



OWENS PERKINS

Areas of Practice

Family Law
Business Law
Contract Law
Civil Litigation
Estate Planning
Probate
Guardianship
Criminal & DUI
Real Estate Law

Family Law

OWENS & PERKINS offers a full range of legal advice for all aspects of family law such as divorce, spousal maintenance, child custody, child support, domestic partnerships and paternity matters

Attorney Spotlight

Joseph P. McGurk

Graduated from St. John's University School of Law in 1999 and is admitted to practice in the state courts of both New York and Arizona. Mr. McGurk's practice focuses primarily on commercial litigation



A ROSE BY ANY OTHER NAME?

When "Doing Business As" Results In Personal Liability

Many small business owners have worked hard to develop a certain amount of goodwill and/or intangible value associated with the name of their business and justifiably so; "branding" one's business is vitally important to marketing and customers are much more likely to deal with a company that they can trust rather than seek out an unfamiliar face. Notwithstanding these facts, business owners frequently fail to realize that while forming a limited liability company to protect yourself from having personal liability, your signing contracts and/or representing to third parties with whom you do business that a "dba" or tradename is actually a limited liability company or corporation can result in you being held liable.



Specifically in the case of a limited liability company, Arizona law states that "all persons who assume to act as a limited liability company without authority to do so are jointly and severally liable for all debts and liabilities incurred by the persons so acting." In English, that means that a "mom and pop" operation might wind up being treated as a sole proprietorship with mom and pop bearing the joint and several liability personally for all debts and liabilities incurred by the legally unauthorized entity and a lifetime's savings and hard work can be lost. No rosy outlook by any means.

It is absolutely vital in this economy that the small business owner take whatever steps possible to ensure that in the event of the worst, he or she will be able to retain the limitation on personal liability should the business fail. Having contracts reviewed by an Attorney in advance of signing can help avoid the imposition of such liability. Indeed, the old adage "an ounce of prevention is worth a pound of cure" most certainly applies.

All in all, there are a multitude of issues that can arise when a business utilizes a tradename designation or "dba" that can readily be avoided with proper legal guidance. When it comes to protecting your business and your personal assets, a rose by any other name most certainly does not smell as sweet. If you would like to schedule a consultation regarding your business or business entity structure, please call us at 480.994.8824.