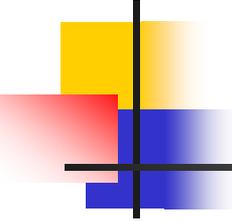


# Agri-Tourism Business Structures

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## Limiting Your Liability



# Presented by:

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Linda D. Phillips

Dean, Dunn & Phillips LLC

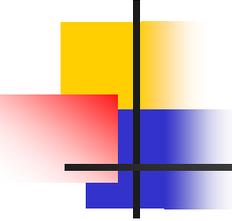
650 S. Cherry St., Ste. 620

Denver, CO 80246

303/756-6744

# How Could You Be Liable?

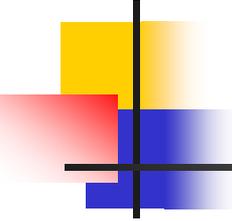




# Torts Liability

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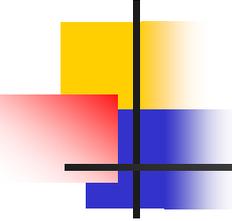
- Personal Injury
  - Trip and Fall
  - Animal Bites (Horses, mosquitoes, ...)
- Property Damage
  - Broken equipment (fishing gear, etc.)
- Negligence
  - Accidental Death (drowning, etc.)



# Contracts Liability

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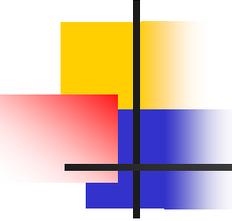
- Broken Promises (Implied Warranties)
  - Promised fish - Didn't catch any fish
  - Horse kept going back to the barn
- Breach of Contract
  - Did not provide service per the specific terms of the contract



# Ways to Limit Liability

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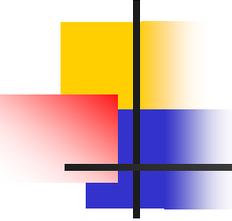
- Waiver/Releases
- Insurance Products
  - General Liability
  - Specific Liability Insurance for Industry
- Business Structures



# Why a Business?

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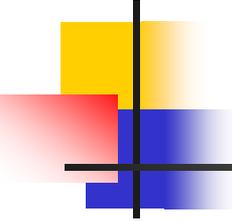
- Limits Liability
- Separates the tourism business
  - From other businesses
  - From the family
- Ease of Recognition
- Legitimizes the Operation



# Types of Businesses

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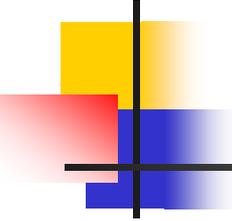
- Sole Proprietorship/Partnership
- Limited Partnership/LLLP
- Limited Liability Company
- Corporations (C and S-Corps)



# Sole Proprietorship – Partnerships

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- Advantages
  - Control
  - Easy Bookkeeping
  - Less expensive to maintain
- Disadvantages
  - Liability **not** limited
  - Could lose it all...



# LLP Partnerships

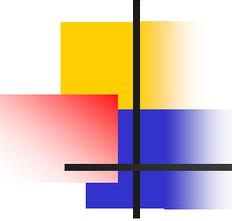
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- Advantages

- Family can be limited partners
- Can avoid some taxes (SS, unemployment) because they are not employees
- Limited liability

- Disadvantages

- Partnership accounting can be cumbersome

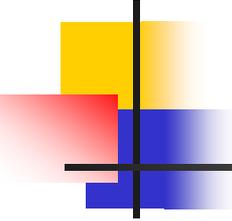


# Limited Liability Company

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- Advantages

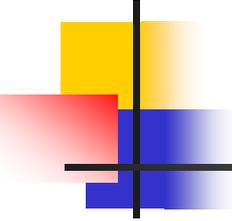
- Liability of members limited to their investments
- Can choose your accounting system (partnership, S-corp or C-corp accounting)
- Easy to form and maintain
- Some tax advantages (if using partnership accounting or S-corp accounting)



# LLC Disadvantages

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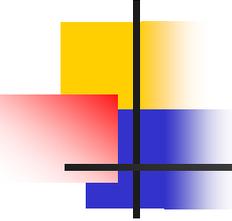
- Tax accounting sometimes difficult
- *In re Albright*, 291 B.R. 538 (Bankr.D.Colo. 2003)
  - Personal Chapter 7 Bankruptcy
  - Sole Member LLC
  - Trustee got authority to sell LLC assets to cover the sole member's debts
    - Membership Interest AND Management Interest
- Two members



# C-Corporations

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- Advantages
  - Shareholder liability limited to investments
  - Easy to form
- Disadvantages
  - Double tax returns/accounting systems
  - Less flexibility



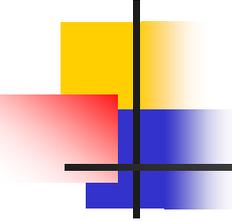
# S-Corporations

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- Advantages
  - Shareholder liability limited to investments
  - Easy to form
  - Tax advantages
- Disadvantages
  - Limited number of investors
  - Not quite as flexible as an LLC

# Maintaining Limited Liability

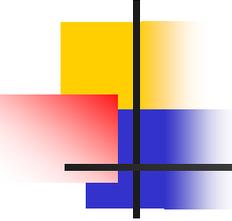




# “Arms Length” Transactions

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- What – Keeping all agri-tourism business activities separate from any other businesses or family operations.
- Why – Again to limit liability and to avoid “piercing the corporate veil”.
- How

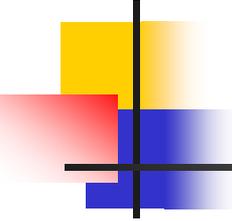


# Record Keeping

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Records for the LLC or corporation must be devotedly maintained

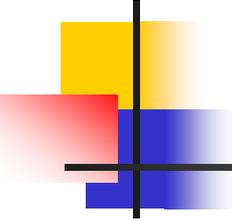
- Board Meetings (should meet at least quarterly to discuss the business)
- Minutes of major activities
  - Buying/selling real or personal property
  - Hiring management personnel
- Annual Shareholder/Member Meetings
- Annual Reports to the Secretary of State



# Business Operations – Part I

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- Separate Bookkeeping – accounting records must be completely separate from other operations
- Bank Accounts Must Be Separate
  - Includes separate credit cards
  - Separate bank lines of credit
  - Avoid personal guarantees with the bank

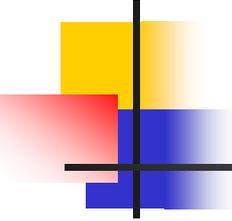


# Business Operations – Part II

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## Contract Tracking

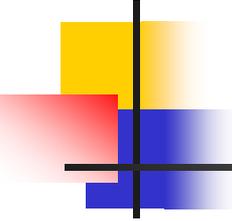
- Buying Feed – for the agri-tourism operation or for other operations
- Fuel purchases
- Vendor contracts (try to avoid personal guarantees)
- Administrative Services Agreement – between the “family” or owners and the new company – Spells Out:
  - Management of the operations
  - Bookkeeping/administrative services
  - Personnel agreements



# Business Operations – Part III

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- Outside Personnel – Employee payrolls through the business
- Independent Contractor Agreements (with indemnification/limitations of liability clauses)
- Tradenames – Good Usage



# Conclusion

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- Waivers/Releases
- Insurance
- Separate Business Organizations

Through these vehicles you CAN limit your liability and successfully operate your agri-tourism business.

Thanks  
For  
Listening

