

Statutory Agents... your first line of LLC lawsuit defense!

BURNS AND BURNS, P.C. IS AN AV RATED LAW FIRM THAT REPRESENTS MULTI-GENERATIONAL FAMILIES AND BUSINESS OWNERS WITH THEIR ASSET PROTECTION, REAL ESTATE, AND ESTATE PLANNING NEEDS.

Statutory Agents and their Role in an LLC

What is a Statutory Agent

A statutory agent is a person or entity that is authorized by an LLC or other business entity to receive service of process. Further, for LLC's, Arizona requires that every LLC maintain an authorized statutory agent located within Arizona to receive service of process for the LLC. (i.e. lawsuits, legal notice).

Importance of a Good Statutory Agent

Appointing a good statutory agent is very important and failure to do so may result in harsh legally binding consequences. Recently, BURNS AND BURNS, P.C. represented an LLC in a real estate matter where the statutory agent for the LLC failed to act prudently with respect to a service of process served on the LLC. As a result, a Default Judgment was entered against an LLC in the amount of seven hundred thousand dollars. However, after litigation, our client was successful in setting aside such Judgment.

Service of Process

The statutory agent and either a manager or member of an LLC, depending on whether management of the LLC is vested in a manager(s) or reserved to the member(s), can be served process, notice or demand. Further, such service has the effect of lawful personal service on the LLC.

In Arizona, an individual resident of the state of Arizona, a domestic corporation, a

limited liability company, a foreign corporation or limited liability company authorized to transact business in this state can act as statutory agent for an LLC. However, Selecting BURNS AND BURNS, P.C. as your Statutory Agent will provide the peace of mind of knowing a law firm is monitoring any and all legal notices served upon it concerning your business entity.

Appointing a New Statutory Agent

In order to appoint a new statutory agent, the Arizona Corporation Commission needs to be sent a notice executed by either the LLC's manager(s) or member(s), depending on the LLC's management structure, setting forth:

- The name of the LLC;
- The LLC's current known place of business;
- The name and street address of the LLC's current statutory agent;
- The names and street address of the LLC's successor statutory agent and the statutory agent's new street address; and
- The notice, addressing the above topics, is signed by the new statutory agent or the statutory agent delivers a separate statement in writing satisfying the above topics to the Commission accepting the appointment.

Corporation Commission Acting as Statutory Agent

If an LLC fails to appoint or maintain a statutory agent at the address shown on record with the Arizona Corporation Commission, the Arizona Corporation Commission will act as an agent for the LLC for service of any process, notice or demand on the LLC.

Upon service of the Arizona Corporation Commission, the Arizona Corporation Commission will forward the served process, notice or demand to the LLC's last known place of business. When the Arizona Corporation Commission is served, the LLC is to respond within thirty (30) days.

It is most important for the continued operation of the business that the members are promptly notified of any legal action taken concerning their business entity. Therefore, prompt notification can become a serious issue in the event of meeting time sensitive responses to any legal action. Selecting BURNS AND BURNS, P.C. as your Statutory Agent will provide the peace of mind of knowing a law firm is monitoring any and all legal notices served upon it concerning your business entity.

Changing a Statutory Agent's Address

To change the statutory agent's address, notice must be delivered to the Arizona Corporation Commission stating:

- The name of the LLC;
- The LLC's current known place of business address;
- The name and old street address of the LLC's statutory agent; and
- The new street address of the statutory agent.

Consequence for Failure to Change of Address of Statutory Agent

If an LLC fails to appoint or maintain a statutory agent at the address shown on record with the Arizona Corporation Commission, the Arizona Corporation Commission will act as a temporary agent for the LLC for service of any process, notice or demand on the LLC. Upon service of the Arizona Corporation Commission, the Arizona Corporation Commission will forward the served process, notice or demand to the LLC's last known place of business.

Resignation of Statutory Agent

A statutory agent may resign as statutory agent of an LLC by providing the Arizona Corporation Commission with written notice of their intent to resign from their position as a statutory agent. The LLC is required to select a new statutory agent within sixty (60) days of the resignation and inform the Corporation Commission of the change.

About the Author

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Scott F. Burns, Esq. is an Arizona attorney whose clientele include professional athletes, business owners, and families desirous of protecting their personal and professional legacies through the use of asset protection strategies, estate planning and business consulting.

For Additional Information

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