

Episode 26

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human resources, employment law, Wells Law, Mindi Wells, talent acquisition, small business support, hiring strategies, alternative talent sources, internships and co-ops, remote and hybrid work, workforce flexibility, mentorship, Ohio Northern University, fractional executive, giving back

SPEAKERS

Jason Duff, Mindi Wells, Ethan DeLeon

M

Mindi Wells 0:00:00

But looking at folks who have retired from the workforce is a great option. You know, considering veterans, internships are huge. Students need the work experience. It's a great time for employers to try folks on for size to see, is this person teachable? Do they have some talent? Do they have communication skills? Do they have things we can work on? So I really talk to a lot of employers about thinking about internships and co-ops as a pipeline for talent, but then also thinking about the non-traditional work schedules and being flexible in the kind of hours that we expect out of folks. And also thinking about whether we're willing to entertain hybrid or remote work as an option. It's a, it's a, that's probably one of the leading things that separates candidates right now.

E

Ethan DeLeon 0:00:37

Hey everyone, my name is Ethan DeLeon and I'm here with our founder and CEO of Small Nation, Jason Duff. Joining us on the show today, we have the founder and managing attorney of Wells Law, Mindy Wells. We want to welcome you to the Small Nation podcast where we share some of the valuable lessons with what we have learned about entrepreneurship, real estate, economic development, and more. The point of this podcast is to create value for you, the listener, and to create a space to learn, talk about what's trending, and inspire others.

J

Jason Duff 0:01:09

Thank you, Ethan. Mindy, welcome to the show.

M

Mindi Wells 0:01:13

Thank you for having me. I'm glad to be here.

J

Jason Duff 0:01:15

I have been friends with Mindy for probably more than 15 years. I know time may be— I hate to even know the clock on that, but it's been a few years. Happened to be a part of something on campus at Ohio Northern University where Mindy was not only an alum, you had been a student and you got your law degree. So undergrad, and that way your undergrad degree was in what?

M**Mindi Wells** 0:01:37

Economics.

J**Jason Duff** 0:01:38

Economics. And then you moved on to the law school and got your law degree there. But my time in meeting Mindy is that she led up a program at our university. It was called Leadership Seminar. So she would work with students and faculty to teach and inspire and provide programming and education to teach leadership. And I had the pleasure to be a part of that program with some other students. And from that, you know, we built a friendship. And I think one of the things in the DNA about the university that we went to is that we had a lot of mentors that kind of helped us along our journey. And one of those mentors I think we both share is Bob Cupp.

M**Mindi Wells** 0:02:19

Yeah.

J**Jason Duff** 0:02:19

And do you want to share a little bit? You worked for Bob for a number of years, right?

M**Mindi Wells** 0:02:22

So this is so funny. So if you had the chance to ask Bob how we first met, he would tell you he has known me since I was 5 years old. So I was raised, born and raised in Allen County. Bob was one of our Allen County commissioners, and my mother was very active in being interested in what the commissioners were dealing with. And we would sit right on the front row of the county commissioner meeting. So my mom would take my sister and I and sit us right there in the front row. So Bob has some stories about knowing me from way back. We then crossed paths professionally. He's also a double Bear, right?

J**Jason Duff** 0:02:51

Graduated. That's right.

M**Mindi Wells** 0:02:52

Yeah. Of Ohio Northern twice and the law school. And he would invite me back to present to his classes. And then when I later became the assistant dean of the law school, he would come in and judge for us for our mock trial competitions or moot court competitions. And then he thought of me when an opening came up at the Supreme Court while he was a justice on the Ohio Supreme Court. He saw something that he thought might be of interest to me and circulated a posting down there, which then took me to Columbus. So I am so thankful for the opportunities that Bob has provided for me and thought of for me and really grateful really grateful for him.

J**Jason Duff** 0:03:28

You know, he, uh, his political career, you mentioned county commissioner, and I think to state rep, and then, uh, he has been the Speaker of the House here in Ohio. And I think the testament of leadership, to have that long of a political career and that many different roles, you have to be doing something right.

M**Mindi Wells** 0:03:47

His retirement is well earned.

J**Jason Duff** 0:03:49

Yeah, exactly.

M**Mindi Wells** 0:03:51

I think he's— I think it's coming to a close here, uh, his, his position, but he has He has served at all levels and probably most— one of the most well-liked politicians, which is a tough, tough label to live under your entire career. But what an upstanding guy, wonderful guy, man of integrity, and certainly a wonderful mentor to many of us.

J**Jason Duff** 0:04:11

Well, I look through these titles that you've had in professional experience over the years, and you mentioned, you know, being a law clerk, you mentioned working in the law library, and then ended up being the dean of the law school. You probably could pay your ticket to work in a number of large corporations, organizations, really anywhere. But you chose a different path. Tell us about that.

M**Mindi Wells** 0:04:36

Well, it's interesting. I was— I'm not sure that I would say I chose. I've had a lot of interesting opportunities present themselves to me. And as I was telling Ethan earlier, it's about having this attitude of anything's on the table. So if someone said to me, what do you want to do next? Or where do you see yourself in 5 years? I didn't always have the greatest answer because I hadn't seen everything yet or I hadn't experienced everything.

J**Jason Duff** 0:04:56

Yet.

M**Mindi Wells** 0:04:57

And so being open to ideas and really fortunately for me, many of the first few professional jobs, if not probably 1, 2, 3, all 3 of my professional positions were because someone identified me as being a great candidate. So they were exposed to my work, exposed to me as an individual, knew about me and my style and my character and said, "Hey, we have an opening or we saw an opening and we think you might be a good fit. Take a look at it." And so when I became the director of human resources at Ohio Northern, later the assistant dean of the law school, and then ultimately the COO at the Supreme Court, it's all because someone thought of me and circulated something to me and said, "This might be of interest to you. Throw your hat in the ring if you're interested." And so just being, I think, being— let my work speak for itself, but also being open to ideas as people pitch them to me. So how I got to where I am today is I've had some great opportunities to work in fantastic organizations. Even though I've had a law degree for about 25 years, I've always worked on the inside, the business of the organization. Started out at Ohio Northern on their financial affairs team. So when I joined them at the management table was the director of facilities, the controller, the director of the purchasing department, the security director, IT director. And so those all gentlemen at the time, I was 25 years old, but I learned so much from them on that management team with the vice president for financial affairs. And so when the opening for the assistant dean of the law school came open, which was essentially overseeing finance, facilities, Student Services, many of the same things I'd been exposed to at the university level, but go to do that in the law school, it had prepared me well for that. And then ultimately, when I interviewed for the COO job at the Supreme Court, the same departments would report to the role: Finance, Facilities, Security, Human Resources, and IT. So everything, every step that I took prepared me for the next opportunity that presented itself, and it all started at Ohio Northern. And I would be remiss if I just didn't mention this one little tidbit. So how I got started in the Financial Affairs Office was as a high school senior at Lima. So I went to Temple Christian in Lima.

J**Jason Duff** 0:06:58

Ethan recognized that. Another, another alum, right?

