

TRANSCRIPT

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Episode 197:

4 THINGS I'D NEVER DO IN MY BUSINESS (AS A LAWYER)

Sam Vander Wielen:

Hey. Hey. And welcome back to On Your Terms. I'm your host, Sam Vander Wielen. And today we are talking about four things I would never recommend that you do for your online business, legally speaking. Since I'm a lawyer and all, I figured I could share. So I'm also going to share what I would do instead. So don't worry, I won't leave you hanging today.

So as I'm recording this, the Australian Open for tennis is going on and I'm just always so excited for like the tennis season to start again. And maybe you've seen the Netflix series Break Point. If you haven't, even if you don't like tennis or pretty much even if you don't like sports, a lot of my friends actually watch Break Point and love it.

It's a series that follows both men and women around on the tennis tour and really gives you an inside look into the back end of their life as an athlete and what it's like to play in these grand slams and all of that good stuff. And so last night, the new season came out on Netflix and they're about a year behind. So the first episode opens with the Australian Open which was happening last January and funny enough, the 2024 Australian Open is happening right now, but it's about a year behind.

And so it was showing this one player's incredible player, Aryna Sabalenka, who I really like. She's really, really strong, super athletic. I think she seems like really cool behind the scenes. And one of Aryna's biggest struggles as an athlete has been with her mindset and with maintaining her cool, not letting her head really get the best of her in games. Like she has the physical part down, right?

So I thought it was so interesting last night in the episode, if you watch it, you'll see, that they were showing Sabalenka last January going through the Australian Open, making it to the finals. And they show her team and her warmup routine and her rehab routine and workouts and all that kind of

stuff, which I love. And they were showing her team. She has like all these -- she has therapists on staff. She has physios. She has a personal trainer, all of this stuff.

And the person who's the head of her team was telling one of the physios actually that he needed to be really careful what he said around her. So the physio had said, I'm not going to sleep tonight. I'm so nervous because it was the night before the finals. And the guy who's the head of Sabalenka's team said, you know what, you can't say that around her because when she hears that she's going to think, oh, he can't sleep. Well, that's because there's something to be nervous about. Well, I should be nervous. It's the finals.

Long story short, I know that we're, most of us, at least. I hope there's somebody listening who's a professional tennis player. That would make me very happy. But I know most of us are not professional tennis players or professional athletes, but you know me, I like to take things and kind of big picture things and I like to distill them down into little things that can apply to what we do.

And oftentimes, you might see me on social media sharing about my daily workouts or how I'm eating or making sure I'm drinking enough water. I work with a mindset coach, Jen Diaz. I'm in her -- I work with her privately, but I'm also in her Java method, which I highly recommend. It's a great like starter mindset investment. And I'll make sure I link to it down below. I'm not an affiliate or anything like that. I just really love it and believe in it. But you see me taking care of myself in these different ways, also going to therapy, all of these things.

And that is not by accident. That is an athlete mentality that has come with me from having previously been an athlete at a pretty high performing level that I think it is very important for us to treat ourselves this way, right, to protect ourselves not in a way that like no one can ever say anything to you that's too difficult or anything like that. But like what are you taking in? What are you consuming? What kind of people are you surrounding yourself with? What are you reading? What kind of things are you doing that are even free? I mean you can find free meditations and visualizations and you can journal for free. Just grab a piece of paper.

Like there are lots and lots of things that we can do to be processing things but also like protecting ourselves. And I like to treat myself like I'm getting ready for the big game.

So I just thought I would pop this in here. This is not a mindset episode or anything like that, but I just was watching this episode last night and thought of it. If you like this kind of stuff, you're definitely going to like Thursday's episode that I have coming for you because it's going to be a little mindset, motivational, tip-oriented episode.

