

On Your Terms podcast Episode 35:
What to Do if Your Business Gets Sued

Sam Vander Wielen: [00:00:10] Who the heck wants to talk about getting sued? Okay. Don't run away. Please come back. Don't. Listen to this episode. I swear, after today's episode, you are going to know exactly what to do if anything ever happens, if you ever get a nasty gram from a lawyer, from another coach, from a client, if you ever get served with lawsuit papers, you're going to know exactly what to do. I'm going to give you the exact steps to take, the tips that you need to know, and I'll even sprinkle in a couple of prevention tips in this episode, so you're going to want to listen in.

Sam Vander Wielen: [00:00:40] In case you're new around here, hey, there, I'm Sam. Welcome to On Your Terms. I'm so excited to talk to you today about what to do if your online business gets sued. But before we hop into today's episode, I've got to read you the review of the week. So, Coach Courtney said, "Yes, I am so excited that Sam decided to start a podcast. Her knowledge of all things legal and building a business has been so helpful for me. The legal side of things is never something I thought about when first starting a business and I'm so grateful to have Sam as a resource for that. I can't wait to learn more through her podcast."

Sam Vander Wielen: [00:01:10] Well, thank you so much, Coach Courtney, and I so appreciate you listening to On Your Terms, leaving this review. If you leave a review on Apple Podcasts of my show, On Your Terms, you'll be entered to win a 20-dollar Starbucks gift card. We pick a new winner every single month. All you have to do is leave a review on Apple, and we will email you, we will announce it on social media—sorry. We will announce it on social media. We will not email you. We will announce it on social media, and to my email list, I pick a new winner every month, so just be sure to submit your review now. You might even get a shoutout on a future episode.

Sam Vander Wielen: [00:01:44] Alright. With that, let's get in to talking about what to do if your online business gets sued. So, I know that you might be like running for the hills right now, and I want to tell you like, wait, wait, don't leave me, don't hang up. Come back to this podcast. We can talk about this. We can get through it. Not going to take up too much of your time today. It's just one of those like Band-Aid topics like, God, just like rip it off and talk about it real quick, and then you can go back to thinking about what you want your logo to look like or something more pleasant in your business, so don't worry.

On Your Terms podcast Episode 35:
What to Do if Your Business Gets Sued

Sam Vander Wielen: [00:02:21] It is really important that you know what to do if your online business ever got sued or even if you just got a nasty lawyer letter in the mail or by email, right? It is not something that you want to be caught by surprise with, and it's not something that you want to like get in the mail, and then say, holy shit, what do I do? Right? Because if you don't know what to do in this situation, you'll either panic, and freeze, and just stay still, and not do anything, which I will talk about in a little bit, how that can actually legally backfire on you, can actually get you in legal trouble or especially financial trouble, or on the flip side, you'll panic, and then do or say the wrong thing, which can also land you in trouble, right?

Sam Vander Wielen: [00:03:09] As an attorney, when I was practicing law, I saw both. I saw people who would get these kinds of what we used to call nasty grams in the mail or by email, and they would ignore them, or they would get sued, and they'd ignore it, and I saw the disastrous financial effect that that had on them and their business. And probably even more often, I saw people who, I understand, like understandably so, they would get these letters or whatever, and then they would panic, and they would say something back that would be bad, right? Like something they definitely shouldn't say.

Sam Vander Wielen: [00:03:44] So, here's the deal, on the issue of like if you got something in the mail—and by the way, for the purposes of today, like if you're not sure if something's like, did I get sued or is this a letter from a lawyer? Does that mean something? Whenever in doubt, I want you to take action on something and follow the steps that I'm going to teach you today. If you're not sure whether or not this is something that's going to lead to something, like one of your clients reached out to a lawyer, the lawyer reached out to you, you're not sure what that means, you want to take action.