M**Mindi Wells** 0:07:02

Yeah. If you had a certain GPA and ACT, Ohio Northern would interview you for scholarship days and certain GPAs qualified you for presidential scholarships, academic scholarships. And so I qualified for one of those. And when you went over for your interview, it was one alum, one student, and one member of the faculty or staff who interviewed you on a panel. And so I participated in that. When I then accepted the offer to go to Ohio Northern and entered in the fall, I got a letter from the Vice President for Financial Affairs Office typed in Courier font, old school typewriter, that the Vice President was on my interviewing team back in the spring when I was interviewing for a scholarship and was impressed with me and would like a work-study job in the VPFA office. Wow. So 18 years old, that interview that I did in February or March of my senior year of high school opened the door for a job opportunity as a work-study student. And I worked there all my years of undergrad. And then I left and went to DC and worked at the Canadian Embassy, came back for law school to Ohio Northern, joined the team again. And then when I graduated from law school and passed the bar, they said, would you like to start our first human resources office? You have worked with us for the last 7 years. And so all branched off of that scholarship interview with Roger Young, who— Roger Young, Roger Young, what an icon. Yes. And, uh, so I look back and think, wow, the— that, that gentleman who threw me an opportunity to be a work-study student set me on the path to do what I'm doing today. So ultimately, long story short, I had the opportunity to be the deputy director Chief Operating Officer at the Supreme Court, \$155 million budget, 1,000 employees on payroll and benefits statewide, right? So it's the head of the entire judicial branch of government. But all of that that I had participated in Ohio Northern prepared me for that. Yeah. And so I did that for a number of years before deciding that I would really like to be my own boss and set my own schedule. And what could I do? What value could I bring to other businesses that maybe wouldn't have another executive-level thinker on their team?. So maybe they don't have access to a COO or a chief legal counsel or even their own director of human resources, but I can do those things really well and I love it. And so what I began to find was there was a need to have a resource of someone like me and my skill set for small business owners around the state.

J**Jason Duff** 0:09:06

And hallelujah and thank you for being that because, you know, I think if I— when I talk to a lot of small business owners when they first get started, The first step is they hire friends and family and, you know, people that they know and trust with similar types of personalities. And then as the business grows, one of two things happen. Either those relationships turn into conflicts and it doesn't work, or they start to branch out to find other independent contractors or employees. And, you know, growth is one of those things that's really hard where there's all of this stuff from a legal perspective, from an accounting perspective. That a lot of small businesses, there's not like a playbook. No. And so, so, and we can't oftentimes afford to provide the administrative management and support to build that team. So, you know, thank you. If I look at your LinkedIn profile and all the things you just mentioned there, it's really impressive that your heart then became to say, I'm going to take my professional skills and background that I've learned and I want to, to, to champion small business owners?

M**Mindi Wells** 0:10:14

Well, I found that they need it. They need the help, right? They're so busy trying to do what they do every day and be a great fill-in-the-blank— architect, chef, artist, whatever they're manufacturing, whatever they're really good at— but they don't have the expertise and don't have a resource for being perhaps the most effective and efficient business owner. They definitely don't have the legal resource, and that's where they can really get things turned sideways. And so it was really— I get out of bed every morning looking forward to what I get to work on and who I get to work with. It is It's a dream job.

J**Jason Duff** 0:10:44

Well, coming in, so your firm is Wells Law, and I asked you the question, like, what, what do you do? And you had a colorful statement. What was that again?

M**Mindi Wells** 0:10:54

And I can't take full credit, but I have a group of employment law ladies, female attorneys, that we share stories and crazy curveballs that we need to brainstorm with others about. And we jokingly say that as employment attorneys, we get to deal with the drug, sex, and rock and roll of the law.

J**Jason Duff** 0:11:08

That needs to be on a t-shirt. Absolutely.

M**Mindi Wells** 0:11:11

The kinds of questions and quandaries that our clients, the curveballs that they pitch our way every day are some of the most interesting, bizarre, you can't make them up. And more than once, fact is greater than fiction. But the good thing for my clients, and I tell them this frequently, is you're not the only one. I've seen this movie and I know how it ends. So we're going to work through this together. And I'm going to get you your talking points. If they say this, this is what you say. Be prepared for this. And so even though we jokingly about the issues that we're dealing with, I've sat in that chair. I've been a human resources person. I've been a COO. I've been a CEO. I don't counsel them or walk down a path that I haven't been down myself before. And so it's an enjoyable experience to be able to help solve some of these problems for them that I know are keeping them up at night, but that I really can, can bring instant value to them because I've seen it before. So it's an— it's a, it's a fun— it's a fun opportunity for me. I love what I get to do.

J**Jason Duff** 0:12:08

In previous conversations, you talked about the importance of giving back to programs that were impactful for you. Can you share your perspective on that a little bit?

M**Mindi Wells** 0:12:16

I think it's really important because, you know, as I've mentioned, so many folks contributed to where I am today and thought of me and sponsored me, even if we didn't know that term back then, or mentored me and really kept me top of mind or allowed me to bounce ideas off of them. And so I think it's really important to give back. I'm a strong believer in supporting. The two things that were really big to me as a person, a young person growing up, were athletics and school. So I participated in a lot of athletics. I really like to work with people who have been varsity athletes. They have a level of teamwork. They can take feedback. They can take losses. And they have just some inherent qualities. And I also had the chance to participate in 4-H quite a bit, which taught me a lot about leadership and public speaking, a lot of self-confidence and high ropes courses. And so I think being able to give back to athletic-related events, education, reading was really important to me. So I sponsor reading programs at both of the schools that I attended. So I think it's really important for me that as I have the chance to enjoy the career that I have, think about what made it possible for me to be able to do this. And so Ohio Northern is a big part of that, as well as the activities that I participated in as a young person growing up.

J**Jason Duff** 0:13:24

Yeah, that's awesome. So I'm excited to have you on today. You know, obviously you've been around the block a little bit and you, you know, have lots of experience to bring to this conversation. But in previous episodes, we've talked a lot about a current trend that is workforce shortages. And, uh, you know, we don't know anything about that. Everything is easy, perfect, you know. And, and I think just to highlight that, like, um, you, you drive down the street on Main Street and about every business has a "now hiring" sign. And then particularly in a lot of small businesses, you see that they're closing early because they can't maintain or run a shift. You know, a lot of things we were talking about earlier about customer service, you know, being able to have staff that can answer the phone during office hours versus just, I'm sorry, you'll have to leave a message. And at some point, probably the next day, someone will call you back. Like a lot of that is just because of all the pressures. There's not enough people to fill all of the opportunities or people are not motivated to fill certain jobs and skills that they used to in the past.

M**Mindi Wells** 0:14:38

Yep, everywhere, right? That's happening everywhere. I'm sure it's more difficult in some of the rural communities than it might be in some of the major metropolitan areas, but even in those areas, it's not just a shortage of workers. They may not just desire the work that's available, or they don't want to come on site, or they don't want to do this, or they don't want to do that. And so it's really forcing employers to figure out what are our essential services, what level of service what is okay or acceptable to provide as opposed to top-shelf service. And you really rethink about what can we provide that still meets our standards with the adjusted bandwidth of the human resources that are actually available because they're just not able to perform, like you said, everything they want to do within the hours that they're typically able to provide. But then the other thing too is even the level of service that's being provided may not be what they've become accustomed to, but they're having a difficult time holding people accountable because talking to them about performance insurance issues, the employee's like—

J**Jason Duff** 0:15:33

They're like, peace.

