

# TRANSCRIPT

## On Your Terms



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Episode #: 188

HOW TO PROTECT YOUR ONLINE BUSINESS IN 2024

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Sam Vander Wielen:

Hey there, and welcome to the On Your Terms Podcast. I'm your host, Sam Vander Wielen. I'm an attorney turned entrepreneur who helps online coaches and service providers legally protect and grow their online businesses using my DIY legal templates and my Ultimate Bundle program. So, on the show each week, I bring you fresh tips about how to legally protect your business and grow that business On Your Terms.

In this episode, I'm going to go over the three steps to legally protect and grow your online business. So, this episode is perfect for you if you felt super overwhelmed in the past, if you've taken in way too much information, Googled too much stuff, and you're very confused about where to start and what to do to legally protect your business, then this episode is for you because it's not overly complicated. I keep it super simple. I tell you exactly just what you need to know in this episode, and what the first three steps are that I would take if you haven't done any of the legal stuff yet or you haven't done very much for your business.

So, this is both for you if you're just starting your business or if you're just starting to legally protect the one that you've already got, I'm going to keep it super basic, 30,000 foot view for you here, nothing scary. Judgment free zone, I swear. And with that, I can't wait to get into these three steps. So, let's get into it.

So, when I left the law firm and I started my own health coaching business back in 2016, you know, I was very fortunate and actually registered and kind of did all the legal steps I'm going to teach you today before I left the law, when I dropped down to part-time for six months and started saving and cutting expenses and doing all the stuff preparing to leave and start my own business, and I took these very first startup steps that we're going to go over today.

But I remember dealing with all the forms and the fees and doing things in the right order. And having to call the state and deal with the people who are not always the most helpful, sometimes can be helpful, you never know, it depends who you get. But dealing with that whole process, I remember thinking if I wasn't an attorney, this would be extremely overwhelming. I probably would just ignore it entirely. So, I can really identify with you if you're someone who's just been trying to figure out this legal stuff, trying to figure out where to get started, how to do things in the right order. You've heard maybe a million different things and you don't know what is true, what's not, what applies to you, the way you have to do things because of the kind of business that you have or where you live. And all of that confusion and overwhelm and anxiety leads to sometimes inaction. And I get that. I don't judge you for it. I'm not shaming you for it. That is not at all part of my business. It's definitely not part of this podcast.

So, I wanted to record this episode for you today as a real, like, 30,000 foot view of what are the three steps, the first three steps to actually legally protecting or legitimizing your business, whether that's because you're actually just starting your business now or soon or you've maybe started your business but you haven't legally started it, you haven't done any of the legal stuff yet, then, essentially, you guys are in the same boat, and so today this episode is for you. It's about the three most basic things, the three essential things that I would love to see you have done for yourself so that we can protect you personally, protect your money, protect your business, your clients, everything.

So with that, I know that there is so much bad information out there online. I talked about that in Episode 4 of the podcast when I went over the worst myths that you see online, the most dangerous legal myths when it comes to running your online business, so definitely check that out if you want to learn more about that. But there is so much bad information online and there's also so much information online that doesn't really apply to you and what you do, like it's really outdated or maybe you find stuff that applies to a brick and mortar business or you find things that apply to your professional license. Like if you're a nurse but you're trying to

start a coaching business, you'll find stuff about creating your own practice, but not about creating your own coaching practice.

So, there are a lot of things you can find online but that aren't necessarily helpful and relevant to you. And so, what I have found in my last four years of having this business and of working now with thousands and thousands of people all over the world is that what ends up happening is that you wait and you spin your wheels and you go into that inaction mode because you're kind of stuck in place. You're not really sure where to go. It's like you're frozen. So, what I see often is that people stick their head in the sand and they're like, "Well, if I just keep ignoring this then I don't have to worry about it." Or sometimes what I see - and this part makes me sad - is that people will say, "Well, if I keep the business kind of small then I don't really have to worry about all this legal stuff because who's going to sue me if I only have five clients or if I only make \$5,000 or something like this."