Sam Vander Wielen: [00:04:15] So, like when in doubt, take action, right? So, when I say like, if you got a lawyer letter or if you actually got lawsuit, like served with papers from a lawsuit or something like that, just substitute anything else that you might be thinking of or anything you experience in the future and just assume that you need to let somebody know about it.

On Your Terms podcast Episode 35:
What to Do if Your Business Gets Sued

Sam Vander Wielen: [00:04:34] The problem with a lot of this stuff, particularly if somebody actually threatens to sue you, like sends a cease and desist or some other sort of letter from an attorney, or if you actually got sued, of course, with papers, the problem is if you don't respond in time and you have business insurance, then you could actually lose your business insurance coverage for failure to let them know, failure to notify.

Sam Vander Wielen: [00:04:58] So, in all business insurance policies, there are notification, notice, provisions in them that will say like who you have to contact, how soon, after you become aware of something, you have to contact them, what steps to take, all of that kind of stuff. And so, if you don't comply with that, they can deny coverage for what happened. So, a claim that otherwise would have been covered, a.k.a. been paid for by them, they could deny for failure to turn it in, in time, right?

Sam Vander Wielen: [00:05:27] So, it's not like it's like five minutes or something. Like it's not like an immediate, it's not like if you get this letter and you don't turn it over in five minutes, you're done or something like that. It's not that tight. But unfortunately, what I used to see, sometimes, when I was practicing, was like people would just bury their head in the sand and be like, "Yeah, I got that email. I figured they wouldn't do anything about it, so I just ignored it." And that turned out to be a very bad choice for them, right?

Sam Vander Wielen: [00:05:51] So, that is why I'm preaching about this like not responding in time. But also, at the same time, we want to act swiftly, but also with purpose and calmly, because we just want to get this stuff to the right person in the right place so that it can be handled, right? So, as much as I want you to react quickly, I also want you to react correctly. And that's really where I thought that we could just quickly chat today about what steps you need to take if your online business got sued.

Sam Vander Wielen: [00:06:24] So, let's talk about getting sued a little bit. So, business owners spend a lot of time worrying about what would happen if they got sued, and especially about how they can prevent it, right? You might be like thinking in your mind, like what can I do to make sure I don't get sued? What can I make sure to do so that nothing happens if I get sued? All of that kind of stuff. And if you're one of my

On Your Terms podcast Episode 35:
What to Do if Your Business Gets Sued

customers, then you've heard me say this a hundred times already, but the truth is that you in America cannot totally prevent getting sued.

Sam Vander Wielen: [00:07:00] In America, people sue people for things all the time that didn't happen, that aren't true, that aren't necessarily true, like not the way that they think it went down. People sue people all the time for things, even though they sign stuff saying that they won't sue them. Basically, what I'm trying to say, people get all hung up on this being like, "No, you can have all these clauses and stuff that say like, 'you can't sue me'", what that does is that if somebody filed a lawsuit, then your lawyer would file what's called a motion to dismiss that lawsuit based on some language that's in your contract, saying, "Hey, this person agreed to arbitration or this person agreed not to sue me for these kinds of damages or for these kinds of claims".

Sam Vander Wielen: [00:07:39] So, you can respond to a lawsuit to try to get rid of it based on the kinds of contracts and policies that you have, but my point is like there's no mechanism by which you can actually, physically block or prevent people from suing you, because anybody can just go and file, it's then your job to like undo it, to get it dismissed, get rid of it, or to win it. So, people often get that a little confused and I always say like people are just focused on the wrong goal when it comes to legally protecting their business.

Sam Vander Wielen: [00:08:10] The point is not about absolutely preventing or blocking lawsuits, it's about controlling that as much as possible, getting rid of the stuff that you can. But honestly, it's also about more of the day-to-day stuff. And if you're one of my customers, you hear me talk about this a lot inside The Ultimate Bundle about how, in reality, what happens more often are clients not showing up on time, people not paying their bills on time, people canceling their subscriptions or their monthly payments as if they are subscriptions, people trying to stretch their six-month package into a 12-month package, people being disrespectful about your boundaries, and your scope, your support, people being weird in your Facebook group, right?