M**Mindi Wells** 0:15:34

Peace out. I've got lots of opportunities. I can go work tomorrow for \$20 an hour here or there. And so there's not only this idea of can we provide the service, do we have the staff to provide the service, but gosh, what kind of level and quality of employee are we willing to tolerate and is acceptable to us even though it may not be ideal?

J**Jason Duff** 0:15:53

Yeah.

M**Mindi Wells** 0:15:54

Now, that doesn't mean that I think we all have to settle for substandard employees, but I think it means we have to be willing to take risks with employees we might not otherwise would have considered in the past. Be willing to invest and develop them and train them into being the kind of employees. No one teaches them how to be great employees in music, movies, and video games. Right. Or in school for that matter. Right. And so there's a— for employers, we can whine about how hard it is to find good employees, or we can actively identify people who have the ability to learn and develop them into great employees that have the attitude and the customer service mindset that we're looking for. But it's a challenge for sure. To Ethan's point, one of the things that we talked about before was, you know, alternative sources for finding folks. Yeah. So, you know, rethink, do we need the demographic that we might have looked at before? Maybe we should start looking at— there are plenty of retirees who are willing to come back into the workforce, but they may not want to do 8 to 5. And so maybe it's a matter of, do we really need these set hours?

J**Jason Duff** 0:16:47

So just to share an example with that, in our town, there's a retail store called the Queen of Hearts Fine Chocolates and Gifts. It happens to be operated by my mom. My mother was in the retail game operating Peachtree Books and Company, and she had a Hallmark store. Store 25 years ago, and she retired and sold the business. And the business ended up, you know, the Hallmark store ended up closing. But she's been out of the game for 20 years in retail. She wanted to get back in the game because, you know, after, you know, spending time with her grandkids, that was great. But she doesn't want to be on a beach in Florida. She wants to be utilizing her skills and gifts. And so she and all 5 of her rock star leading ladies at Queen of Hearts are 66 years and older.

M**Mindi Wells** 0:17:32

Awesome.

J**Jason Duff** 0:17:33

And she's proud of that. Yeah. And, and they are too.

M**Mindi Wells** 0:17:35

And they're hard workers. Yeah. But for many places, they might like, well, we don't want people who can't work a full 8-hour shift or can't work 40 hours a week. So as an employer, I think one of the things we have to do is rethink what our real needs are. Could we use someone who's a rock star for 5 hours a day, or a parent who needs to get someone on the bus and be able to come in and put in a good 4 or 5 hours?, but needs to be able to get home and get someone off the bus, has other care responsibilities, but is really solid for the period of time that we're there. And so I think, you know, we kind of get used to the way we've always had things, or we've been very fortunate to be able to staff up to the expectations that we had. But as employers, we really have to think, can we get— can we produce good quality service by finding folks who are willing to work fractional work schedules or put two people in a job share arrangement? But looking at folks who have retired from the workforce is a great option. You know, considering veterans, internships are huge. Students need the work experience. It's a great time for employers to try folks on for size to see, is this person teachable? Do they have some talent? Do they have communication skills? Do they have things we can work on? So I really talk to a lot of employers about thinking about internships and co-ops as a pipeline for talent, but then also thinking about the non-traditional work schedules and being flexible in the kind of hours that we expect out of folks, and also thinking about whether we're willing to entertain hybrid or remote work as an option. It's a, it's a that's probably one of the leading things that separates candidates right now is there's just a whole batch of applicants that as soon as they look at postings, if they check the indicator for hybrid or fully remote and your job doesn't have it, they just don't look at it. And so for those employers who think, no, it can only be done here on site, you're really shrinking your pool. Yeah, it's so just being— having more of an open mind about what the ideal candidate looks like.

J**Jason Duff** 0:19:18

Sounds like you may have had a few of these conversations with some of your clients.

M**Mindi Wells** 0:19:20

We have a lot of these conversations. Everyone's bemoaning the same fact. Right?

J**Jason Duff** 0:19:24

It's happening.

M**Mindi Wells** 0:19:24

You have to find people. And we don't have a playbook. So like Jason said earlier on, we don't have a lot of history and experience to work on. So common sense tells us, if you keep doing the same thing, you're going to get the same results, except the whole ballgame has changed. And so we have to rethink how we do things, who we do those with, and how we approach it. It's just, I told Jason, we're just going to have to get comfortable with being uncomfortable because this is going to be a part of our norm going forward. And so just rethinking that whole employee experience.

J**Jason Duff** 0:19:53

And that's good. You gave several good examples there, and I want to unpack some, some of those. And you specifically mentioned internships, recruiting retirees and independent contractors. So, I mean, I know you hadn't mentioned the one example of, you know, retirees, but that's really become— I mean, that you mentioned one example, but there's several here in the downtown of Bellefontaine, right? And that's become a strategy that we use to recruit and, and fill these empty business spaces when we think about small town revitalization, right? Well, we, uh, yes, 100%. And the other thing, for those folks that maybe are looking to buy or purchase a business, there are a lot of retirees that have great companies or great business models that are looking to sell their business. And so it could be an opportunity that if you've retired from your career and you want to get in the entrepreneurship game to raise your hand and kind of share that. Or same thing if you're a young person and you want the path to start working right away, right after high school, there could be a great apprenticeship to learn on the job and buy the business.

M**Mindi Wells** 0:20:57

And I think that's one thing that small business owners overlook until it's too late. What's going to happen with my business next? Waiting until you're 1, 2, or 3 years from retirement and thinking, oh shoot, what am I going to do next? Am I going to sell? Am I just going to close up shop? Do I have someone coming up through the ranks that I think might be interested? Do I have leadership and do I have a purchaser in mind? Like you can't wait till 1, 2, or 3 years out. And so hiring for a succession plan is really important, not to add one more piece of pressure to the hiring game, but really identifying that talent that could potentially lead and/or buy your business is something you need to think about.

J**Jason Duff** 0:21:30

Caveat with that, right, is I'm sure there are business owners out there who have put, you know, 55+ years into this business, making it exactly how they want and trusting this, you know, young person who thinks they know it all to take over. Like, I, I can only imagine it's not easy to do. It's a two-way street, and, and I think it is just being intentional about planning that ex— that, that, that exit, and then what your expectations of what you want out of that exit. But also for the person that's buying it, when you're in an interest rate environment that's 7, 8, 9%, seller financing is probably one of the most attractive options if that option is available. And a lot of sellers that is a tool because they probably have saved up and invested most of their money in their real estate or in the business or in the inventory. So I think that is a huge opportunity on the horizon right now.

M**Mindi Wells** 0:22:21

Huge. And it could be an incentive in your hiring plan if, you know, if, if there's someone out there that has an entrepreneurial bone who's looking to eventually own his or her own business, bringing them into the business as a younger or mid-career professional with an eye toward a succession plan is a great recruitment tool.. If they know someone is looking to develop and transition eventually in the next X number of years, that becomes very attractive to a certain subset of the population, many of whom might not even be looking for a job. But when this opportunity comes around to be able to do a job that they love and ultimately own the business, wow.

