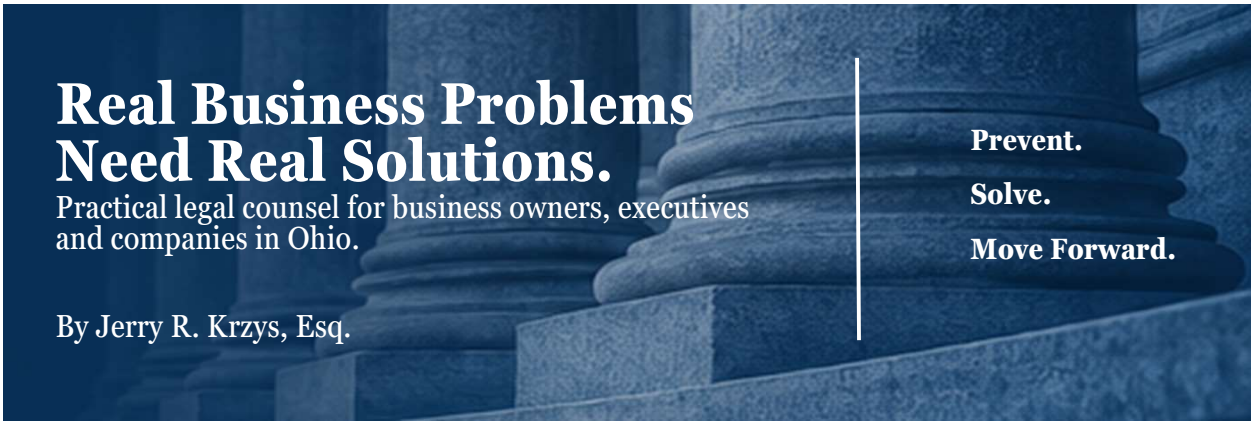
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Your Business Entity Protects You—Until You Stop Treating It Like a Separate Business

What Ohio Business Owners Should Learn from Momentum Freight Logistics Corp. v. Benie Logistics Inc., 10th Dist. No.24AP-263, 2025-Ohio-5738

A corporation or limited liability company can separate the owner's personal assets from the obligations of the business. But the entity has to be treated as an entity—not merely as another bank account with a different name.

That distinction is easy to respect when business is good. The harder test comes when cash is tight, creditors are pressing, a lawsuit has been filed, and the owners believe the company owes them money. At that point, decisions that may feel like ordinary owner-level cash management can become evidence in a later claim that the business had no meaningful existence separate from its owners.

That is the practical lesson of *Momentum Freight Logistics Corp. v. Benie Logistics Inc., 10th Dist. No. 24AP-263, 2025-Ohio-5738*. The case did not hold that sloppy recordkeeping, owner advances, or the occasional use of a personal credit card automatically destroys limited liability. Ohio's veil-piercing standard is considerably more demanding. But the case shows how weak corporate formalities, undocumented owner transactions, commingled finances, insolvency, and transfers to insiders can combine with wrongful conduct to put the owners themselves into the case.

1. The Dispute Began as a Business-Sale Contract Problem

Momentum Freight Logistics Corporation sold its FedEx trucking and delivery business to Benie Logistics, Inc. for $1.675 million. The asset purchase agreement addressed, among other things, workers' compensation premium dividends associated with the business. Benie assumed Momentum's Ohio Bureau of Workers' Compensation policy, and the BWC later issued two dividend checks totaling $327,268.32.

The contract dispute was straightforward in concept: Momentum claimed the money belonged to it under the asset purchase agreement; Benie disagreed as to part of it and did not remit either check. The dispute became much more consequential when the money moved.

The checks were initially deposited into Benie's business savings account. After Momentum sued, the owners transferred the funds from Benie's account to their joint personal savings account, then through personal checking accounts. One owner testified that the funds were used to reimburse him for bills he had paid for the company. By the end of November 2021, Benie was no longer operating.

The trial court ultimately entered judgment against Benie and its two owners jointly and severally for $465,806.32, including treble damages on one of the dividend payments. The Tenth District Court of Appeals affirmed.

2. Limited Liability Is the Rule. Veil Piercing Is the Exception.

Business owners sometimes hear "piercing the corporate veil" used loosely, as though any failure to keep minutes or any movement of money between an owner and a company makes the owner personally liable. That is not Ohio law.

