

Dissociating a business partner/ Dissolving a partnership

Business partners may find themselves at odds for any number of reasons and often the only solution is to end the partnership.

Sometimes this is relatively simple- the partners might agree that one will buy out another or they mutually agree to sell the business or end the partnership and wind up their business. Unfortunately, amicable solutions are not always possible and it may become necessary to ask the courts to get involved to dissociate a partner or dissolve a partnership business.

The courts can expel, or dissociate, a partner or dissolve a business in several instances:

- where a partner is found to have engaged in wrongful conduct that adversely and materially affected the partnership business; or
- where a partner committed a material breach of a legal duty to the partnership or other partners; or
- where a partner engaged in conduct relating to the business that makes it not reasonably practicable to carry on in business with that partner.

In making determinations on whether to dissociate a partner or dissolve a partnership business, the courts will look to the facts of the individual case to determine whether the partner's conduct rises to the level required by statute.

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BREACH OF CONTRACT

A breach of contract is a cause of action that occurs when the stipulations of a legally-binding document, also known as a contract, or any other bargained-for exchange are not honored by at least one of the parties involved in the contract. It is a civil wrong, which means that it is covered by civil law and handled in civil courts.

When a contract is signed, it is legally binding. Failure to live up to the contract's requirements is a breach of contract. But sometimes, a party involved in a contract cannot fulfill the stipulations he or she is held to in the contract's language. When this occurs, the party that cannot meet its requirements may be granted an injunction, which requires it to carry out its responsibility or pay restitution to the other party.

In Washington, written contract disputes have a statute of limitations of six years and oral contracts have a statute of limitations of three years. These laws are part of 4.16 RCW.

What leads to business litigation?

There are an endless number of situations that can cause businesses to experience problems that ultimately must be resolved by judicial action. Most can be categorized by one or more of the following:

- Poor drafting of contracts
- Fraud, Theft or Embezzlement
 - Breach of Contract
 - Breach of Fiduciary Duty
- Intellectual Property Infringement

Embezzlement

Embezzlement is a type of theft where the property, or money, is wrongfully acquired by a person in a position of trust within a company. The person often has access to the money or other property due to the nature of their work but then secretly takes the money for themselves.

How can you prove someone is embezzling money from your business?

It is essential to gather evidence to prove that the theft actually occurred, or is still occurring, and is not simply a mistake or an innocent accounting error. This must be accomplished while you are also actively protecting the current operations and assets of the business. You may want to consider options such as placing strict controls on all business banking, ATM and credit accounts to track the flow of money and to require detailed receipts for all business expenditures. You may also want to conduct an internal audit of the business inventory and of all accounting and bookkeeping. You may even consider placing surveillance equipment on computers or cash drawers or to employ a forensic accountant to help gather the necessary evidence. It is important to start documenting and gathering evidence as soon as you realize the theft is occurring. We can help you strategize the best ways to do this to bolster your case to ensure you the best chance at recovering your losses in court.

What if it's a business partner embezzling money from your business?

If you believe that a business partner is currently stealing from your company, you must proceed cautiously and take steps to protect yourself and your company. A thorough review of any written partnership agreements, articles or by-laws, shareholder agreements, operating agreements or any other existing agreements between the partners along with the governing state laws is an important first step in deciding how you will proceed in this difficult situation. We can help you file a lawsuit against your partner for

fraud, embezzlement, breach of fiduciary duty or breach of contract to recover lost money or assets and the resulting damages to your business. There could be tax consequences and penalties that must be addressed because income and expenses were misreported as well as the expense of correcting the company's bookkeeping which you may wish to recover. You may also want to file an action to dissociate, or remove, your business partner from your company or possibly to dissolve the company.

Business partner or employee stealing clients

An all too common problem in business is someone such as an ex-employee or a business partner stealing clients from the company. An employee might leave your employment taking clients, or worse- the company's client list, with them. Or maybe your business partner has started acquiring clients and secretly keeping them, and the profits, for himself? In Washington it is possible to bring a civil lawsuit against an employee or business partner if you find that they have stolen clients under a claim of Tortious Interference. To be successful in such a lawsuit you will need to prove:

- the existence of a valid contractual relationship or business expectancy;
- the employee or partner knew of the relationship or expectancy;
- the employee or partner intentionally interfered and that caused a breach or termination of the client relationship or business expectancy;
- the employee or business partner interfered for an improper purpose or used improper means; and
- you or your business realized damages because of their actions.

Let us help you put an end to the theft of your clients and recover your losses.