

# Opinions

## Recession survival tips:

Surviving the downturn through better business practices

As a lawyer to area businesses, I've closely encountered the severe ramifications of the economic downturn. Many businesses are suffering, some have perished.

Unfortunately some of the pain has been self-inflicted.

No doubt there are former owners of defunct businesses who think there was nothing that could have been done to save their business. It is true that there are factors which cannot be controlled. There are others, however, which absolutely can be controlled and can make an appreciable difference in whether a business is successful or fails.

It's easier, and more comforting, for business owners to believe they're doing everything right and they're merely victims of a bad economy. But only through critical analysis and identification of weaknesses can a business be improved and strengthened to withstand challenges.

Many businesses do reasonably well with the usual day-to-day issues which arise. Things happen and they're dealt with. It is



much more difficult, however, to anticipate what may happen or to modify an existing practice to achieve a more positive result.

Too often, business owners can't seem to muster the energy or inclination to do this.

Not anticipating and not changing can be very costly. Below are some suggestions for measures you can take right now to make your business better and, over time, save a lot of money. It's worth the effort.

When budgets are tight, those who purchase your product or services are hyper-critical. The same goes for employees: when jobs are scarce, they're much more likely to pursue claims. Purchaser and employee

disputes can, and frequently do, escalate into litigation. While mediation and arbitration aren't without expense they're typically less expensive than litigation. If you incorporate a mandatory mediation or arbitration provision into your product/service or employment agreements, you can dramatically limit the odds that you'll end up in court.

If you have employees who might take business (or even other employees) if they left, you should have them enter either a non-compete or non-solicitation agreement.

Such agreements do have some limitations, and employees invariably don't want to sign them, but they are one of the best ways a business can protect itself from cannibalism.

Incidentally, this does not have to be done as part of an employment agreement nor does it, alone, alter the standard "at will" employment relationship with employees.

Names and logos distinguish your business from others. They are largely what the all important "branding" is about.

If you don't protect them, then they, and related domain names, can be stolen or mimicked and you'll have limited recourse.

While a federal trademark is the best protection, if you only do business in Florida you can register a trademark in Florida rather easily and cheaply and get much of the same benefit.

Surprisingly, a lot of multi-owner businesses don't have an agreement between the owners or, if they do, it doesn't cover critical issues such as what happens when someone wants out, someone dies or someone runs out of money.

Hardly anybody thinks there will be any conflict when they go into business together, especially family and friends. However, the way to avoid conflict is to have a universal written agreement on what happens in all of the usual scenarios which arise in business.

Even friends and family do see things differently, but if there are "rules" in place to

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which all agreed in advance there is no dispute when something arises, you just follow the rules.

Finally, don't give your products and services away if you can help it and don't spend too much time, money and effort chasing bad debt. Either don't extend credit, or keep it to a minimum until you can be relatively sure that payment is likely.

Similarly, if somebody can't pay you, then they can't pay you. Stay right on top of the accounts receivable, but when it becomes obvious you're not likely to be paid because the debtor can't pay, let it go — at least for a while.

You could sue them, but even today they would probably pay you if they could. You might be better off waiting until times turn around generally, or for them, and then pursue them.

You have five years to pursue breach-of-contract in Florida.

Don't just let this tough economy happen to your business. Identify weaknesses, take steps to make your business better and improve the bottom line. It is up to you. **n**

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