J**Jason Duff** 0:22:54

Yeah, and not just get the job, but stay there. Well, and I think many of the guests that you've heard on our show, they started out as Small Nation employees. And then there's kind of two paths. It's either you're that intrapreneur mindset where you want to, you know, be able to work in an environment where you're around entrepreneurs and entrepreneur thinking, but you get to go home at 5 o'clock, 4:30 at night and turn it off. And then we've got a group of folks that are just naturally entrepreneurs, is they want to be a part of this energy, this organization, and they want to build their own business ventures that are in partnership with what we're doing. And so I think I've been trying to be intentional in our company of providing those paths. And setting people up if they have that vision or plan to be successful long term. Let me ask you, is that comfortable for you? Great question. So, um, in the beginning it was not because — and I think that's where Mindy and all of us are kind of— the playbook didn't normally say that's what you should do. Yeah, but to keep high-quality talented people— like, I had dreams when I first started out and The most important question I just start— appreciate when people ask me, like, what do you dream about at night? And when I could feel comfortable, vulnerable, real, and sharing that, I try to ask that same question other people I work with. And if there's a synergy or a path or some way that we can create success together, I want to do that. And I'm also, on the flip side, going to be real with them and saying, I love your dream, it's gonna be really hard. And, and I think that's where that separates the people that have the hustle, drive, and passion versus I tried this, I'm gonna pivot and do something different. It's okay. Like, yeah, you— it's a very personal journey.

M**Mindi Wells** 0:24:41

Not everybody has the stomach for it.

J**Jason Duff** 0:24:44

Stomach, energy, you know, financial, personal support.

M**Mindi Wells** 0:24:49

There's a lot of factors.

J**Jason Duff** 0:24:50

Well, and I, and I think that's where you're doing that now, and I think that you can speak with integrity because you've been on both sides and You know, I, I think I admire those partners, whether it's attorneys, CPAs, business coaches, like that's part— you need those people around you and part of your team because you cannot do it all. Yeah. And I, and I think that's another thing is being vulnerable and real to say I do have limitations, you know, and I shared like we're working to fill someone in our accounting office right now., and I am doing the bookwork. The last week we had a position that, you know, basically she moved on. And it's never a good thing when the CEO of the company— and firstly, just me, that's not my skill set. But, you know, as a business owner, you got to step in and do what you got to do.

M**Mindi Wells** 0:25:42

Yeah. And then you also need to know when to step out, right? Because there's plenty of business owners who are still trying to do too many things. They're trying to do business development, they're trying to do marketing, they're trying to oversee the actual production and product of of the business. And you can't do all things well. You're not the best person to do everything. Short term might be necessary, but knowing really when to outsource and get your independent contractor team lined up, when to get your outside professionals lined up. What I try to tell small business owners is the best time to tee up your people in your corner is not when you have a fire to put out, but as you're trying to plan things. So having that CPA, having that attorney, having that financial advisor in your corner that can help you shape the direction and your strategy, so that when you're ready to execute, you've already contemplated many of the bumps. It's much easier for us to help you before you trip than after you trip. And so I find a lot of small business owners think, well, it's too expensive, or they're going to find work for themselves and they're going to generate more time and money than we have to pay. And instead, what I tell them is you're going to pay now or later, right? And oftentimes you're going to pay more once you've dug yourself into a hole or you've cobbled together a form you pulled off the internet from 5 different examples or your brother-in-law or your sister's business.

J**Jason Duff** 0:26:48

Right.

M**Mindi Wells** 0:26:48

And now it— this is not working for you. Or you didn't get to your point, to Jason's point about hiring friends and family. A lot of them didn't do employment agreements, so they don't have non-competes or confidentiality. And your friend and family got to see all the secret sauce. Yep. Got to see how you did what you did and who you did it with and who your clients are and all of that special information. And then when the relationship goes south and breaks up, they go out the door with an awful lot of your hard work and time, energy.

J

Jason Duff 0:27:16

You know, one of my first business and life experiences is I hired a very motivated intern, and the intern sought me out, knew and was interested a lot of the business activities that I was doing with our advertising agency, and worked with us for about 6 months. And then, uh, literally he and another employee that I was working with started a competing business using all of our templates, models, and it hurt. Yeah, like, it, it was those things, like, but it then also was very naive. Like, it was like, I should have known better. But I, I think that you, you have to have those experiences that then, that then highlight how important those documents and those processes are, because you, you just, you think the best of people, but in the, in their mind, in their, you know, thing is like, I was giving up my time, not I'm not getting paid what I probably should have gotten paid. So this was—

M

Mindi Wells 0:28:14

I deserve this.

J

Jason Duff 0:28:15

I deserve this.

M

Mindi Wells 0:28:16

Yes.

J

Jason Duff 0:28:16

And I think that's where there are those, those conflicts. So as the business owner, what are the things that you would recommend that people kind of set up from the get-go?

M**Mindi Wells** 0:28:25

So some of the things that I find that people fail to set up and wish they had later. So what I, what I wish — what I know now that I wish I knew then, we hear from a lot of business owners is that they don't set up operating agreements at the beginning, especially if they have a partner. And just like any other relationship, An operating agreement is much like a prenup. It's much better to negotiate the terms of our relationship while we're all getting along than when something goes south and we have to figure out how we're going to divvy this up or who's going to own this or who can make these decisions. So, right from the start, very foundational building block for a business of any size. I even encourage it for, you know, sole members, LLCs that are only one or sole proprietors, getting your foundational business documents prepared. How this business runs, what's going to happen with certain things, who can make decisions, how the business is going to wind up. Those kind — so that's an essential document. Having confidentiality and nondisclosure agreements, super important for anybody doing sales, your administrative assistant who's seeing all of your client lists and knows your pricing strategies and your secret sauce. Anybody that's getting to see firsthand what makes your business special and could create a competitive advantage if they walked out the door with it should be signing a confidentiality nondisclosure agreement. For some positions, you might think about a non-compete, although they're really, at the federal level, frowning upon non-compete agreements, and they're trying to find a way, at the federal level, to eliminate them for most positions, but we can also accomplish a similar objective with a non-solicit. So, even if you do go work with a competitor, you can't hit up our clients, our business partners, our vendors. So, even though we might not be able to use a non-compete on you, we can use a — have non-solicitation agreement, which says you can't use any of this information. Having that upfront, the other part we like to build in is a non-disparagement. You can't go on social media and slam our business and tell the whole world what you think about us after you leave. And so having those kind of agreements in place in some form of an employment agreement, confidentiality, non-disclosure, we call them restrictive covenants. The employee says, you know, in order to come join this team and be exposed to all this experience and all this information, I will not do these things while I'm employed or after I leave. That's really valuable. And when you get ready to sell your business, your buyer wants to know if you have employment agreements or confidentiality, because the last thing they want is your right-hand person to open up shop across the street.

J**Jason Duff** 0:30:36

And those are like assets for the business.

M**Mindi Wells** 0:30:38

They are absolutely assets of the business. And so find the time, find the money, find a legal partner to help you get that operating agreement set up. And those confidentiality nondisclosures are really essential. Beyond that, once you start hiring employees, a handbook is really essential. It tells someone how to be successful.

