

# The Ultimate Pitfall: Tips to Avoid a Lawsuit

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# The Possibilities

- Contracts
  - Business partner problems
  - Business relationship problems
- Employment
  - Worker's compensation
  - Discrimination/sexual harassment
- Intellectual Property
- Personal injury
- Statutory violations

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# Business Partner Problems

- Contractual problems
  - Profits
  - Losses
  - Responsibilities
- Dissolution
- Valuation issues
- Deadlock
- Other issues

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# Business Relationship Problems

- Contractual
  - Performance problem
  - Payment/collections issue
- Declaratory judgment
  - Guidance from the court
- Collections
- Business interference
- Deceptive practices

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# Worker's Compensation

- Injury to employee on the job
  - Ability to return to work
  - Permanency of the injury
- Lost wages while out of work
- Medical bills
- Other issues

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# Discrimination/Sexual Harassment

- Protected classes
  - Race
  - Age
  - Sex
  - Familial status
- Harassment at work
  - Improper sexual advances
  - Off-color/offensive jokes

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# Intellectual Property

- Trademark infringement
  - Service Mark
  - Registered Mark
- Trade secret theft
- Copyright abuse
- Patent infringement

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# Personal Injury

- Customer's injury
- Employee's injury
  - Trumped by Worker's Compensation?
- Passers by injury
- Agent causing injury off premises
- Product liability

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# Statutory Violations

- Illinois Statutes
  - Consumer Fraud Act
  - Industry specific regulations
    - Insurance agents
    - Real estate agents
    - Attorneys
- Federal Regulations
  - HIPPA
  - Securities laws
  - EPA

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# How does it start?

- Service of Process
  - Service on agent of defendant
  - Service on the defendant
  - Service on registered agent of a corporation
- Notice of the Complaint
  - The allegation
  - The venue of the suit
  - Deadline to reply

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# I just got served, now what...

- Generally, must reply within 30 days
  - Answer or otherwise plead
- Contact a lawyer within that time
- Otherwise plead, object as to:
  - Improper service
  - Improper venue
  - Improper complaint
  - Other technical problems

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# Federal Court

- Jurisdiction
  - Diversity of Citizenship
  - Damages over \$75,000
  - Constitutional issues
  - Bankruptcy Courts
  - Certain other specialized courts

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# State Court

- Jurisdiction
  - Where dispute arose
  - Where defendant resides
- Many different courts
  - Circuit Court
    - Over \$50,000 in damage
  - Associate Circuit Court
    - Everything else

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# Anatomy of a Lawsuit

- Complaint & answer
- Discovery
  - Written
  - Depositions
- Pre-trial Motions
- Trial
- Settlement/Judgment
- Enforcement/Collection

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# Alternative Dispute Resolution

- Arbitration
  - Less expensive
  - More relaxed rules
  - Quicker resolution
- Mediation
  - See above

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# Do you need a lawyer?

- Depends on:
  - Your comfort level
  - Issues raised in the suit
  - Size of the possible judgment
  - Level of risk

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# Thank you for your Time

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