Sam Vander Wielen: [00:08:50] That's the stuff that happens most. And yes, of course, at least I can only speak on my behalf, like in my legal templates, of course, I have all the foundational stuff built in to help protect you as much as humanly possible, given the

On Your Terms podcast Episode 35:
What to Do if Your Business Gets Sued

legal system, which is well outside of my control and yours, but what I focus on so often are like the things that are going to come up for you in conversation.

Sam Vander Wielen: [00:09:14] The other thing that I think gets lost in this conversation about your business getting sued and all of that is that it's very rare that an online business of our size, of our type get sued. It can happen, of course, I have to tell you that. Like as an attorney, I feel like I have an obligation to tell you, because of what I just told you that anyone can sue anyone, of course, you could also get sued, right? But it's rare. And so, it's not something that I want you to like—I guess it just kind of breaks my heart to think that people would not start a business because of it or would hold back on, otherwise, like very great business.

Sam Vander Wielen: [00:09:53] And I think what always makes me really sad is like seeing somebody who's very good at what they do and can help a lot of people, but doesn't, because they're afraid of being seen, and being vulnerable, and being bigger for fear that being seen, and being bigger, and more vulnerable means more potential exposure to lawsuits, right? Honestly, it makes me really angry at the legal system, but there's not much I can do about that right now. Right now, what I want to do is just help you figure out what are the important things to focus on, and then what are the steps to take if this ever happened to you.

Sam Vander Wielen: [00:10:30] So, the most important things that you need to know today before I get into the tips, one is that you need to know what to do if it happens. Two is that you need to get yourself legally covered for if it happens, right? Because there are a lot of things that I teach you how to do, both in the Bundle, and in my content, and other podcast episodes, teaching you how to get things in place so that if and when this did happen, you would have had to have that stuff in place if you have any chance at having yourself protected, and controlling the damages as much as possible, and not letting it interrupt your business, not letting it bankrupt you, right? So, you need to get yourself legally covered for if it happens.

Sam Vander Wielen: [00:11:06] Three is that you need to get legally protected for all the stuff that happens way more often, like copycats, getting stiffed on payments, people not showing up to calls, people misbehaving in your group programs. That's the

On Your Terms podcast Episode 35:
What to Do if Your Business Gets Sued

stuff that I want you to feel like, I just know where that policy is, I know how to handle it, I know what my rights are as a business owner, bada bing bada boom, done, right? That's what I want you to have.

Sam Vander Wielen: [00:11:30] So, with those three things in mind, what are the steps that you need to take if, goodness forbid, you ever got sued? Okay. If you're going to grab a pen and paper, or anything, or hopefully, you're out on a walk just enjoying a beautiful day, just maybe take this in, and then come back to this portion of the episode, you can write these down or keep them. If you use Asana like I do, you can like keep them in a little task somewhere, like I have a section of Asana called Operations, and we have like SOPs and tasks, and you could you could easily take what I'm about to teach you and just put this in a task very easily, or if you use ClickUp or whatever.

Sam Vander Wielen: [00:12:06] Okay. Let's get ready. Step number one. The first thing I want you to do is stop, take a deep breath, and don't respond or write anything yet, right? You do not reach out to your client, or the person that you worked with, or depending on what you're getting this nasty gram about, you do not reach out to that person. You do not blast them on social media. Not smart. And you do not respond to the lawyer yourself yet, right?

Sam Vander Wielen: [00:12:37] Maybe you decide that you ultimately want to try handling this yourself, but if you don't decide to handle it yourself, you're going to hurt yourself by responding. I was a lawyer for over five, almost six years, when I was practicing, people would tell me all the time, everybody is—well, separate episode for a different day, but I would love to tell you about so many of these scenarios where people would call me and be like, "I'm not a lawyer, but-", this is like always a bad start to a conversation, and then they would tell me how, "Don't worry, I responded back, but I knew what I should and shouldn't say", and then when I read it, it was terrible.