So before we get into today's episode, I just also want to quickly remind you that I have my free live class coming up on February 20th and 21st called How to Protect Your Online Business in 2024. I'm hosting it live both days, two different times. So hopefully you can make it live. If you can't make it live, make sure you sign up anyway, because that's the only way to get the replay. I won't be sending out the replay anywhere else. And I don't currently have any other live webinars on the rest of the schedule for the rest of the year. So if we even did one, it would be late this year. It would be at the end of the year.

So this is your only shot to come to this class. The cool thing about this class too is that I'm going to be giving a little State of the Online Business Union address at the beginning, letting you know about some of the changes that are coming in the online business industry, changes that are happening with online business laws, et cetera. So I hope to see you there. Make sure you sign up. The link is in the show notes.

So I wanted to bring you this quick episode today on four things I don't recommend as a lawyer because I see people doing a lot of things wrong on social media or when they write me emails and things. And I'm not trying to judge or shame. It's just that people don't know any better. So I'm hoping to take four of the things I see people accidentally doing most often, and we're just going to reverse them and talk about what you would do instead and why.

So here are the four things I would never recommend that you do as a lawyer for your online business. The very first thing I would recommend you not do is wait to form an LLC, or really wait to Legally legitimize your business,

way to register your business. But the reason I said LLC is because a lot of people don't know that the benefits of an LLC are so much greater than maybe a sole proprietorship, for example.

So instead I would learn what the benefits are of an LLC and form your business as soon as you can. What you don't want to do is rely on these old myths or these inaccurate myths that are like, oh, my business isn't that successful yet. I don't have that many clients yet. I haven't made that much money yet. Right? None of those things factor into whether or not you need an LLC. You need an LLC or you need to form your business. Let's just put it that way. You need to form your business.

If you have a business, the law judges any of that kind of stuff, none of them care about how successful you are, how profitable you are, or how many people you work with or how long you've been in business. None of that matters. It's the fact that you've hung a shingle, digital or otherwise, that forces you to have to register your business.

Now, registering your business is a really good thing, which is what bugs me about like people kind of putting it on this pedestal and putting it off because I'm like, actually it's really, really good for you to register your business because you're going to get all of these benefits that you're not currently getting. So when you register your business, you're going to be able to capture business expenses, for example, so that you can reduce your taxable income. This is great for you if you have another job elsewhere, or if you file your taxes jointly with a partner or a spouse. Because you're going to be able to bring down that taxable income if your business is currently not profitable, right?

So a lot of people will use the excuse to say well my business isn't making that much money yet to not register their businesses. But in fact, that would be a benefit because let's say you made \$50,000 in a job elsewhere, you're filing your taxes and you owe however much, you're going to be able to bring down that amount that you owe taxes on by, let's say you spent a thousand dollars in your business. So you were negative \$1,000, you're going to be able to reduce the amount that your taxable income is owed by a thousand dollars. So that could be a good thing, right?

There's also the legal side of it though, which is that when you have an online business or a business in general. You need to be legally protected as a person. So when you start a business, if you don't register a business, um, especially as an LLC, you're personally legally liable for whatever happens as a result of that business. So that means if your business got sued, yes, by even just your first client, even though you're not profitable, that means you're personally on the hook for that lawsuit, right? So they can come after you and your personal assets. And if you don't have personal assets now or yet, they will put a lien on you. Right?

So the purpose of registering your business is to keep you personally protected. It doesn't really have anything to do with how profitable you are or how many clients you have. Now, I know you might be thinking, well, yeah, but the point of what I'm saying when I say I don't register my business because I'm not profitable or don't have clients yet is that I can't afford to register my business yet. That's a different story. That's something I find myself writing a lot about actually in my book that I'm writing right now, but this is part of what needs to be budgeted to start a business. This is the most important part, right, to form it because you really don't have a business until you do this.

So what I would love to see is for this to be a budgeted part of what you need to save up for in order to start a business. And you don't start working with people until you have this. That's what's really, really important. And if you come to my free live class next week, I'm going to be talking with you a lot about how to actually go through step by step and form your online business. So make sure you sign up for that class if you haven't already.

