

If Suing Your Family, Make Sure it's Really for Business Reasons

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In the past, I have written about [overcoming hesitancy to sue family members](#). This issue covers the flip-side – clients who are too quick to sue family members in a closely-held business for personal -- rather than business -- reasons.

Much of the business divorce litigation I have handled over the last 3 decades has involved companies with related owners. I have seen fathers suing sons, brothers suing each other, daughters suing mothers – and everyone suing the brother-in-law (it always seems to be the brother-in-law)! Most of the time, there were legitimate business disputes that led to litigation. But many times, the “final straw” issues were personal, and not business-related at all. How do you separate the two, when the owners are family members and personal strife bubbles to the surface?

It is critical – but rarely easy to ensure that those personal animosities do not infect your company, and sometimes they inevitably do. When one brother hires his son that the other brother believes is incompetent, what do you do when both brothers are 50/50 owners? What happens when the owner with 3 children puts them all on the payroll, but the other owner, who has no children, insists on receiving an amount equal to what the children are earning? All too often, things are fine while the first-generation founder is alive. But once the founding owner dies, or even retires, second-generation owners are famous for killing the goose that laid the golden egg. *And if your company made it to the third generation, it is a minor miracle.*

In this situation, the attorney is often as much a family counsellor as a legal one. But many business owners refuse to hear that what the other family members are doing does not rise to the level of oppression. If your co-owner's children are all good employees and deserve their jobs, is it actionable that your family cumulatively makes less than his family? When the other family members working are your nephews and nieces, shouldn't that make the situation better instead of worse?

When contemplating business divorce litigation against family members, it is essential to consider whether the issues complained of would be something to sue over if family members were **not** involved. Court is not the place to exact revenge or put your brother-in-law (him again!) in his place. Such a case is costly and disruptive to the business – not to mention the family!

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