Sam Vander Wielen: [00:13:11] So, even when people think that what they're saying is not like incriminating in some way, it tends to be. So, do not respond yourself. We just don't want you to accidentally admit or concede something that you didn't need to, right? So, that's where I would leave it. So, step one, stop, take a deep breath, do not

On Your Terms podcast Episode 35:
What to Do if Your Business Gets Sued

respond. We're just going to be planning in step one, right? We're going to kind of figure out what we're going to do.

Sam Vander Wielen: [00:13:39] Have you ever felt lost about where to begin with the legal side of protecting your online business? Some people say you can just wing it at the beginning and get officially set up later. Not a good idea, by the way. Whether you're afraid to even start working with clients, because you don't want to do something wrong legally, and then get in trouble, or your business is growing and you sort of forgot to take care of the legal pieces, I've got you.

Sam Vander Wielen: [00:14:02] I don't want you to live in fear of the internet police coming after you and your business, but you do have to do certain things and get certain things in place in order to legally and safely run your business online. As much as it just feels like an unregulated Wild Wild West online, that is very much not the case. As an attorney turned entrepreneur and former corporate litigator, I can assure you that there are rules, there are real steps that everybody who runs or starts an online business needs to take.

Sam Vander Wielen: [00:14:29] And you're not behind at all. We can get you set up in following the rules right away. In fact, we can even do it today. I want to teach you the five very simple steps to take to legally protect and grow your online business. You don't need an MBA to be a successful entrepreneur and stay out of legal hot water, but you do need to dot your legal Is and cross your Ts in a few key areas that can't be skipped.

Sam Vander Wielen: [00:14:50] That's exactly what I'll teach you in my free one hour legal workshop called Five Steps to Legally Protect and Grow Your Online Business. Just head to mylegalworkshop.com, drop in your email address, pick the time, and I'll send you a link to watch the workshop video whenever you have time. This is the best place to begin if you're just getting started legally legitimizing your business, so head on over to mylegalworkshop.com and sign up to watch Five Steps to Legally Protect and Grow Your Online Business now.

Sam Vander Wielen: [00:15:19] Step two. If you have business insurance already, it's really important that you now turn around and send them any of the—either the lawsuit

On Your Terms podcast Episode 35:
What to Do if Your Business Gets Sued

papers, the letter that you got, whatever it is, email to them right away so that they can help, right? So, you're going to—and hopefully, maybe even after this episode, if I were you, then I would create like an Asana task or whatever you use for this. I would have a little link to your business insurance policy, or if you use Asana or ClickUp, put the PDF of your insurance policy document right there in the task so that you or somebody on your team in the future, this is like an easy way to start creating SOPs for your business. It makes it super efficient in the future.

Sam Vander Wielen: [00:16:00] You would attach a copy of your insurance policy, and in that insurance policy, there should be a notice section. I want you to go to that notice section and I want you to find out two things. One, how fast do you need to report something if and when it happens to you? Two, who do you contact? Where do you send this stuff? And then, you're going to go ahead and you're going to put that in your little list, in wherever you are keeping this kind of—we're kind of creating a little baby SOP here, which is fun. Well, for me, because I'm a dork.

Sam Vander Wielen: [00:16:31] So, you're going to create a little place for you to have this information easily accessible. The only thing I want to make a note of here is that if and when you get new insurance at some point, you're going to have to like re-attach your new business policy, maybe update the terms if the terms change. Okay. So, if you have a business insurance, now, you're going to follow those steps and you're going to send it to whoever you need to send it, wherever you need to send it.

Sam Vander Wielen: [00:16:58] Three is that you're also going to pull up your contract and any other associated business, like if there is an invoice, a contract, correspondences, like any of that kind of stuff, you're going to gather all of the information that would be relevant, anything that you think would be relevant to this, and you're going to provide it to either your insurance carrier or the attorney if they assigned you an attorney.