Ohio's basic test comes from *Belvedere Condominium Unit Owners' Assn. v. R.E. Roark Cos., Inc., 67 Ohio St.3d 274 (1993), syllabus ¶ 3*, as later clarified by *Dombroski v. WellPoint, Inc., 119 Ohio St.3d 506, 2008-Ohio-4827, syllabus*. To disregard the entity and impose liability on an owner, the claimant generally must establish three things: control over the entity so complete that it has no separate mind, will, or existence of its own; exercise of that control to commit fraud, an illegal act, or a similarly unlawful act; and injury or unjust loss resulting from that control and wrong.

The second requirement matters. Poor corporate housekeeping by itself is not the same thing as using the company to commit a wrongful act. That is why the practical lesson from Momentum Freight is not "miss a board meeting and lose your liability protection." The lesson is that weak separation between owner and company can become much more dangerous when a serious creditor dispute develops and the owners begin moving company assets for their own benefit.

3. The Court Looked at How the Company Actually Operated

Benie's bylaws required corporate meetings and records. The evidence showed that the owners did not hold formal shareholder or board meetings and did not maintain minutes. One owner described informal discussions over meals or by telephone, with notes sometimes written on a sticky note and then discarded. The other acknowledged that corporate formalities had not been maintained as they should have been.

The court also considered capitalization and financial practices. Benie began operating the acquired FedEx delivery business with only $500 in its bank account, even though one owner acknowledged that $4,000 would have been insufficient to operate the business. During most months of operation, Benie made $10,000 lump-sum payments to the owners' personal account as compensation, but the owners did not produce the board-approved compensation documentation contemplated by the bylaws.

The owners also regularly used personal credit cards for company expenses. Owner financing is not inherently improper; closely held companies often depend on it. The problem was the absence of a reliable paper trail distinguishing company obligations, owner advances, compensation, reimbursements, and personal funds. Taken together with the other evidence, the appellate court

held that the record supported the trial court's finding that Benie functioned as the owners' alter ego.

4. Using Personal Money for the Business Is Not the Problem. Failing to Document It Can Be.

Many small and midsized businesses are initially financed by their owners. An owner pays a vendor with a personal card. A member advances cash to cover payroll. A shareholder pays an insurance premium and expects reimbursement. None of that necessarily means the company and owner are the same.

But the accounting and legal treatment should match what actually happened. Was the payment a capital contribution? A loan? Reimbursable business expense? Compensation? Distribution? If it was a loan, what amount is owed and on what terms? If it was compensation, who authorized it and how is it reflected in the books? If the company reimburses the owner, is there documentation showing the underlying company expense?

Those questions may seem overly formal when two owners are sitting at the same kitchen table running the company. They become much less academic when the company is insolvent and a creditor asks why money moved from the company to the owners.

5. A Creditor Dispute Changes the Risk of Insider Transfers

The most damaging facts in Momentum Freight arose after the dispute had matured. The owners told Momentum that the BWC funds had been placed in a separate interest-bearing account while the parties investigated their disagreement. Momentum then filed suit. Weeks later, the owners transferred the funds from Benie's business account into personal accounts.

The evidence also showed that Benie was insolvent, that the transfer represented substantially all of its remaining assets, and that the owners were insiders. One owner testified that the funds were moved because the company's credit card was severely over limit and they were concerned the bank would take the money to satisfy that debt. The trial court found, and the appellate court agreed, that the evidence supported actual intent to hinder, delay, or defraud Momentum.

Ohio's fraudulent-transfer statute identifies factors courts may consider when evaluating actual intent, including whether a transfer was made to an insider, concealed, made after suit or threat of suit, involved substantially all of the debtor's assets, or occurred while the debtor was insolvent. See Ohio Rev. Code § 1336.04. Momentum Freight is a useful illustration of why those factors matter in a closely held company.

6. "The Company Owes Me Money" Does Not End the Analysis

An owner may have a legitimate claim against the company. Perhaps the owner advanced operating funds, personally guaranteed obligations, or paid company expenses. But a genuine debt to an owner does not necessarily give the owner freedom to empty the company's account when other creditors are asserting claims.

The timing, documentation, solvency of the business, relative rights of creditors, and purpose of the transfer all matter. A decision that feels internally like "paying myself back" can look very different when viewed later through bank records, pleadings, creditor demands, and testimony.

That is particularly true once litigation has begun. At that point, significant transfers to owners, affiliated companies, family members, or other insiders deserve careful review before the money moves—not an explanation assembled months later.

7. A Contract Case Can Create Exposure Beyond the Contract

Momentum's original dispute arose from an asset purchase agreement. But the final judgment did not remain a simple claim against the corporate buyer. The case expanded to claims including fraudulent transfer, civil theft, civil conspiracy, conversion, and veil piercing.

