The GC Brief

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Primary Legal Pitfalls When Launching a New Business

Launching a new business is an exciting endeavor, filled with possibilities, energy, and risk. As a founder, you're focused on your product, service, customers, and capital. But too often, legal foundations are treated as an afterthought—and that can be a costly mistake. As an experienced general counsel and corporate attorney, I've seen the same preventable legal pitfalls undermine great ideas and promising startups. This first issue of *The GC Brief* outlines a number of primary legal issues entrepreneurs should address early to avoid unnecessary setbacks down the road. I hope you find it helpful!

1. Choosing the Wrong Legal Structure

Selecting the right legal entity is more than just checking a box on a form. The structure you choose—LLC, S-Corp, C-Corp, partnership, or sole proprietorship—impacts liability, taxation, governance, fundraising, and even your exit strategy.

Common mistake: Using a DIY online formation service without fully understanding the implications.

My recommendation: Consult an attorney early to assess your short- and long-term business goals. For example, tech startups seeking venture capital generally favor Delaware C-Corps, while small, service-based businesses may benefit from LLCs with pass-through taxation.

2. Failing to Clearly Define Founder Relationships

Many businesses start with a handshake or a vague understanding between co-founders. Unfortunately, this informality can lead to disputes over equity, roles, decision-making, or departure scenarios.

Common mistake: Not having a founders' agreement or operating agreement in place.

My recommendation: Draft a founders' agreement (or operating/shareholder agreement) that addresses ownership percentages, vesting schedules, responsibilities, dispute resolution, and what happens if someone leaves. It is far easier to negotiate these terms upfront while everyone is aligned.

3. Overlooking Intellectual Property (IP) Protections

If your business is built on an idea, brand, technology, or creative content, then IP is among your most valuable assets. Failing to protect it early can cost you your competitive edge.

Common mistake: Not assigning IP rights from contractors or employees to the company or failing to register key trademarks.

My recommendation: Ensure all IP created for the company is assigned to the company through contracts. File trademark applications for your brand name, logo, and key product names. Consider NDAs where appropriate.

4. Poor Contract Hygiene

Startups often sign whatever agreements are put in front of them just to move fast. This can result in obligations that conflict with your interests or expose you to unnecessary risk.

Common mistake: Using templates or prior employer contracts without reviewing terms.

My recommendation: Develop clean, tailored templates for customer agreements, NDAs, service agreements, and employment offers. Know what you are signing before you sign it—especially around indemnities, IP ownership, and termination clauses.

5. Ignoring Employment and HR Compliance

Hiring your first employee (or even contractor) triggers a host of legal responsibilities. Misclassification, wage errors, and weak onboarding processes can open the door to fines and litigation.

Common mistake: Treating employees as independent contractors to "save on payroll" or avoid HR compliance.

My recommendation: Understand the legal distinction between employees and contractors. Use clear, compliant offer letters and agreements. Implement basic employment policies and ensure proper recordkeeping, even if your team is small.

6. Not Complying with Securities Laws in Fundraising

Even early-stage friends-and-family fundraising can trigger federal and state securities law obligations. Failure to comply can lead to fines, rescission rights, or jeopardizing future funding.

Common mistake: Accepting investment without offering proper disclosures or filing required notices.

My recommendation: Treat every fundraising event with formality. Use clear subscription agreements, document investor qualifications, and file applicable Form D or state blue sky notices. Engage counsel before you issue any equity or convertible instruments.

7. Weak Data Privacy and Compliance Practices

If your business collects personal information (emails, payment details, etc.), you are subject to data privacy laws—even as a small startup.

Common mistake: Collecting customer data without a privacy policy or storing it insecurely.

My recommendation: Publish a clear privacy policy on your website. Understand whether laws like GDPR, CCPA, or industry-specific rules (e.g., HIPAA) apply. Use secure platforms and limit access to sensitive data.

8. Waiting Too Long to Engage Legal Support

Many founders believe they can "lawyer later," focusing on growth first. But cleanup costs are almost always higher than the cost of doing it right at the start.

Common mistake: Only engaging a lawyer once a deal has gone bad or a dispute arises.

My recommendation: Build a relationship with a legal advisor who understands business. Fractional general counsel services can provide strategic legal support without the cost of a full-time hire. Early legal input is an investment in stability and credibility.

Final Thought: Don’t Let Legal Risk Undermine Business Momentum

Starting strong means protecting your business from the ground up. A few strategic legal decisions early can prevent costly mistakes later and give investors, customers, and partners greater confidence in your venture.

If you’re launching or growing a business and want proactive legal support, MattimoreGCLaw is here to help.

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