But why would you want to stay in that place? I don't think you truly want to stay in that place. I don't want you to stay in that place if you don't want to, especially if the only reason that you're keeping your business small or quiet and kind of hidden is because you're afraid that you don't have legal stuff in place. There's no reason for that. We can fix that really easily.

So, today's episode is all about just the basics. We're keeping it simple. This isn't going to be a super long episode. And a lot of times people come to me having done these out of order. And because they've done them out of order or they've skipped a certain step, you actually end up spending more time and money in the long run fixing it. Or what I also see is that people will pay a service or some kind of like big online platform, a ton of money to do some of these things for them, or to do things that we're not going to talk about today because they're not actually necessary, and then it's like they're not even done right or they weren't even required in the first place.

So, what I really want you to walk away with today is just a basic understanding of what I call my legally legit trifecta method. So, I talk a

lot about protecting yourself holistically. Maybe this is the – I don't know – preventative person in me or the still health coach that I used to be in me or something, but I like to think about a well-rounded approach to legally protecting yourself and your business because a lot of times what you will see are things being thrown at you just to protect one part or another. Like have a contract, and that's great, but if you don't have your business formed properly, you personally can be liable for whatever happens out of that contract. Or like have insurance but don't worry about an LLC. It's like, well, great, but your personal assets are still at risk.

So, it's really kind of complicated in the sense that these things all work together to protect you all around, and that's really my approach. It's nothing scary. I'm not going to yell at you or judge you. If you haven't done these things yet, it's okay. No time like the present. So with that, let's go over the three things, the three steps that you should take to legally protect your online business. And when I'm talking online businesses today, I'm primarily talking to those of you in the service industry online, so coaches, creatives that provide services, consultants, other service providers in the online industry.

So, the very first thing that we do in our legally legit trifecta is to actually form our business. Because without forming our business, we don't really have a business. We kind of have an idea, or a hobby, or a website, or a social media presence, but you don't have a full fledged business until you've registered it. Now, for those of you who are in America – and I'm an American attorney and licensed in America, that is what I am familiar with, it's really the only place I'm familiar with – you form your business in the state where you live and work. So, every state has its own business registration process. They all have different kinds of business entities that you can register your business as in that state. But that is on its most basic level how you form your business.

What I always recommend when you're starting out is that you literally Google, like, Pennsylvania Business Registration. And the only website that you go to, if you hear nothing else from me today, please hear this, the only website you go to – every state calls it something different – essentially the website that's the official state website. Don't go to all

these blogs and legal services websites and all that. Like if you type in Pennsylvania Business Registration, just go to Pennsylvania's website. Just for now, we're just doing some research, some figuring some stuff out. And I want you to look at whatever your state is. So, you Google your state name and business registration, I want you to look at what all the different entity options are that your state offers you to register your business. And so, that might look like sole proprietorship, an LLC, corporation, partnership, all these different kinds of business entities.

All that those are, those things that I just named LLC, sole proprietor, corporation, those are just all different kinds of business entities. Essentially, they're different types of businesses that you can register in your state. Every state has them. Every state might have a couple of different pros and cons because states have passed different laws regarding those different entity types. For example - not to get too dorky and granular - LLCs are what they call state created entities. So, every state has an LLC law, which means that the laws are a little bit different for LLCs and what it means to be an LLC, and what the privileges are, the benefits, the responsibilities, what the member's responsibilities and privileges are, which you're a member of your LLC if you register one.

So, it's important that we kind of start off with this step number one of Googling state name and business registration, because what is important is not what Becky told you on the Facebook Group about her LLC. What is important is what your state offers, and what your state says that the pros and cons are, what your state says that the registration process looks like, what the fees are, what the pros and cons, benefits, responsibilities, all of that kind of stuff, that is what you need to get familiar with first because that is step number one, is forming your business in your state.

And by doing so, you have to choose what kind of business you want to be. Do you want to be a sole proprietor? Do you want to be a corporation? Do you want to be an LLC? There are pros and cons. I could do whole episodes on all of those kinds of things and everything. But, really, today I just wanted to speak with you about the most basic startup steps, which are to get into this research phase and figure out what are the options available

to you, what are the pros and cons, how does that work for you, what does that look like cost-wise, what are the benefits, all of that kind of stuff.

