

## **Protecting Your Business When Your Spouse is Still Involved After the Divorce?**

By June 14, 2018

Going through a divorce puts business assets at risk. This can lead to costly legal proceedings, negative impacts on revenue, and the potential loss of your business.

Understanding how to protect business assets is critical to achieving the outcome you want in your divorce case and ensuring that you, your employees, and the business continues to thrive.

If your spouse continues to work in the business after the divorce is finalized, there are special considerations you need to make.

Consulting with your attorney helps you determine the right legal strategies to protect your financial wellbeing.

### **Business Risks to Consider in Divorce**

Businesses are built from investments of time, money, and other resources. A divorce can present a wide range of risks to your business, making it even more important to protect its assets.

Having an ex-spouse as a business partner can work in some cases. But it can also lead to conflicts related to how the business is managed, its ownership, and other aspects.

Georgia family law courts typically process marital assets through equitable distribution. The primary goal of the courts is to divide any marital assets fairly between both parties.

When you and your spouse share ownership of a business, the assets related to that business must be valued and distributed according to different factors.

Business owners can lose a large share of their businesses in divorce. So having the right plan in place helps you avoid many of these issues.

### **How Business Assets Are Addressed by Family Law Courts**

Securing full or partial ownership of your business in a divorce depends on the unique circumstances of your case. Some people may prefer to give up personal assets in exchange for the spouse's share of the business.

Real estate, automobiles, stocks, retirement accounts, and other assets may be granted to a spouse in order to avoid the loss of any ownership. This may be the ideal option for most business owners looking to

avoid any disruption to their businesses.

Like personal assets, any business assets that were acquired during the marriage period will be subject to equitable division. Those assets that were obtained before the division won't go through this process unless they were commingled with marital assets.

### **Protecting Your Business in Divorce**

There are legal strategies you can use to protect your business assets. The first step is to determine the market value of the business.

This is done through the use of a forensic accountant who gathers and reviews all business assets and financial information.

Consulting with your attorney ensures that the valuation is accurate and that your spouse has provided all of the information needed to complete the process.

If business assets appreciate in value during the marriage (regardless of when they were acquired), then the value of the appreciation will also be subject to equitable division.

Prenuptial agreements safeguard business assets long before a couple considers divorce. It may not provide the full protection your business needs, but it can prevent many of the challenges that arise in divorce.

A prenuptial agreement dictates how assets will be treated in a divorce. It helps you protect separate assets as well as any that are acquired during the marriage.

The prenuptial agreement requires witnesses and a notary to be present when it is signed by both parties to ensure its validity.

Married couples may sign a postnuptial agreement after the marriage has begun. Although a family court judge may refuse to uphold this agreement, having one in place may provide additional security to your business assets.

Some couples draft buy-sell agreements, which outline how business assets will be handled in unforeseen circumstances such as death, the sale of a business, or divorce.

You need to work with a family law attorney who understands these and other legal strategies for protecting your business.

If your spouse continues to work in the business after the divorce, you can take steps to maintain the integrity of your business and secure its ongoing success.