The trial court found civil theft as to the $69,269 payment under Ohio's civil-action statute and criminal theft statute, and awarded treble damages on that amount. See Ohio Rev. Code § 2307.60; Ohio Rev. Code § 2913.02(A)(2). Momentum elected the statutory remedy available under Ohio Rev. Code § 2307.61(A)(1)(b)(ii), and the court awarded treble damages on that amount. The appellate court also rejected the argument that the economic-loss rule barred the tort claims, reasoning that the challenged conduct involved duties and wrongful acts separate from merely failing to perform the asset purchase agreement.

That does not mean every breach of contract can be repackaged as a tort or that owners become personally liable whenever their company loses a contract case. They do not. The point is narrower: conduct occurring around a contract dispute can create independent legal problems. How management handles disputed money, company assets, creditor pressure, and insider transactions after the breach may matter as much as the original contract language.

8. Corporate Formalities Should Match the Size and Reality of the Business

A closely held company does not need to operate like a public corporation. Its governance system should, however, be real enough that someone looking back can tell what the company decided, what the owners decided personally, and why money moved between them.

For many closely held businesses, that means a manageable set of habits: maintain the required organizational records; document major owner and board decisions; keep business and personal accounts separate; properly record owner loans and capital contributions; document compensation and distributions; support reimbursements with underlying business records; and make the accounting treatment consistent with the legal characterization.

The goal is not ceremonial paperwork. It is preserving the distinction between the business and the people who own it.

9. When Financial Trouble Begins, Informal Practices Become More Dangerous

A practice that creates little friction during profitable years can become a serious problem when the company begins missing obligations. Cash becomes scarce. Owners who have funded the company want repayment. Vendors demand money. Lenders exercise rights. Litigation arrives. Management starts deciding which obligations get paid and which do not.

That is precisely when the company should become more disciplined, not less. Before making unusual distributions, repaying insider debt, moving assets to affiliates, closing accounts, transferring equipment, or paying owners ahead of other creditors, management should

understand the company's financial condition and the legal consequences of the proposed transaction.

Waiting until after the transfer to ask whether it was permissible reverses the order in which the problem should be handled.

10. A Practical Separation Checklist for Closely Held Businesses

An owner should be able to answer the following questions without reconstructing the company's history from bank statements and memory:

- Are business revenues and expenses running through business accounts rather than personal accounts?
- Can the company identify and document owner loans, capital contributions, reimbursements, compensation, and distributions as separate categories?
- Are major owner and board decisions documented in the manner required by the company's governing documents?
- If owners use personal credit for company expenses, is there a consistent reimbursement and accounting process?
- Does the company have enough capitalization and liquidity for the business it is actually operating, or is it continuously dependent on undocumented owner advances?
- When money moves from the company to an owner, can the company explain the legal and business basis for the transfer?
- If a creditor dispute has developed, is management reviewing unusual insider payments or asset transfers before they occur?
- If litigation has been threatened or filed, are relevant financial records, communications, bank statements, accounting records, and transaction documents being preserved?

The right level of formality depends on the entity, governing documents, ownership structure, financing arrangements, and circumstances. But the company's records should tell a coherent story: the business owns its assets, incurs its obligations, makes its decisions, and accounts for transactions with its owners as transactions—not as unexplained movements of money.

11. The Business Lesson from Momentum Freight

The owners in Momentum Freight began with a corporation that had purchased an operating business. They ended with a judgment imposing liability on them personally. The result did not follow merely because minutes were missing or personal credit cards had been used. The appellate court affirmed veil piercing because the evidence supported all parts of Ohio's demanding test: complete control, use of that control to commit wrongful conduct, and resulting injury.

For a closely held business, that is the useful lesson. Limited liability is not maintained by the letters "Inc." or "LLC" alone. The entity should function as a real, separate business in its records, accounts, decisions, and dealings with its owners – especially when financial pressure makes the temptation to blur those lines strongest.

If your company routinely relies on owner advances, reimbursements, distributions, or informal decision-making, reviewing those practices before a creditor dispute develops can help preserve the separation the entity was created to provide.

Keep the entity separate. Document the transaction. Understand the creditor problem before the money moves.

This article is for general informational purposes only and does not constitute legal advice. Entity liability, veil piercing, fraudulent-transfer claims, creditor rights, and owner exposure depend on the entity structure, governing documents, financial condition, transaction history, applicable law, and particular facts.