Now, in our industry, in the online business industry, sole proprietorships and LLCs tend to be the most popular and the most commonly registered business entity types. And so, that's for many different reasons. One, they're the most accessible and easy to register. But it's also because we've heard probably over and over again how many other people in our industry have registered similar kinds of businesses too. So, you'll sometimes just see people saying like, "Well, go get a sole proprietorship because that's what I got," and then I kind of see that snowball in a Facebook Group or something like that, and so that's why I really want you to get clear on what's best for you and not just what works for everybody else.

Okay. So with that, stepping into step number two, we're going to look at then getting business insurance. So, once you've formed your business, you've registered yourself as a sole proprietorship or you've registered an LLC or whatever it is that you've gone ahead and done, we want to get business insurance. Because what business insurance does is protect you financially.

So, in step number one, when we're talking about forming your business, the purpose of forming your business is actually not only to legitimize your business, but it's also to protect you personally. So, we want to kind of separate you as a person from your business because we don't want you as a person to be responsible for the actions of your business or any liabilities, debts, things that come from your business. So, a sole proprietorship, for example, we were talking about in step number one, that does not provide you any of that personal liability protection. There is really no separation between you and the business when you register your business as a sole proprietor.

The reason that LLCs are so popular is because LLCs do provide what's called limited personal liability protection. Now, in some states in America, some of them get a little finicky and they say like, "Well, if you have an LLC and you own it by yourself, you don't get as much of that

separation. Others do provide it." So, it's really a state by state basis. I can't obviously offer you that guidance, but you can look into it to see what your state offers in terms of protection for an LLC, what's called a single member LLC.

But essentially with step number one, we were most interested in providing you that kind of wall between you as a person and your business so that if your business got sued, or owed money, had liabilities, you personally wouldn't be on the hook for that money.

In step number two, though, the reason that we then have to get business insurance is because even if you got sued and you set up the business, you formed the business properly so that you're not personally responsible for the debts or liabilities of your business, you really don't still want your business to be financially responsible for it either. It's kind of like we don't want anybody to be financially responsible because there aren't very many businesses out there that I know of that could sustain a lawsuit. There are hundreds of thousands of dollars, attorneys are super expensive, hundreds of dollars an hour and the bills never end.

So, with business insurance, our real goal here is to protect your business financially. So, how do we do that with business insurance? Well, just like any other kind of insurance, you get business insurance that covers the kind of work that you do. So, now, if you're a coach or a consultant of some sort, usually we have what's called professional liability insurance and that provides insurance for the work that you do, things that come as a result of the work that you do. So, you suggest that somebody goes off and does something, tries something, they have a bad experience, they have some negative reaction, they lose money, I don't know, whatever happens, then they come back and sue you for it, that's the kind of thing that professional liability insurance typically covers. So, in the coaching industry, that's really popular.

Another form of business insurance that some of us have is commercial general liability insurance. So, it's really about figuring out which kinds you need. Obviously, that is best left to a business insurance agent to tell you, not for me to tell you, because somebody really needs to look at

what you do, how you do it, how you deliver it, how you work with people, where you work with people, if you see people in person, if you see people in an office, if it's all virtual, if you do exercise. It's all different.

But the point with business insurance is that it would financially protect you should you ever get sued or threatened to be sued because your business insurance would provide you with a business defense attorney and then cover any settlement or judgment that's found against your business for anything that you got sued for that's covered by your policy. So, it's just like any other form of insurance, you actually have to have insurance that covers the thing that you're sued for or that happens. As long as that happens, they will pay for this stuff minus your deductible. So, we always want to know just like you do with your car insurance or something, you want to know your deductible because the deductible is the part that you are responsible for so they pay over that. So, if it's a \$1,000 deductible, that means you have to pay \$1,000 if, say, you got sued in order for your coverage to kick in and for them to pay anything over that.