The second thing I would never do as a lawyer is mix my business money with my personal money. So if you already have an LLC, it's actually legally required that this money is kept separate and that you have clear, like organized financials for your business that theoretically the government or your accountant or whoever, or a lawyer could access and clearly see at any time that you have a business, you're keeping it super clean, this business is legitimate, and that is required of you. So that's not even an option. But if you've already like started making some expenses and you're mixing everything all together, it's going to get real confusing real fast.

Now, I wanted to mention really quickly for any of you who are incurring expenses and you haven't registered your business yet, that makes sense, right? Because you don't have anywhere to charge them quite yet. That's when it's really important that you keep track of what personal expenses you have versus what expenses you're making that are going towards your future business, the business you haven't registered yet. You can capture those pre-registration business expenses and you can actually count those as business expenses once you form, if you form your business soon. Right.

So if, for example, you have to pay to form your LLC before you have it, obviously you have to pay for it. If you have to pay for that, or you have to pay to buy your domain name, or a lot of people, for example, buy my legal templates or the Ultimate Bundle, because they use it to learn how to set up their businesses, that stuff can all still count as business expenses. So your business money and your personal money might be mixed right now, but you need to keep clear track of it at least so that you have some organizational system, right?

Once you form your business, that's when I'm talking about how like once you actually establish a business, you can't mix business money with personal money anymore. Instead you need to keep your business money separate by following the steps that I'm going to talk about next week in my free live class and set up a free business checking account, maybe even a business savings account or multiple accounts so that if you're using like the profit first method or something and setting aside money for taxes.

But you want to follow the steps that I'm going to go through next week to set up a business checking account and all of your charges related to your business, go through that. All the money you make from your business, flow into that account. And we can even talk about how to pay yourself next week, if you want. You can come to the class, you can ask me live. But the point really is to keep everything separate.

The third thing I would never recommend as a lawyer is to create your own contracts. So creating your own contracts is not a good idea, unless you're a lawyer. So there are a lot of more things that go into contracts than

people think. I mean I'm always the first one to say like the fancy legal language is not so required as people think. That's not really the point. It's more the different sections and like provisions that are included. So often what I see when people try to make their own contracts is that they're missing a lot of stuff that might look like it's full of a bunch of legalese, but in reality, are things that actually protect you.

So for example, I once had someone who, before she purchased the Ultimate Bundle, she had used some kind of like freebie contract that she had gotten from a friend or a coach online. And she thought it looked legit. It was really long, right? I think people also make the mistake of thinking that if contracts are really long, they must be legit. And that's not true. They don't need to be long to be impactful. Mine are not that long.

And so she used this free contract and it was actually missing a venue and choice of law clause or both clauses. And she, it was in the State of Washington. Her online client was in the State of Florida, and she actually ended up getting sued by this client in Florida. She was not a super huge business. She wasn't super-duper profitable. She didn't have a million clients. She had a handful of clients. She got sued by this client in Florida and because she was missing a venue and choice of law clause, which are super important legal clauses to have in your contracts and are included in all of my legal templates, she was able to be sued in Florida. And her relationship with this client was subject to Florida law.

In reality, what should happen is that since you're the coach or the service provider and you're the one that's sending the contract, choice of law and venue clauses, for example, would establish that if there was ever to be any sort of legal fight between the two of you, it has to take place in your state, so you get to control that. You would actually put in the venue and choice of law clauses that, in this example, the State of Washington would control. And you get to choose which state's law applies to that contract, so that's the choice of law clause. So that said, that Washington's laws, for example, would have applied to their contractual relationship.

Instead, in this case, because she didn't have it, she not only got sued in Florida, which meant that she had to travel to Florida, hire a lawyer in

Florida, it cost her a lot, lot more money, but she also had Florida's law apply to their relationship, which was less favorable to the coach. So I think that's a good example of how, like, something seemingly very silly and simple was just missing. And venue and choice of law clauses are just like one example of many, many I could give you of things that if they're missing, you're just like SOL.

