

10 tips to avoid litigation



As a private business owner, facing litigious action can be a stressful time of uncertainty. Having clear information can help you avoid the litigation process altogether, or help you navigate through the dispute resolution process to achieve a fair outcome.

Here are some practical tips to help you avoid litigation so you can get past the dispute and back to business.

1. Don't wait: involve the appropriate people early.

If you're experiencing conflict in your business that you feel has the potential to become litigious, get the right people involved early on. The earlier, the better. This can help you mitigate risk and get ahead of the game if you believe the issue has the potential to end up in court.

2. Proactively engage with legal and accounting professionals.

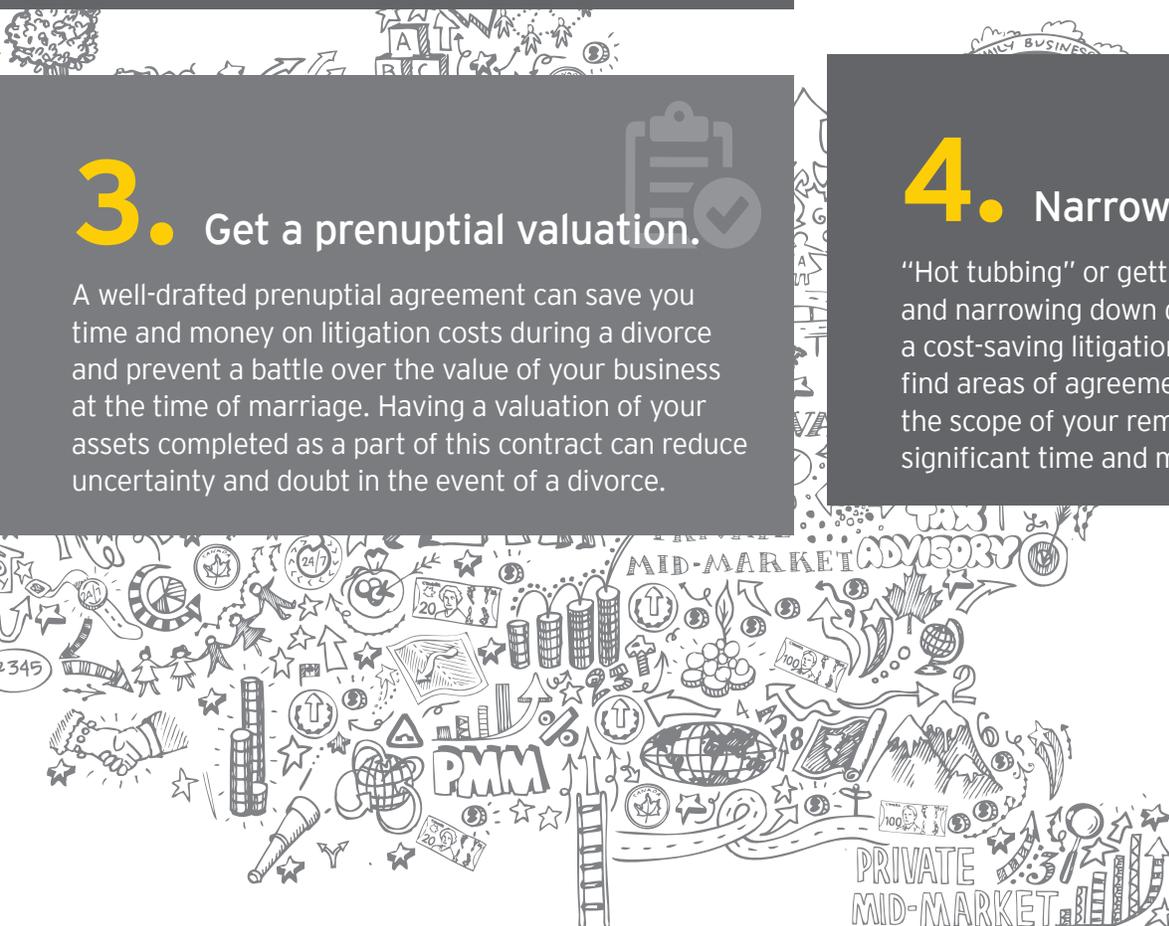
Engaging in upfront dialogue with legal and accounting professionals can help you avoid costly mistakes. When dealing with contracts, it's always advisable to consult with professionals before taking action on your own.

3. Get a prenuptial valuation.

A well-drafted prenuptial agreement can save you time and money on litigation costs during a divorce and prevent a battle over the value of your business at the time of marriage. Having a valuation of your assets completed as a part of this contract can reduce uncertainty and doubt in the event of a divorce.

4. Narrow down your issues.

"Hot tubbing" or getting each side's experts together and narrowing down disputes of financial issues can be a cost-saving litigation strategy. If you can sit down and find areas of agreement, it can help you narrow down the scope of your remaining issues. This can save you significant time and money.



5. Find the right lawyer.



Not all lawyers will be the right fit for each situation. Understand your specific legal issues and seek out a lawyer who has experience working in those areas. Lawyers who are familiar with your situation can offer valuable foresight into what to expect and how you can be prepared.

6. Get your shareholders'/ partnership agreement in writing.



While “handshake deals” were popular in the past, they can pose a major challenge if something goes wrong and you require dispute resolution. Having a clearly defined agreement sets out the necessary steps, expectations and actions that will be taken should you encounter a disagreement.

7. Consult with a valuator.



You'll want to ensure that important areas like the treatment of minority discount, restrictions on sale of shares and the definition of fair market value are clearly outlined in your shareholder agreement. It's advisable to outline precisely what will happen in the event of a shareholder buyout.

8. Outline a dispute resolution method in your shareholders agreement.



When drafting a shareholders agreement, include a clearly identified method for resolving issues should they arise. Evaluating options outside of litigation can help prevent unnecessary legal fees. Before you call in the lawyers, explore other mediation options that can help you keep the peace.

9. Clearly outline the methodology for valuing your business.



In the event of a shareholder buyout, having a clearly defined and agreed-on methodology for valuing the business can help prevent a shareholder dispute from occurring. If you include a clear buyout clause, you'll reduce the possibility for conflict.

10. Set thresholds for major decision-making.



When drafting a shareholders' agreement, you should include a list of decision-making thresholds that must be met for a decision to become binding. This may include different levels of approval for different financial decisions that can help prevent conflict with shareholders.

We can help

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