So, it's really important that you know your deductible. It's really important that you know your policy limits, because that's the amount of money that your insurance company will pay up to. And, obviously, it's important that you know your premium because the premium is how much you're going to pay each year regardless of whether you get sued or not or regardless of whether you get a nasty letter from a lawyer or something like that.

So, business insurance is super important because that is what financially will pay the bills if anything happens. And so, I really encourage people to seek that out as soon as you're ready to work with people. For me, I think business insurance is like the biggest sigh of relief because – and I've talked about this in other episodes and in my content elsewhere – you can't really control whether or not people sue you or whether someone hires a lawyer and sends you a scary letter. But if you have the stuff in place that we're talking about already, like you have your business formed properly so that you're not personally responsible for it, and then you have the right kind of business insurance so that you're not financially responsible for it, I don't mean to downplay getting sued or how scary that



is and definitely how stressful it is. But at the end of the day, my goal really is that it wouldn't impact you that much. Hopefully, if you're starting to see this take shape, I don't want to obviously ever get sued and I hope that nothing happens, and the truth is that probably it won't. Lawsuits aren't like flinging around in this space like crazy, but the point is that if it did, you've pretty much done what you can do to control the damage and make it so that it wouldn't ruin your life or your business.

So, step number one, we are forming our business. Step number two, we're then protecting our business financially with the business insurance because business insurance is going to pay for our attorney. They're going to pay for the judgment or settlement found against us as long as we're sued for something that's covered by our policy, obviously. And then, in step number three, we're rounding out this protection with proof through a contract. We're rounding out protecting ourselves with written proof through a properly signed and sent contract.

So, it kind of depends on what you're doing, but obviously, however you're working with people, you want to use a contract. If you're working with people in like a one-to-one coaching or consulting capacity, then you want to use a coaching contract that you actually have people sign, not something that you have people check off a box to or anything like that. Anytime we're offering actual information advice, we're working with people directly, I want you to get that stuff signed as much as possible. If you're offering a group program or a mastermind, same thing, you'd be offering a group program contract for people to sign, properly sign, not just check off a box.

And then, if you're offering something that's more like a digital product or a course, so something that people buy without you being involved, something that's maybe selling evergreen, on autopilot, and they can buy it when you're sleeping, as I always say, which is the goal, then you can use what's called terms of use, which is something that people agree to. So, it's a contract essentially that they agree to at checkout through a checkbox or something similar. And that is the best way to capture a contract when somebody's buying something on autopilot. But we do not want

to use that method when we have the opportunity to have somebody sign something.

The other thing that I need to tell you about getting people to sign contracts that's so important is you can have the best contract in the world, but if you don't send and sign it properly then it won't be enforceable, so it's like you didn't have it anyway. So, you can send contracts for people to e-sign. Of course, e-signatures are relatively pretty enforceable these days. And you can do that, however you do need to use what's called an E-SIGN Act compliant platform. So, you can't just send somebody a contract through Word and have them type in their name and call it a day. It does have to be through proper means.

So, something like HelloSign, AdobeSign, whatever all the other sign companies are, those are really great options because they provide the metadata behind someone's e-signature that you're required to have on file or have access to in order to prove that someone properly signed your contract. Because otherwise, someone could just say like, "Oh. I never signed that," or something like that, and now these companies can actually go and say, "You signed it on this day at this time in this location on this computer from this IP address," they have a lot of data. So, that's what we need. So, that's about sending it properly - sorry, about signing it properly.

In terms of sending it properly, the thing that you need to know about properly sending contracts so that they actually are enforceable is that contracts have to be offered to someone at the time that they are making payments. So, you can't withhold a contract if and only if someone pays you.

So, for example, one of the things I see in our industry a lot is that people will be, "Here's your invoice. Once you pay that, then I'll sign you a contract." You can't do that. That is not going to make that contract very enforceable. Or it could just make it so that someone could easily get out of that contract, which you don't want. The reason being is that you essentially need to know what the terms are of something when you're agreeing to it.