Sam Vander Wielen: [00:17:20] You would want any communications that you've had with the client, particularly anything that pertains to like this issue, like if they're not paying you, and they kept like DM-ing you, saying, "I'm going to pay, I'm going to pay",

On Your Terms podcast Episode 35:
What to Do if Your Business Gets Sued

or if they, I don't know, reached out to you, because they weren't happy about something, you just would want to send those over. That would be helpful.

Sam Vander Wielen: [00:17:38] The fourth and final thing that you would want to do—if you don't have business insurance, you would want to skip step two, instead of reaching out to your business insurance, obviously. If you don't have business insurance, you would contact a local small business attorney who could help you right away. So, if you don't have business insurance, first of all, I'd recommend going back and listening to the episode on business insurance, which I talk about in episodes four and seven.

Sam Vander Wielen: [00:18:04] So, we'll put those links below to On Your Terms. I talked about business insurance in those episodes. So, if you don't have business insurance, you go directly to an attorney. If you do have business insurance, your business insurance should, as long as they're going to take on coverage, meaning they're going to cover this claim, they should provide an attorney for you, and now, you'll be in correspondence with this attorney directly, right?

Sam Vander Wielen: [00:18:24] You won't really be going through the insurance carrier anymore, you'll be talking with this attorney. You do have an obligation if you want this claim to be covered by your insurance policy to stay in communication with this attorney, to respond appropriately, to be cooperative. So, if you don't do any of those things, they do kind of hold the right to deny the claim and stop giving you coverage, so you want to participate with them.

Sam Vander Wielen: [00:18:49] So, how could we prevent this from happening in the first place? I mean, I could dedicate lots and lots of episodes, but quickly, I wanted to give you a couple of tips on like how we could even prevent you from ending up in this very stressful situation to begin with. I'm a big prevention person, so let's talk about a few things that could have led to this point or helped avoid this point.

Sam Vander Wielen: [00:19:10] One are the contract terms, right? Your contract terms have to be clear. They have to be unambiguous. You have to be able to have a conversation about them. And as your business continues to grow, and evolve, and change, you have to continue to evolve your terms, and in your contracts, and your

On Your Terms podcast Episode 35:
What to Do if Your Business Gets Sued

policies as well. I've been in business for like six years, I'm still adding things to my terms.

Sam Vander Wielen: [00:19:34] Every couple of weeks, I'm changing something, editing something, because business keeps changing, scenarios keep changing, the way people pay, and all this kind of consume content changes, so we keep updating it. And whenever something does happen, I take it as a learning lesson and I update my terms accordingly, and then that helps me to avoid those situations in the future, right?

Sam Vander Wielen: [00:19:56] The second thing is that maybe this person's just being a jerk. It happens. And so, I wanted to insert this one, because it's not like—I understand it's not actually a tip helping you to prevent things, but I do want you to be kind to yourself in the process, because I just want people to know that like there's only so much you can do, right? Like most things in life, there's just only so much you can do. It happens.

Sam Vander Wielen: [00:20:21] However, on the flip side, you can also work on pre-qualifying these clients better, right? You can make sure that they are people who you actually want to work with, who actually need what you have to offer. And more often than anything, I think like if anything's going to lead to a lawsuit, it's going to be over payment, or something that you did that caused them harm or that they say caused them harm. And when it comes to both the payment issue or the harm piece, I think a lot of that can be weeded out through pre-qualification.

Sam Vander Wielen: [00:20:51] So, I'm going to give you a link below to—I have three free email templates for you that help you to onboard and pre-qualify clients before they get in a call with you or before they even maybe buy your program. You can use these free email templates to make them your own, but they're meant to help legally protect you in the long run by weeding these people out. So, I will definitely include a link to that below. They're called Pre-Qualified Before They Buy email templates, so I'll include that.

