



IT'S NOT BUSINESS, IT'S PERSONAL

There are many issues that can challenge a business or distract it sufficiently that it will delay or derail progress. The most frustrating issues that private companies face, and often the most intractable, arise from the relationships of principals: friends or colleagues who form a company; investors who back the enterprise of a friend or colleague; family members, who did not choose their partners in the first place. In the hundreds of cases I've seen or read, I cannot remember once thinking, yes, litigation in that situation made sense.

Most people know that litigation among principals is rarely the right course to follow, until irrational motives and frustration dominate thinking, at which time litigation - or the threat of litigation – may seem like a viable option. But it isn't. Like throwing the first punch in a fight, satisfaction is fleeting. One may derive momentary pleasure from knowing your business partner (or family member) is about to be served with a complaint at home during dinner, but the rest is expensive, stressful, time consuming and largely out of your control. What could be worse for business?

She's going to be the CEO?

In one client situation, the father/founder of a highly successful company turned over the reins to his only daughter. Her 4 brothers, who together with their sister constituted the board of the company, were outraged. Board meetings often devolved into family food fights, key issues were not addressed and the success of the company was jeopardized. After one particularly acrimonious meeting, several of the brothers decided to sue their CEO/sister to stop her from proceeding with plans for which they believed she needed board approval. When the company's corporate counsel learned of their plans, he urged them to hold off and suggested they speak with me before commencing litigation. After meeting with family members, one thing became quite apparent: despite their business sophistication, they had a surprisingly naïve sense of what litigation would mean. Once they accepted that litigation would almost certainly exacerbate the problem rather than resolve it, we were able to begin down a road to find a solution.

I am not getting my fair share

There are many stories of friendship turned business relationship gone wrong. Perhaps their business agreement was not properly documented, fearing that a document would somehow interfere with their friendship. Maybe they didn't pay sufficient attention to their strategic vision, only later realizing that they had vastly different ideas of the direction to take their company. Or perhaps, as the company became successful, one or more of the partners, investors or family members just didn't think they were getting their fair share – money, credit, control or all of the above. Resolving such issues requires the hard work of understanding them and laying out a path to address them. Getting past personal issues is critical in this process. Anything that takes the focus from business and stirs the pot of personal animosity makes the process more difficult - and nothing makes it personal more than litigation.

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