So, if you go to Nordstrom and you're going to buy a pair of jeans and those jeans are final sale, there will be a final sale sticker on those jeans. And then, when you go up to the checkout person, they will say to you, Do you know that these jeans are final sale? And you say yes or no or whatever. You pay, and your payment is considered acceptance of those terms. That's like an offer, a term that they gave you when they told you final sale. You paying is acceptance. And to get legally nerdy about this, in order for there to be a proper offer, there has to be offer acceptance and consideration. So, the offer was them saying, here's these jeans with their final sale, the consideration is that you would get the jeans. That means that you received something. So, you actually get the jeans as consideration and your acceptance is you paying. So, that is a properly formed offer and acceptance of that offer. That's an agreement.

The problem would be if you went to go buy those same jeans and they were final sale, but it never had a sticker and nobody ever said anything to a checkout, and then you paid for the jeans. And then, as you were walking away, the checkout person said to you, "Oh, by the way, those were final sale. Ha, ha," that would not be okay. Same goes for the way that we do business online. You cannot do the ha-ha thing and you cannot have people pay for something and then afterwards be like, "Okay. Now, here are your terms in the form of a contract." So, all of that stuff has to be presented to them at the same time.

So, you don't need to get too crazy. Some people will start sending me messages and be like, "My email for the invoice goes out two minutes before the contract." That's not what I'm talking about. Or like people will write to me and be like, "They go in separate emails, is that okay?" That's not what I'm talking about. What I'm talking about is withholding a contract if and only until someone pays you. That is what you cannot do. So, you at least have to make the terms, the contract, whatever, available to the person when they can pay. If they choose to pay first and then sign, that's fine. It's just that you can't withhold the terms. So, whether you do this in one email, you do it in two separate emails, it doesn't really matter. The point is that they just have to have access to it and then they can kind of do with it what they want. I would encourage you to use a system

that's streamlined. If you can get it to one email that says, "Hey Jess. Here's a copy of your invoice to pay when you're ready and a copy of your contract to review and e-sign. Please take your time to review it, send it, and sign it back to me. I'll sign it, and then you'll have a completed copy for your records." Personally, that's the way that I would suggest doing it.

If there's really some reason that you can't do it that way, you can send it separately or whatever, but just please, for the love of all things, don't withhold it from people until they pay. That is a no-no. And please, please do not take payment over the phone. Do not take payment over the phone. Do not take payment over Zoom. You should not be in possession of people's financial credit card information, bank information. That is a huge no-no. Send them a link to an invoice, send them a link to a PayPal, I don't care what you do, just don't personally take possession of their information.

So, those really are the three startup steps to legally protecting yourself. To quickly review, we form our business in the state where we live and work by choosing a business entity type that works for us in our state and then we follow the proper registration steps there. We get business insurance that covers the work that we do, and we find out what our deductible is, what our premiums are, obviously, and what our coverage limits are. And we get a legit contract for the type of work that we're doing and we make sure we send and sign them properly so that they're actually enforceable.

I think that this is like a really good start to this, but we do need to dive deeper when you're ready. So, if you're ready, let me know. But especially with the formation step, I can help you a lot if you're like, "Okay. Now I've done the research, I don't understand should I get a sole proprietorship? Should I get an LLC?" or maybe you're like, "I want to go in the LLC route, but I'm not sure how." But in order to dive deeper into forming your business, we need a little more time, we've got to sit, we've got to have something to drink, too, like tea or coffee, I mean. So, we have to have that. We also need to talk about your website. And we have to talk about making sure that we protect your content as well. And I have got

to talk with you about the biggest mindset shift that I need you to work on if we're going to not only legally protect this business, but grow it too. And those are all things I'm going to go over in my free live legal workshop called Five Steps to Legally Protect and Grow Your Online Business.

With that, if this episode was helpful, send me a DM, let me know on Instagram, @samvanderwielen. You can share this episode by screenshotting it and tagging me in it, @samvanderwielen. And if you haven't already, please love the show wherever you listen to podcasts by following, leaving a review. It would mean so much to me and the rest of the community.

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