Sam Vander Wielen: [00:21:18] The third thing is that you always want to be coming back to your scope of practice and rethinking if this was something about someone alleging that you've like caused them harm, they had some bad, ill effect from working

On Your Terms podcast Episode 35:
What to Do if Your Business Gets Sued

with you, you want to make sure you didn't take on somebody who wasn't the right fit, or who needed something different than you could offer, or who you just never should have worked with for a variety of different reasons, but one of them may be being that they needed something different than your scope. They needed a therapist, a psychiatrist, a doctor, a lawyer, an accountant, and not whatever you might be doing.

Sam Vander Wielen: [00:21:54] So, that's something to continuously like evaluate, come back to. I would encourage you to listen to episode two of On Your Terms where I dive really deep into scope of practice to learn what you're legally allowed to do, talk about, teach, offer in your programs. I give you some tips on like how to still grow your business, but safely stay within that, so you would definitely want to listen to that. But often, I see the kind of like scary legal situations in our industry having to do with scope of practice and people just being out of their depth, and those email templates I was talking about are going to be helpful for that, too, so you're going to want to listen to that.

Sam Vander Wielen: [00:22:29] Alright. So, now that we chatted about this, do you feel any better? I hope you don't feel panicked, right? I think there's just something in knowing, maybe this is just me, I don't know, send me a DM, let me know if I'm alone in this, but at least for me, it's like there's only so much you can do about some stuff that happens in life, right? If you want to live a full and rich life, if you want to have your own business, be out there, be your own boss, like be doing work that you love, there's going to be risk, just like there's risk associated with working in a corporate job, too, right?

Sam Vander Wielen: [00:22:56] You can get fired at any time. The company can shut down. It can get bought. You can get a crappy boss. Like there are all kinds of risks no matter what we do in life, right? Sometimes, I think it's just helpful to like know what we're dealing with, right? Maybe it's the Philly girl in me, but I'm just kind of like, what's the deal? Tell me what the deal is. I just need to know, right? And I remember when my dad got cancer, it was just like—obviously, it was devastating and it knocked me the heck out, but I also was just like, okay, Doc, I just like need to know what's going on here, like don't bullshit me, just tell me what's going on, right?

On Your Terms podcast Episode 35:
What to Do if Your Business Gets Sued

Sam Vander Wielen: [00:23:27] There is a little something to that of just like, I just need to know what to do, and then we can like move on. Let's get back to creating incredible content, being great coaches, and service providers, digital product course creators, do your work, do not let this stop you, please, just get what you can get done and get back to business. You don't need to let this stuff stress you out. I swear. I am right there with you, giving you a hug, giving you a high five, saying like, you got this.

Sam Vander Wielen: [00:23:56] Thank you so much for listening. I hope you love this episode. And next week, I can't wait to chat with you about a little debrief of our recent multi, multi six-figure launch. We did it in like about a week. I can't wait to share some of my tips, my takeaways, what I would suggest to you, even on a much, much smaller scale or a bigger scale, what I would suggest to you, what I took away from it. I can't wait to chat with you next week. Thanks so much for listening to On Your Terms.

Sam Vander Wielen: [00:24:24] Thanks so much for listening to the On Your Terms podcast. Make sure to follow on Apple Podcasts, Spotify, or wherever you like to listen to podcasts. You can also check out all of our podcast episodes, show notes, links, and more at samvanderwielen.com/podcast. You can learn more about legally protecting your business and take my free legal workshop, Five Steps to Legally Protect and Grow Your Online Business at samvanderwielen.com. And to stay connected and follow along, follow me on Instagram at Sam Vander Wielen, and send me a DM to say hi.

Sam Vander Wielen: [00:25:03] Just remember that although I am an attorney, I am not your attorney, and I am not offering you legal advice in today's episode. This episode and all of my episodes are informational and educational only. It is not a substitute for seeking out your own advice from your own lawyer. And please keep in mind that I can't offer you legal advice, I don't ever offer any legal services, but I think I offer some pretty good information.