# Ten Tips for Avoiding Litigation: Tip # 2: Avoid Doing Business with Members of your Family

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**Phil Kirchner**

This tip might sound counterintuitive to you, and, in any event, it might be unachievable, given that most of the businesses in this country start out, at least, as family businesses, but let me explain. Business people make their best decisions when they are able to be objective, analytical, and emotionally detached from the issue. Now, think about disagreements you have had with members of your family. I rest my case!

If your family is like mine, family squabbles are usually highly subjective, irrational and overly emotional. It is difficult to be emotionally detached when family members are on the opposite side of a dispute. Overlaying family issues on top of business issues can lead to very nasty conflicts. Although it can be difficult to resolve a disagreement with your business partner of 20 years, it is even more difficult when your business partner is also your brother-in-law.

When family members are involved in a business decision, remaining emotionally detached and trying to make a rational decision can be impossible. Too often, historic personal issues and feuds between family members rear their ugly heads. "*Mom always liked you better!*" This makes it more difficult to make the tough decisions with which business owners are faced on a daily basis. As a result, all too often the owner avoids making tough decisions just to avoid causing domestic strife. It is difficult enough having to fire an employee. How much harder is it to fire that employee when it is your brother's son, the slacker, and you know, as a result, your mother might never speak to you again? And, when the owner makes a decision that implicates family politics, the result can be explosive and contentious litigation that combines the worst aspects of business litigation and family court.

Another problem faced by family businesses is that owners who are not actively involved in managing the business might lack the full knowledge needed to make informed decisions about crucial management and policy issues affecting the future of the company. Often, such owners are more focused on their own short term economic interests at the expense of the future growth and health of the company. They might, for example, choose to bypass an opportunity that could be very lucrative for the company in the future, such as adding a new product line or moving into a new geographic territory, because the opportunity requires an investment today of the company's profits.

So how do you deal with these inherent problems as the owner of a family business? First, consider clearly defining management responsibility as separate and distinct from the ownership structure of the company. Allow the ownership to continue to be spread across members of the family, but focus management responsibilities in the hands of the people who understand the challenges and opportunities that the company must address if it is going to continue to be successful. Management of the company should be viewed as distinct from the ownership structure; just because someone owns a share of the company does not entitle him or her to be involved in management. The more you can isolate management from family disputes, the better for the company.

Second, the added complications of running a family business offer one more good reason why a strong business operating agreement is essential to any company, but especially a family business. Your family business operating agreement should include a detailed description of both the ownership structure and management responsibilities of your company.

These steps will help you avoid litigation and maintain peace and harmony in your family and growth and prosperity in your company.

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Tip for Avoiding Costly Business Litigation: Tip#1 - Always Have a Strong Written Agreement to Govern Your Business

**ATTORNEYS MENTIONED**

J. Philip Kirchner