J

Jason Duff 0:30:52

Can I ask a question about that? So I hear, um, in the HR space, there are some folks that say that there's more liability than having a handbook than not. And then there's a group of people that say the exact opposite.

M

Mindi Wells 0:31:08

Yeah.

J

Jason Duff 0:31:08

How do you kind of ping pong around that issue?

M

Mindi Wells 0:31:11

So an employee handbook is worth its weight in gold if you follow it. It is absolutely your worst enemy if you have one and you don't follow it. So, for example, if you have a policy that says this is if we have this kind of vacation or if we have this, if you do these things, you'll be subject to discipline. But I don't do it to you, but I do it to another employee. I'm inconsistent. Sets us up for a discrimination complaint. If we do have a policy and we apply it consistently and someone accuses us of discrimination, the first thing I provide to the other attorney is to say, "Look, here's our progressive discipline policy. We follow it consistently across the board, all day, every day." So when used properly, the handbook is your greatest protection of liability.

J

Jason Duff 0:31:52

But if not used properly, huge risk.

M**Mindi Wells** 0:31:54

Huge risk. So you know, an attorney who's going to write one with you, and this is one of those things that I can't stress enough, don't pull one off the internet because it is not designed to protect your business. It is a generic one that oftentimes is designed to apply in all 50 states, and our laws are very different. For example, like 29 states require you to give paychecks on the last day of work. We don't have to do that in Ohio, so why would we promise a paycheck on the day we fired you or that you resigned? We're going to put you in the payroll schedule. So template handbooks are not overly helpful, and oftentimes I have clients who end up with policies when I finally see it, I'm like, "Are you big enough to offer FMLA? That's for 50 employees or larger." And they're like, "No." I'm like, "Well, why'd you put it in your handbook? Why is it in the template?" Right. Oops. So working with an attorney who gets what the nature of your business is, what the types of employees you're hiring, and do you have different professional level? Do you have other types? Do we need to have policies that apply to office workers that are different from the warehouse workers, for example? A customized handbook that fits your company's culture, the types of workers that you have, and then tailor the policies to fit your business. You know, as attorneys, our job is to help minimize risk and keep our clients out of court, but many decisions are business decisions, not legal decisions, and so the whole goal of having handbook, collaborative handbook processes to say to clients, "What would you like to see happen in these situations, and I'll draft a policy that works operationally for your business." My job as the attorney, I always laughingly say, it's kind of like bumpers in the bowling lane. At the end of the day, we have to achieve your business objective. My job as the attorney with you is to make sure it just doesn't cross out of the I'm the bumpers in the bowling lane. I just have to make sure that business decision, that strategy, that policy doesn't fall outside of the bowling lane, but the law doesn't drive our decision. We are focusing on business objectives. And that's really where our fun conversations come from. So, we can strategize on what they're trying to accomplish, what kind of culture, what kind of benefits. You know, right now we're talking about pets at work policies are really popular, tuition assistance for employees. Just really thinking, those aren't legal issues, those are culture issues. What would you like to do for your employees? And I'll help you customize a policy that works for you, but also minimizes risks of things. There are problems that come up with pets at work. So we're going to address a policy that accomplishes what you want, but also minimizes some of the risks that come with it. And so it's a collaborative process to produce a tool that really is super valuable if done right and followed consistently.

J**Jason Duff** 0:34:08

Yeah, that's awesome. And no, I appreciate you sharing all that because that was one of the things is, you know, why is it important to have an attorney, you know, you know, and, you know, in partnership with the business? Well, you heard it right there. Even though there are, you know, like you said, online solutions, alternatives, you don't get all that. And to the business owner that may be overwhelmed by hearing all of that, what would you say?

M**Mindi Wells** 0:34:30

So what I would tell most business owners is if you tell me what's keeping you up at night, I can take it off your plate. So tell me what's keeping you up at night, what you're— and I usually will have a few questions like, well, what would you— if you could wave a magic wand, how would you like that to turn out? What would you like to see happen?, and then I'm on it. So drop your problem in my lap. You've probably not served me up something I haven't seen or heard before or lived through myself. Let me give it some time. I'm gonna come back to you with a document. I'm gonna provide you with advice on counsel on how to have the conversation, how to deliver it, how to administer your program, and then you can go back to being the great architect, chef, fill in the blank. So if you have a good attorney that's with you all of the time, they're always well-versed with what's going on with your business. And so when you have a crazy curveball come up, you can give a quick call or an email and say, this is the situation. I'm like, I'm on it. I already know how they want to handle that. I can prepare the document. I can advise their manager who's going to deliver the conversation. I already know what their policy is because I wrote it. I know we consistently do this. And so it's about this comprehensive approach, having a partner that you can essentially bounce things off of, but also pass the ball when you need someone just to take it off your plate and get it done. I hope that's one of the things the clients that I work with can say, you know, if we call her, she can— she'll, you know, she'll get to the bottom of our problem pretty quickly and serve it back up in an easy manner so I can go back to my real job.

J**Jason Duff** 0:35:41

Yeah, that's awesome. Thanks for sharing. I'm glad we went down that tangent, but I do want to kind of get us back on to alternative sources of talent here. I know you had mentioned about the story of the intern, right? Let's debunk some myths about internships and, you know, maybe in your experience, good ways to build funnels into that because it's tough. I mean, there was somebody on our internal marketing team here today just trying to figure out what the best way is to approach internships. Do you go high school? Do you go college? Do you know, like, do you have to pay them? Do you not? Like, you know, so walk us through a little bit.

M**Mindi Wells** 0:36:12

Yeah. So I would say who's the right fit for an internship? Any employer, right? There's all kinds of students who are interested in learning about jobs of all kinds. So any employer should be contemplating how they can incorporate interns into their business. And as far as whether they might be thinking about high school students or college students, I would say be open-minded about it. There are very mature high school students. There are very immature college students. So it goes back to that whole generational thing about looking for employees. If you rule out all retirees, you're missing some great workers. So I would say unless there's a reason, so like obviously, there are age-related reasons for alcohol establishments, etc. But unless there's a legal reason not to consider people of a certain age, I wouldn't limit yourself. And so what I generally recommend is figure out a job description. So there are some legal requirements around internships, and when they want to work on them as a specific internship, it has to be not replacing an existing employee's job. So it can't be, so-and-so's gone, so we're going to call this an internship. And at the end of the day, the internship experience must provide greater benefit to the student than it did the company. So I generally say create a job description, that is different than an employee you already have, and it should have learning objectives and deliverables. So if I were to say, by the time this experience is over, how will this student be better prepared for a career, or how will the student be better off at the end? That's in those deliverables or learning outcomes.

J**Jason Duff** 0:37:33

And let me tell you, in college, I, you know, I was at a branch campus of a university and the majority, like a big chunk of our education was practicum experiences like that took the place of our electives. Essentially.

M**Mindi Wells** 0:37:44

Yeah.

J**Jason Duff** 0:37:45

But at the beginning of each semester, we had to outline, you know, with our, you know, supervisor, uh, 3 learning objectives. And then there was a checkpoint halfway through the semester, and then whether you met them or not. And so for me, I think that really taught me the skill across several different kinds of internships to set goals, to work towards them, you know, stay focused on them despite— because can I tell you how many students started on an internship and fell off halfway through? You know, like. I think that teaches really practical skills. And I think, I mean, full transparency, that was probably the most beneficial part of my college experience.

