


**FAMILY LAW**
**NICOLE GARTON-JONES**
*Turn to mediation for family business meetings*

**T**here is a lack of a common definition of a family business, but it is generally considered to be a business with two or more family members who have financial control of the company where there is some intent to transfer the business to the next generation.

Family businesses are often reflected as a system of three intersecting circles: the business circle, the family circle and the ownership circle.

The most successful family businesses have a balance and clear boundaries between the three circles with professional business management, responsible ownership and a harmonious family culture. Assisting families to successfully manage the three spheres presents difficult dilemmas.

How do you balance individual desires and differences with the interests of the family and the development of a shared vision? Are the interests of the business or the family more important? How do you celebrate tradition and successes of the past while focusing on the future and a rapidly evolving business climate?

What does it mean to be a successful business owner and how does that differ if you do or do not have a role in the family or business management circles? How does the

business successfully transition from the founding entrepreneur to the sibling partnership to the cousin consortium stage?

Succession is the greatest long-term challenge that most family businesses face. Less than one-third of family businesses make it to the second generation and only approximately 13% make it to the third generation.

The failure to plan and manage succession well is the greatest threat to the survival of a family business. This not only has significant impacts on the hopes, dreams and wealth of individual family members but also on the greater economy as a whole given the pivotal role family businesses play.

The most successful succession plans involve careful planning over many years, and it is the CEO's responsibility to initiate and manage the process in a timely manner. The CEO must:

- develop a strategic business plan, create a process to identify and choose successors and train potential successors;
- ensure that an adequate estate plan is put in place;
- prepare the family for succession, often through the development of a family mission statement that elucidates the family's relationship with the business;

- ensure that the next generation of owners is educated on how to be effective owners and to function well as a co-ownership team; and
- focus on preparing for a financially secure and enjoyable retirement or second career.

Given how high the stakes are and its pivotal role in the future of the individuals involved and the business itself, the succession process can be filled with tension and conflict between individual

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and collective family, business and owner stakeholders.

One way to manage the complexities of the family business succession process is through professionally mediated family meetings. A professional mediator can assist by:

- convening the meeting, including determining who will participate and obtaining buy-in for the process from all the parties;

- assigning roles and responsibilities, including setting the agenda and ground rules;
- facilitating group problem-solving, including involving appropriate experts;
- reaching and recording an agreement; and
- holding parties to their commitments, including monitoring changing circumstances and arranging to reconvene as necessary.

Whatever the purpose of convening a family meeting, the process of gathering as a family to communicate in a structured way can encourage members to act on important and shared values, with valuable results for both the business and the family alike. Family meetings also often spark a desire to codify a family constitution or mission statement articulating the family's values and the mechanism by which they are expressed in the business, the family and the community as a whole.

Succession may be the most difficult life cycle of a business, but it also has the highest rewards. Why not start today? ■

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