability and often much greater exposure of a trial.

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