M**Mindi Wells** 0:38:21

Most students would tell you that practical hands-on, even law students will tell you the time spent in a clinic or doing real work is far more valuable than sitting in a classroom and listening to theory. And so giving those students the chance to do hands-on real work is a win-win. What you can't do with an internship is filing, answering phones, like the old days where they're like, we'll hire an intern for the grunt work. And that's not really, A little bit of grunt work is fine, but remember, at the end of the day, a true internship under the definition of the law is an educational enhancement. So, it's teaching them some kind of skills or further developing some type of skill or analysis that they wouldn't have gotten having not been in the work experience. So, any employer can do it. I suggest, you know, drafting up a job description that has the key responsibilities, the knowledge, skills, and abilities we want in a candidate, what the learning objectives would be, how is the student going to benefit from this experience. It can be some unique projects. It can be developing some research. It could be contributing to a strategic plan. Giving them some really — it doesn't have to be high-profile, but it does have to use their — it does have to use their noggin a little bit. It can't be the typing and filing kind of thing. And beyond that, paid versus unpaid, you can structure them both ways. There are some legal requirements around them. If you're going to do unpaid, you definitely have to follow the laws called the Fair Labor Standards Act, same law that applies to independent contractors. Governs how we treat interns. So we usually will talk through, get the job description together first, and then let's have a conversation. Does this — is this something that would qualify for an unpaid and what that would look like? Are they getting academic credit? If it's not going to be unpaid, you know, can we just do it as a minimum wage, part-time, temporary, project-based worker? What would that look like? So it just depends on what the tasks are ultimately going to be, what the appropriate way to classify them is going to be. And then you The universities, the tech schools, the high schools are all looking for funnels for their students to find these internships. So any one of us, if you ask anybody, would love to hook you up with career services at a university to help postings, identify students for internships, that any of the tech schools, high schools, and universities. So they want to get their students out there in the real world. It's a perfect match. I just think a lot of employers don't know where to start or what to do. And the first thing is identify what an intern would do Let's figure out how we structure that role, and then let's match you up with a school or a couple of schools who can help start giving you some potential candidates. That's good. Great pipeline again to try someone on for size for potential full-time employment. There's no requirement that it ever turn into a permanent job. You could just do intern after intern, permanent internship role, different student every year, different semester. So it's not a requirement that you have to be filling a full-time job later on.

J**Jason Duff** 0:40:47

For people that are listening, where do you kind of recommend to people post jobs?

M**Mindi Wells** 0:40:53

Oh my gosh. And so, you know, that's a really interesting question. So it goes back to what is your ideal or acceptable — what do your acceptable candidates look like demographic-wise, age, maybe certain types of characteristics, and where would they be hanging out? Where would they be looking for their information? So for certain audiences, that might be TikTok for your job posting.

J**Jason Duff** 0:41:12

There we go. That's where I found Ethan. Yeah.

M**Mindi Wells** 0:41:15

Okay. Yeah.

J**Jason Duff** 0:41:16

No, I'm going to debunk that right now. I still do not have a TikTok and I am proud of it.

M**Mindi Wells** 0:41:21

For some, you know, another client told us their best source was posting things in the community center. So they would go to the Jewish community center and the various community centers and post things on the bulletin boards. For others, Facebook has a wide audience. Some have LinkedIn. Indeed is like a giant job board, right? And you can, you get everything and the kitchen sink in there. So really spending time fine-tuning the job description and then fine-tuning what it is, who it is that you're exactly looking for, and where do those folks hang out, and where do they get their information.

J**Jason Duff** 0:41:49

And I'll give a quick plug, there are also a lot of local, hyper-local job boards, and one of those platforms we launched here at Small Nation called Hometown Opportunity. So for communities like Mercer County, Auglaize County, Darke County, Shelby County, that's a collective where local companies can post the jobs that they have. And those that are people that are looking for jobs can subscribe and they're weekly email blasts and updates related to that. And that same software has been now launched in a number of counties throughout Ohio and it also has an integration with Ohio Means Jobs.

M**Mindi Wells** 0:42:25

Oh, great. So that is a perfect segue into another thing I would just mention. As an employer, we need a 90-second elevator pitch. If we have a job opening, we need to be able to tell everyone, someone that sits next to in church, who coaches our kids' soccer team, what it is we're looking for and why. So a 90-second, if you have a job opening and here's what I'm looking for, because you never know who they're going to talk to. And the majority, the research shows us that most employees found their jobs from a third degree of connection. So that means they didn't see it firsthand. Someone else told them. And that's the case for many of us as we talk to other folks, that someone thought of us. They heard an opening. It wasn't something of interest to them, but they thought, I know someone who would be perfect for that, and they passed it on. So having that 90-second elevator pitch about your posting and the ideal person you're looking for or even why it's such a cool job and then repeat that all over the place. It's kind of like, I jokingly say, like matchmaking. If someone's out looking for a partner, they're like, they know what they're looking for, they know the ideal person that they're looking for. That's our job search too, telling people. Because there are many people who are passive job seekers, so they're not actively looking at job boards, but if someone mentions something kind of cool to them, they're like, hmm, I'd be willing to talk to him a little bit more, or I'd love to learn a little bit more about that piece of that job and get some more information. So just that little 90-second piece of information circulated multiple times is going to land on the right person at the right time who might not have even been looking for the job. And I think a lot of employers kind of think, well, we've always just posted it and they will come. Yeah. And those days are gone. Those that will come might be the ones who aren't employable anywhere else or have other reasons why they're not currently employed. You want to have that pitch to get out there and get it circulated among as many people as possible and pique someone's interest. So that elevator pitch, super important.

J**Jason Duff** 0:44:04

Great tip. Great tip. The last thing I want to— of those three, you know, we talked about recruiting retirees, internships, and that last one I want to touch on. And I think we have a lot to say about this one is independent contractors. Oh, let me actually take that one. Go for it. Because over the years, as we built— as I built my company and have been involved with other partners building companies, the— it's scary to set up payroll processing and go through, you know, the— just, just that whole thing for, for new businesses can be very intimidating. You kind of, when you don't know what you need to know, you kind of have a checkbook that the bank gives you that, you know, our checks were used to be typically in duplicate or triplicate, and someone would work for you a number of hours and you would take that and just write You know, X amount of hours times \$20 an hour. Showing your age here, Jason. Well, I know you write them a check, but there's a lot of small business owners, or they jump on their app today and they're going to Venmo, you know, \$200. That, that's for a lot of people just getting started. That's what they do. And they don't necessarily understand the terms, what it means to be an employee versus an independent contractor. Tell us about what those are and why, you know, it's important to care about that.

