**Title:** Hidden Risks for New Jersey Small Business Owners: Piercing the Corporate Veil

**Subtitle:** Would you be protected if your business ran into difficult times or legal troubles?

**Meta Description:** New Jersey business owners should be aware that a corporation's protection of limited liability is not absolute.

**Date:** 0-4-2012

**Author:** Dan Brecher

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One of the greatest benefits of a limited liability company or corporation is the ability to shield yourself from business debts. However, business owners should be aware that the protection of limited liability is not absolute.

Under certain circumstances, courts can determine that a business’s owners, members, and/or shareholders are personally liable for business debts. This is known as “piercing the corporate veil.” In the United States, corporate veil piercing is the most litigated issue in corporate law.

Piercing the corporate veil usually arises when a plaintiff claims that the LLC or corporation is not a distinct entity, but rather a “sham” being used by the owners, members, and/or shareholders to advance their own personal interests or perpetrate a fraud.

While there is no hard and fast rule for determining whether an LLC or corporation is legitimate, the court places great weight on the following factors:

Commingling of Funds: The funds of the company must be kept separate from the funds of its owners in order to show that the LLC or corporation is a distinct entity. For instance, the court will examine whether a company bank account was maintained and whether funds from that account were used to pay personal expenses.

Failure to Follow Corporate Formalities: It is extremely important for companies to follow the procedures required for operating an LLC or corporation, including holding annual meetings, keeping accurate, detailed records of key company decisions made at annual meetings, adopting company bylaws, and enforcing those bylaws.

Fraud: If the court determines that the LLC or corporation was established to facilitate fraud against others and avoid liability, it will certainly pierce the corporate veil.

If a court pierces the corporate veil, the company’s owners, members, and/or shareholders can be held personally responsible for the company’s liabilities. This means an individual’s personal assets, such as their home, then become accessible to creditors and others seeking relief.

Unfortunately, simply filing corporate documents does not shield you from personal liability. In the case of a business lawsuit, the way you operate your business is far more important than a single piece of paper.

**Raw Content:** <!-- wp:heading -->
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