So you need to get contracts that are from a legal professional, from an attorney professionally drafted. So at least you know that they all have like the right provisions and the right things in them that you need. Ideally, you can customize them to make them your own, right? I mean, that's what I tried to do with my legal templates. You just fill in the blanks with your personal information. And then you could always have them reviewed by a local to you attorney if you really wanted to, just to make sure that everything is locked solid.

The fourth and final thing I would never recommend doing as a lawyer is acting like you can do whatever you want in your business because it's an online business, thinking that this is the wild, wild west, that there are no rules, that things are so like up in the air. I think what I see so often is that I see these kinds of myths being perpetuated that people think like, there are no rules. Like online business is so new. Nobody even knows what to do. That's actually not true, right?

So for one, as I always say, in the law, you would never go to -- I was a corporate attorney, right? I would go to court all the time, stand before judges, get yelled at, all this kind of stuff. And I can tell you with absolute certainty, there would never have been a time I would have been able to go to the judge and say, well, there's no law on this. They would have made a law apply, right? They would find something. They find something and they apply it. It might not be in the perfect circumstance, but there is a law.

And what we're doing online is not that weird, right? The only thing that might be a little bit murkier is when we get to talking about scope of practice. But when it comes to contractual stuff, like you sending a contract to a client, them not paying you, them saying they're dissatisfied with your service, them saying they hated your course, them saying that

they experienced some harm as a result of working with you or taking your course, that's like tried and true. We've got laws for that, right?

When it comes to scope of practice though, people still make the mistake of thinking that there are no rules. So remember, scope of practice is what you're legally allowed to do and not do. Right? So that's where every state has regulations and rules regarding who's allowed to do what, right? Only lawyers can do legal work or give legal advice. What does that mean? Only doctors can prescribe things and practice medicine. What does that mean? So every state defines that, right?

What people make the mistake of thinking is that if they're not in a profession that's like clearly defined by a state or their state, they think that that means that it's open season. And that is not the case. Instead, I always teach that I recommend following like the umbrella method. Instead, if you're, let's say a career coach or a wellness coach, fitness coach, you instead look at the umbrella professions around you, maybe a therapist, an accountant, a physical therapist, that kind of stuff, a doctor, those things are all clearly defined by your state. And so those things need to be respected and followed. And you can't do any of the things that only those professions can do.

It doesn't mean that you can do whatever you want just because your state doesn't define it. So instead, you need to learn your scope of practice and you need to find out what legal things you need to do in your business beyond just having some contracts and website policies. You need to know how to talk about what you do and what you can't do. You need to learn how to navigate sticky client situations when somebody, even though you like took them on as a client correctly, they kind of push you in a bad scope of practice direction, you need to figure out how to navigate this on social media and with your copy and your website.

Luckily for you, I tackle not only all of these things in my Ultimate Bundle, there's a training on, many trainings on scope of practice and how to navigate these things, safe copy for your website, et cetera. But I'm also going to address this in next week's free live class, How to Legally Protect Your Online Business in 2024. So if you haven't yet, you only got a

few days left to sign up. You only have until the 19th, so go down and make sure that you sign up with the link in my bio.

So I hope you enjoyed today's episode. I don't recommend doing many of these things. Hopefully, I gave you the right side and the right way to do things instead. I would love for you to reach out on Instagram and let me know if you signed up for my free class. Just send me a DM, say I'm in, I signed up. Let me know because I get so excited for this. I need your energy. I need your excitement about it. I want to know that I'm not showing up by myself. So come over on Instagram or respond back to my email if you're not on Instagram, hit reply. Let me know that you're coming. I can't wait to see you there. And I'll talk with you on Thursday. I've got a brand new episode for you coming on Thursday.

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