M**Mindi Wells** 0:45:26

Why does it matter? Yeah. So I'll start off just by saying, you know, for a lot of business owners, they think that the choice is then whether someone is an employee or an independent contractor. And really what I suggest is you identify what the need is for the worker that you're— the work that you're going to have someone do. And then the law establishes what is an independent contractor or an employee. So the laws that that we typically refer to as the FLSA, Fair Labor Standards Act, and it covers wage and hour issues for employees. So it provides legal protections such as a minimum wage and guaranteed overtime for employees. It doesn't apply to independent contractors. So for businesses, it's often more economical to put people in the independent contractor bucket because they are not having to pay overtime, unemployment compensation premiums, workers' compensation premiums. Benefits, payroll taxes, paid time off. So employees can be expensive. And so for many businesses, they say, I'm just going to hire a person or a team of independent contractors to perform these functions because it's more economical and it's easier. They also think we can terminate them easier. We don't have to go through all this stuff Mindy talks about, about writing them up, coaching them for success, giving them a chance, progressive discipline. You know, they can say, you know what, we're just terminating your contract, or we have a 30-day out clause in the contract. And so So for many reasons, business owners feel independent contractors are more economical for them and just easier to manage, frankly. But unfortunately, from the legal perspective, you know, they're also not being afforded the legal protections of overtime, minimum wage, perhaps health insurance and benefits, payroll taxes, PTO. And so from the legal standpoint, most of our laws favor workers being labeled as employees, so they get the protection and the benefits of all of those laws. And less inclined to do independent contractors. And so over time, the definition of what constitutes an independent contractor has changed. It's been going back and forth at the federal level. So our employment laws come from a couple different places. They're either established at the US level, you know, for the whole country, or you might see another law that gets established at the state level or even local. So minimum wage is the perfect example. There's a federal minimum wage, then states come in and make their own that's better, and in some places, municipalities might even make a higher one. So back in the day, you know, Seattle wanted to do a \$15 minimum wage when it wasn't anywhere else. And so when it comes to employment laws, we oftentimes have to look at 3 tiers to see what law applies. So here in Ohio, it's pretty clear. There's a federal minimum wage, Ohio set a minimum wage, our municipalities don't. And so when it comes to independent contractors, we have to look in a couple of places. So the Fair Labor Standards Act has articulated some rules, and the federal government has articulated factors to consider in labeling someone an independent contractor, and then the IRS has considered— they have like 22 things that they're looking for. They have a whole, they have a whole form for it, and if you want to, you can fill it out and send it to them and they'll weigh in. I don't recommend sending your form to the IRS.

J**Jason Duff** 0:48:17

Sure, drawing more attention.

M**Mindi Wells** 0:48:18

And then workers' comp has a definition, unemployment has a definition. So when someone says, just give us the checklist for us to figure out if it's an independent contractor, it's not just really black and white, and it varies by state. So the IRS is obviously at a federal, has a federal definition for all 50 states, but unemployment and workers' comp are managed at the state level.. So depending on what state you're in. So what I typically say is, at the very least, if you're thinking about calling someone an independent contractor, take a look at the Department of Labor's website, and you can just Google independent contractor classification or factors, and it'll pull up the factors that are currently being used. And they've changed over time during the different presidential administrations. The definitions have been in flux. So at the time that you're getting ready to hire an independent contractor, double-check what the existing definition or the factors are in play there. Never hurts to go look at the IRS's definition. They have a form called an SS-8 that's got those factors on it that you can fill out and send it in if you want. And then contact your legal counsel. When in doubt, if it's just like, this is too close to tell, or I'm not sure, you know, get your legal counsel involved. If you're using independent contractors, you definitely want to have a contract, a written contract, an agreement with them with some key provisions that it's going to be an enforceable contract. And then the other thing I would just say is, you know, review it on a regular basis because the factors have changed. So someone that's been an independent contractor 5 years ago The factors that the government considers have changed, and there's a good chance that maybe someone who was an independent contractor and met the definition a year or two ago won't be meeting the definition in 2023. So it's really important to either double-check yourself—

J**Jason Duff** 0:49:48

That's really, put a pin on that. Those laws potentially could change significantly. And I think you shared a statistic of how many new inspectors—

M**Mindi Wells** 0:49:57

Oh, yeah. So the Department of Labor has been very vocal about the fact that misclassification is a massive problem. It's gipping employees out of rights and benefits and also of the payroll taxes for the government. So the Department of Labor alone has hired something like 100 new investigators to help crack down on this. And so it is a huge problem. It's gotten a lot of attention under the Biden administration. It was one of their primary objectives was to crack down on this misclassification because they really feel it is a disadvantage to American workers. So we know that even small businesses are going to get caught up in this. And in fact, the way these usually come to attention, you might think, well, you know, nobody on my Nobody in my independent contractor team is going to sue us. They're not going to complain.

J**Jason Duff** 0:50:37

Yeah.

M**Mindi Wells** 0:50:37

It usually doesn't come from the independent contractor unless they feel like you screwed them out of some money. But what we normally see is a current employee files or a former employee files a complaint that they didn't get overtime or they didn't get their wages handled properly. And when the government investigates their complaint, they ask you to turn over all your contractor data at the same time. So when they do a wage and hour inspection, to see whether your payroll practices were appropriate. They don't just do your current W-2 employees, they also ask for your independent contractor data, and then you're off and running. And if the Department of Labor is doing the investigation, they also tip off the IRS to you, and they'll notify Workers' Compensation and Unemployment. So it just snowballs on you, and it can get to be pretty extensive. And the last couple of clients that I've seen that have gotten investigated, they get a letter that says, you know, we have— it's been reported to us that you have not been you have not handled your employees' wage and hour issues appropriately. So therefore, we're going to be investigating. They don't tell you who or what reported. And they say, we need the following documents. I think it was a list of like 8 documents for the last 24 months. And that was payroll, W-2, 1099. And we're going to come on site and interview your employees 3 days from now. They give you 3 days notice. And they come sit down and they want to talk to see whether people have been, you know, appropriately classified as exempt, non-exempt, and are getting overtime. Are they being asked to cover lunch and not being paid? Like they're looking for all kinds of wage violations. Including misclassifying independent contractors. So it gets caught up in that whole mess. Geez. And then you're just kind of off and running and it can get expensive really quickly. So it's a conversation. It's a topic worth thinking about, even if you're like, oh, we've been good for years, that this topic has drastically shifted and has gotten a lot of attention. It's going to get increased scrutiny.

J**Jason Duff** 0:52:20

If you think of some quick things that someone should do to avoid that, would it be— and particularly, let's say you have some independent contractors in your organization. Do you formalize an agreement with them?

M**Mindi Wells** 0:52:30

Yes, what I would typically recommend is that you look at the factors. So a great starting place is to go out to the Department of Labor's website and pull off the existing factors that they consider to be influential in the decision, and then look at each one of those relationships. So each independent contractor that you have, if you looked at those questions that the Department of Labor is considering, what would your response be in relationship to each one of those individuals? So consider each one separately and kind of do your own self-audit. And if you think that someone may no longer be independent, that might be a time to get an attorney involved to do the look. If you're, if you're like, yep, I can still confidently say that these individuals certainly still fit the independent contractor definition, having an independent contractor contract with the individual outlining that is super helpful. It doesn't win the day. I mean, just saying, well, they want to be an independent contractor and we have an agreement that says it, doesn't give you a pass for the law, but it does help at least establish what that relationship looks like, who's providing equipment, how compensation is determined, what's the scope of work, we can structure a contract that helps answer a lot of the questions that the Department of Labor would be looking for. Then they don't have to go looking for answers. We can say, "We have this agreement. These are the rules of this relationship." That goes a long way. Otherwise, they start asking questions. And, you know, in the absence of writing, if it's not in writing, then it didn't happen. And so it's very hard for us to say—

J**Jason Duff** 0:53:47

Verbal contracts don't hold up.

