

Legal Connections



LEGAL EXPERTISE FOR THE BUSINESS COMMUNITY

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Learn more about voting amid a pandemic from legal experts in our Community Conversation: www.cbalaw.org

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PRENUPTIAL AGREEMENTS AND BUSINESS OWNERS

Owners of closely-held businesses have, generally, had quite a rollercoaster ride in 2020. A booming economy at the beginning of the year quickly changed as spring approached. The COVID-19 pandemic wreaked havoc on many businesses, large and small. Business owners have had to get creative, shift focus, trim their workforce, obtain PPP loans and stay on their toes. For business owners, a prenuptial agreement has always been something to consider. For business owners who are also planning a wedding these days, a prenup is essential.

Prenups, though seemingly unromantic, serve a valuable purpose. The world of divorce is an unpredictable one. Prenups help bring some certainty and predictability into



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the picture. Under Ohio law, a business owner and operator who gets married might only be able to expect that the value of their business as of the date of the marriage is protected separate property. Increases in the value of that business during the marriage will often be considered marital property, and subject to equal division. A prenup can redefine how the Court should treat the increase in value during the marriage.

For business owners who have seen the value of their businesses decline in 2020, there may be a clear, if long, path toward rebounding and recovering. If a business owner is about to marry and owns a business that was worth \$2 million on Dec. 31, 2019 but is now only worth half as much due to COVID (or any other factors), rebuilding the business to its former value could

cost the business owner \$500,000 if a divorce occurs. A well-drafted prenup can legitimately shield and protect that (and any additional or further) growth that occurs during the marriage.

Of course, the increase in the value of a business is only one of any number of areas to be considered in obtaining a prenup. Predetermining the financial rights and responsibilities in the event of a divorce before the marriage occurs can save significant time, emotional stress and money. Before a business owner (or highly-compensated executive, or anyone who has managed to save and create some wealth prior to getting married) dismisses the idea of getting a prenup as an unromantic buzz-kill, it is always worthwhile to discuss these issues with a lawyer who has extensive experience in drafting and negotiating prenups. ■

EDUCATION & EVENTS

Wednesday, Oct. 21 • 1:30 – 4:45 p.m.
Live Webinar: Impeachment Powers & US Supreme Court Review
3.0 CLE Hours (1.0 Prof. Conduct)

Friday, Oct. 23 • 9 – 11:45 p.m.
Live Webinar: Kegler Brown Hill + Ritter Ethics Symposium
2.75 Prof. Conduct CLE Hours

Thursday, Oct. 27 • 12 – 1:30 p.m.
Live Webinar: Advanced Research Techniques Using Fastcase
1.5 CLE Hours (0.5 Prof. Conduct)

Friday, Oct. 30 • 12 – 1:30 p.m.
Live Webinar: Legal Practice Lab, Session 5: Marketing
3.0 CLE/NLT Hours

All classes listed are offered by the Columbus Bar Association through Zoom. To register, call 614-221-4112 or enroll online at www.cbalaw.org.

CHECK OUR LEGAL RESOURCE GUIDE FOR A COMPREHENSIVE INDEX OF CENTRAL OHIO MEDIATORS, EXPERT WITNESSES, ATTORNEY SUPPORT SERVICES, COURT INFORMATION AND MORE: CBALAW.ORG

NEW OHIO LAW PROTECTS BUSINESSES FROM COVID-19 LAWSUITS

As COVID-19 deaths and cases continue to rise, Ohio has taken legislative steps to provide protection to businesses that may face lawsuits as a result of employee or customer exposure to the virus. This includes health care professionals who may face tort suits or professional disciplinary action in connection with their good faith efforts to render care. This legislation, HB 606, was passed by both houses of the Ohio legislature, and signed into law by Governor Mike DeWine on September 14, 2020.

The new law precludes individuals who have been exposed to or contracted COVID-19 or a related illness from bringing suit against



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businesses for being exposed to the virus, unless the illness or exposure was the result of reckless, intentional, willful, or wanton action on the part of the business or provider. The law also specifies that any government orders or recommendations for operating during the pandemic should not be construed to establish a legally

enforceable duty, or to create a private right of action for deviations from those recommendations or orders. Finally, the law states that, even where the immunity does not apply, no class actions will be permitted in connection with such exposure claims.

The law also extends certain immunity against both tort liability and professional discipline to healthcare providers for care rendered during the pandemic. The law provides that a health care provider shall not be liable in a civil action for damages in connection with care provided during a disaster or emergency, unless the provider's actions constitute intentional misconduct or willful

and wanton misconduct. The law also provides immunity from suit for any inability to provide treatment or elective procedures as a result of an executive order or agency regulation imposed to address the COVID-19 pandemic, but only for the period between March 9, 2020 and September 30, 2021. As with the protections for businesses, the law specifies that no class actions may be brought in connection with such claims, even where the immunity does not apply. The law also precludes disciplinary action against healthcare providers in such circumstances, unless the provider's actions are grossly negligent. ■

📅 Saturday, October 31, 2020

🕒 9:00am–12:15pm on Zoom

A New Kind of
**PROBABLE
CAUSE?**

Terry v. Ohio, the 4th Amendment, Pat Downs & More
This class, taught by a law enforcement professional and attorney, will give you deep insight into the "stop and frisk" policies in place today and will make you think twice about the everyday role of the police professional. **3.0 CLE Hours.**

Register:

www.cbalaw.org/cle

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