

# Legal Connections



LEGAL EXPERTISE FOR THE BUSINESS COMMUNITY

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## THE EFFECTS OF PROBATE ON BUSINESS OWNERS

Own a business is like riding your favorite roller coaster: it can be exhilarating, give you the tingles in your toes, and you could enjoy it so much that you want to ride it again and consider riding other ones, too! However, that roller coaster requires maintenance and the use of some elbow grease. The reasons for a “well-oiled machine” is obvious. You want it to be efficient, profitable, and safe. What if you could avoid some of the scary uncertainties?



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How would probate impact your “well-oiled machine”?

Probate proceedings could impact the efficiency and profitability of a business as it is the process of administration when somebody is declared incapacitated (a guardianship) or passes away (decendent estate administration).

Unfortunately, both types of probate are not great for efficiency and cost – or privacy concerns. Sometimes probate is the best and/or only option, however, business owners are generally

more concerned with avoiding probate.

The good news is that an effective estate plan can help you avoid probate and inefficiencies that it may cause. Avoiding probate is more than just considering what happens upon passing of a business owner – it also considers what happens if the business owner is unavailable for any reason.

The default under Ohio law is that all property (and interests) are probate assets – unless they are not. The probate court does not control assets that are not probate assets.

There are simple and sophisticated ways to deal with business interests in your estate plan. The default plan may not be the most efficient and profitable for your business.

Contact an estate planning and business attorney to discuss your specific situation. The solution may not be as daunting as you’d think. ■

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## EMBRACING CHANGE: RECRUITING AND RETAINING A DIVERSE, MULTIGENERATIONAL WORKFORCE

### Pay Equity

The #MeToo and #TimesUp movements brought attention to gender inequality and influenced legislation aimed at ending pay discrimination based upon gender and race. While employee focus during the pandemic shifted to include more non-monetary factors, money still matters. Since 2016, over 600 pay equity cases have been filed in the United States and the number of charges filed relating to Equal Pay Act claims has remained high in recent years, with 980 in 2020 and 885 in 2021, resulting in \$45.4 million dollars in settlements. In 2021, the Equal Employment Opportunity Commission stated that pay equity claims were one of its six major priorities.

In addition to driving litigation, unfair pay continues to play a role in an employee’s desire to leave a company. The tight labor market and losing more than



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one million women from the workforce makes it important that companies focus on pay equity as part of a broader effort to recruit, retain and develop diverse talent. This may include conducting a pay audit, but also requires increased attention to more nuanced issues related to implicit bias and how contributions are measured and valued.

### Cultural Competency

During the pandemic, our nation also experienced an awakening to systemic racism that arguably has not been seen since the Civil Rights Movement. Millennial and Gen Z professionals report avoiding companies that lack a diverse workforce or a commitment to confronting racism. Strong diversity, equity and inclusion (“DEI”) efforts can prove to be huge value differentiators. While an employer cannot make individual employment decisions based on a protected class category, there are number of action

steps employers can take to enhance DEI efforts – from setting hiring goals (not quotas), requiring diverse talent pools, removing bias from the candidate screening process and treating DEI as a leadership competency with accountability attached.

Recently, workplace DEI discussions have also evolved to include more advanced topics, such as implicit bias, micro-aggressions, and privilege—but not without legal challenge. Most notably, Florida’s Individual Freedom Act (“IFA”) / “Stop-WOKE law,” which went into effect July 1, 2022. This restricts employer communications around diversity, non-discrimination and anti-harassment. The law prohibits promotion of eight topics purportedly influenced by “critical race theory” (“CRT”): institutional racism, racial bias, and gender expansiveness. Pointing to the “upside down world” depicted in the Netflix drama *Stranger Things*, a federal District Court for the Northern District of Florida halted enforcement of the law applicable to employers on constitutional

grounds, but the battle over “Stop-WOKE” is likely not over. As employers continue to respond to calls for more impactful DEI initiatives and training, they should consult with legal counsel regarding strategies for mitigating legal risks.

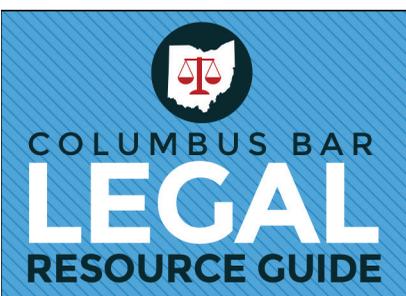
### Embracing Change

In the words of James Baldwin, “Not everything that is faced can be changed, but nothing can be changed until it is faced.” To recruit and retain talent, there are changes organizations cannot resist while new opportunities are emerging. Organizations that invest the time to understand the shift in the workforce dynamic will have an edge in attracting and retaining the future diverse, multi-generational workforce. ■

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Part two of two. READ THE FULL ARTICLE at [www.cbalaw.org](http://www.cbalaw.org)



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