M**Mindi Wells** 0:53:48

No. That we can really use that. We get some good mileage out of a solid independent contractor agreement when it's used appropriately. Yeah. Just doing a contract to call them that if they really don't pass the test isn't going to help you. What we used to always say is, you know, if it looks like a duck, smells like a duck, and sounds like a duck, it's a duck.

J**Jason Duff** 0:54:04

It's a duck.

M**Mindi Wells** 0:54:05

Yeah. So if it looks and sounds and smells like an employee, it's going to be an employee. And it doesn't matter what kind of document we draft and what they want to call themselves. If they're, if under the law they're an employee, then you're just setting yourself up for some expensive liability down the road.

J**Jason Duff** 0:54:18

Yeah, now that's a really good classification for anyone who's trying to figure out between the two. But you said something that I know we've talked about before. We're kind of running out of time here, but, um, you know, most people historically, previously, as you know, preferred to be under that W-2 status to, to kind of get those, uh, additional benefits, whether that's taxes being taken out throughout the year, whether that's workers' comp, you know, some of those other things that you mentioned. But I would, you know, make the argument that, uh, argument, not the argument, but I'm noticing that whether it's the younger generation or maybe it's just creatives that I'm seeing, you know, I say especially in the creative field that people are preferring, you know, in some cases to be independent contractors so that they can grow their own business and, you know, do what they want to do. They feel like they have that flexibility to take on more work and things like that. I don't know. Do you see anything?

M**Mindi Wells** 0:55:12

It's a great point because you can see where it's going to become a point of friction for employers if they're thinking, oh gosh, we can't hire independent contractors, but we have this great employee who's begging to be an independent contractor because he wants this flexibility. And so what I would say, if you're presented with someone who's really yearning to be an independent contractor, let's get to the bottom of what's driving their decision. So perhaps it is that they want to set up the Sidekick. Well, is there an opportunity for us to still employ them as an employee, but allow them to do their Sidekick? Maybe we do that confidentiality and non-compete and we carve out certain things and we acknowledge that they're going to do these, but they're not going to go after our clients as they build this business. Or if they— maybe it's something else. Maybe they just want flexible hours. Well, can't you do flexible hours for an employee? And so this whole idea that you have to be independent in order to be flexible really should challenge our thinking of employers of, well, why can't we be flexible? Why can't we help them achieve their objectives while still meeting our compliance requirements of them being an employee? So I would say the number one thing when presented with a situation like you just described is figuring out what's driving their desire to be an independent independent contractor and how can we do our part in— if it truly is not independent, how can we set them up as an employee but still allow them to achieve their goals and objectives of whatever it is that was important to them to be independent? Yeah, I would, I would challenge you that it's doable. Yeah, it might be a different way of thinking because the idea of you doing a side gig might scare the heck out of people, but we can put some, we can put some agreed-upon parameters with that, that you, that you won't get into this lane or you won't directly use this, but it still gives you all the freedom to do those other things you want. And it still addresses our fear of, but you're going to go into direct competition or use our resources. Or, you know, we put in there, you can't do it on our clock, you can't use our email address. You know, we can put some agreed-upon parameters about what that relationship would look like. I think we can still achieve, achieve the objectives. Yeah, flexibility.

J**Jason Duff** 0:56:59

It's spending the time to get the structure and the document and the agreement right to give yourself the freedom. And I think that's what I took away from Mindy being in the studio today, is that spend the time to get the, the agreement, the, the, the right employee handbook, the right systems up front, because that will give you more freedom later.

M**Mindi Wells** 0:57:22

Freedom, protection, make conversations easier. I just said this to someone earlier today. She's like, I hate writing job descriptions. This is the bane of my existence. And I know, I know you don't like it and I know they're not fun, but let me just tell you, you're going to just pat yourself on the back every time you have to post a job opening You've got to do a performance review, have a coaching and discipline conversation, because you already have this document that says, this is the expectation, you're not meeting it, or we explained this up front, or this is what we're looking for. This job description is going to pay dividends to you for quite some time in the future, even though it's a pain in the neck right now. You're gonna— you and your supervisors will find value in it going forward. I think that's the basis of almost all these legal documents we've talked about. An ounce of prevention is worth a pound of cure. Putting in the time, money, an effort right now to get customized and well-thought-out foundational materials together will serve you really well going forward.

J**Jason Duff** 0:58:09

Well, thank you, Mindy. This was awesome. I learned a lot today. Yeah, I'm gonna have to replay this a few times just to get all of it. Thank you so much. What were some of the professional development resources such as books, podcasts, courses, anything that were helpful for you?

M**Mindi Wells** 0:58:24

Gosh, so just from a business perspective, if you, if you are looking at something to to read, I love Profit First. So I'm a big fan of the author of Profit First. And he, I find a lot of small business owners just get started and they're just like, I'm going to pay the bills. And they don't really think about how making sure that they cover, how they cover profit and set aside money for taxes. Like they're just not prepared for that big tax bill. So I try to talk to everybody I can about Profit First and then his other book called Clockwork. And then there's some really good books out there that, one of them that I talk to employees about or to managers a lot about is Overcoming Your Strengths. And it's a book that says, you know, most of us got so far in life or got promotions or got opportunities because we have some really solid strengths. And we probably continue to exercise and work on those. And we may have let some of our other skills or muscles get weaker or atrophy. And so, our current skills and abilities will only take us so far. If we don't overcome those strengths and work on those other muscles and other things that aren't our gifts, we can't advance to the to the next level. It really challenged our way of thinking because some of us think we're really good, we're really good at this, and that's going to get us everywhere we need to go. But this whole concept of overcoming your strengths because there's more for you to develop that you've let go by the wayside while you've really focused on the things you liked the most or that earned you the most in return. Yeah. So overcoming your strengths is a really good — I'm still a big reader, so most of my professional development, I'm reading podcasts. If, if someone out there is looking for an employment resource, there's a really good — not podcasts, blogs. I'm reading blogs all the time, and there's one from an attorney named John Hyman called the Employment Lawyer Blog. It's really good for businesses to read. He puts everything in really good plain English perspective. So every day, if I'm sitting in the parking lot, I'm reading things on my phone, reading articles and blogs and keeping on the latest trends.

J**Jason Duff** 1:00:05

The exciting life of Mindy Wells.

M**Mindi Wells** 1:00:06

I know, it's really exciting, isn't it?

J**Jason Duff** 1:00:08

I love it. It is. Thank you, Mindy. You're welcome. The last thing is, where can people find you and keep up with what's happening happening with your business.

M**Mindi Wells** 1:00:14

Yeah, so they're welcome to follow us online. Our website is wellsllc.com, and, uh, we produce some interesting and I think helpful tidbits in the form of a blog and lunch and learn for business owners. So, and HR folks. So you can find it all there.

J**Jason Duff** 1:00:28

Appreciate it. Anything else? No, thanks, Mindy. Welcome. All right, well,

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Ethan DeLeon 1:00:31

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