



TRELLIS

Trellis Legal, LLC

5149 Butler St., Suite 300, Pittsburgh, PA 15201

www.trellispgh.com

Key Legal Tips for Photographers

DISCLAIMER: This outline is a general guide. Be sure to contact an attorney if you have questions or specific issues that need to be addressed.

Photographers have a special kind of talent to capture the world's infinite beauty and some of our best moments in it! From family gatherings, intimate moments, and events to corporate functions, photography businesses need to safeguard their work and themselves by communicating expectations clearly, developing clear-cut processes, building protections, and understanding their rights in the industry. Below are a few tips and tools to implement so you can better build your business as one that protects itself, its owner (you!), its subjects, and its clients.

1. Be prepared with contracts and releases

A picture is worth a thousand words, but what good are those words if they aren't clearly outlined in your contract? Kidding aside, when you have a photography business, there are some types of contracts you will want to have no matter what, and others that depend on the type of business you do. A few are explained below.

Photo Release and Waiver

Before you take someone's photo for a business purpose, you will need to make sure you have consent from them to do so. A photo release will obtain this consent and define the parameters included in their consent. You can [purchase a photo release](#) from our DIY Documents library or learn more about waivers and releases [in our free resource here](#). If you're taking photos of an individual under the age of 18, you will need to have a parent or legal guardian sign this type of release.

Client Contracts

A contract between your photography business and the client is crucial to make sure everyone understands the extent of your services (and what they don't include), how you expect to get paid and how they can pay you, when and how you'll deliver your photos, the expectations surrounding what the photos will look like upon delivery, and who owns the rights to what. Here are a few different types of client contracts depending on what you do with your photography business:

- [Wedding and Events Contract](#)

There are all kinds of unique considerations when it comes to photographing weddings and events. First of all, they're typically booked far in advance. With so much time between scheduling and the event date, you want to account for all that could happen and have language surrounding not only leading up to the event, but what is going to be expected of you (and your clients) day-of. Events usually end with thousands of image files to edit and sort, so you'll also

want to communicate clearly when the client can expect finished photos, and what types of retouching/edits will be involved. Download our wedding and events photography contract at [DIY Events Photography Contract](#).

- [Commercial Photography Client Contract](#)

If you're working with other businesses to promote their products and services, develop their marketing materials, or help build their brand, a commercial photography client contract will help you establish your relationship with the business and keep a record of the terms surrounding it. It should provide the Client with information regarding any policies you may have, location access, important intellectual property language and the scope of their rights to use the photo, cancellation, rescheduling, payment, etc. Check out our [commercial photography agreement](#) in the DIY Documents Library.

- [Portraits/Studio Contract](#)

If you're doing lifestyle or individual portraits for a client, this type of photography work is going to be completely different than a big event or commercial agreement. For example, you may want to outline your day and exactly how many photos will be delivered, and establish clear parameters that the photos are to be for personal use only.

Language to include in your contracts.

Whether you're doing commercial photography, lifestyle portraits, or covering events, you will want to have certain sections in all of these contracts, including who will own what parts of the intellectual property (read more about this in our intellectual property resource), what the scope of your work is, what actually is the final product, and more. Read our blog post with [more details to make sure you include](#) in photography agreements.

Other helpful contracts for sale in our DIY Documents Library:

- [Cancellation or rescheduling of services.](#)

If you want to solidify a cancellation or rescheduling of an event or your services and make the terms surrounding this clear, this is a great option.

- [Contract addendum/amendment.](#)

This contract attaches to and becomes a part of your original client agreement. If you want to add on services or change certain terms with an existing client, instead of having to create a whole new contract, you can create an addendum or amendment that just modifies the specific terms.

- [Independent Contractor agreement.](#)

If you're hiring a second shooter, or want to bring on another type of assistant, or maybe you want to add a different type of services within your business, such as a videographer or stylist, you may want to bring on an independent contractor, and having a clear agreement around their scope of work and how your relationship with them will work is a must. Check out our template or [download our resource](#) all about independent contractors.

2. Form an entity to protect yourself from personal liability.

Having an entity like an LLC can provide good legal protection for your personal assets. This means that only the business assets are at risk if your business is sued. Also if you are operating a business [under a](#)

[name other than your personal name](#) you need to have an entity or a fictitious name (also known as a “Doing Business As”), but often times filing a fictitious name is more expensive than forming an LLC and doesn’t come with the same legal protections. Check out our blog posts on [LLCs](#) and [The Low-Down on Legal Costs](#) which discusses forming an entity. Make sure you have the right governing documents and are keeping your business separate from yourself – separate finances, separate contracts, etc. – to better protect yourself!

3. Understand the legal obligations and rights of others, as well as your own.

Sure, you don’t need a license to practice photography, but people do have rights when it comes to their images being taken, especially for commercial purposes, and a photographer needs to understand these. You as a photographer have rights as well. For example, you have the right to take photos in public spaces of things in plain view, however, even in some public places you can’t always take photos of everything all of the time, as there can still be time, place, and manner requirements surrounding the capturing of information and what you use it for (photojournalism? commercial?)

It’s important as a photographer to understand your rights and the rights of others, so you can advocate for yourself. It’s important to understand any relevant laws, ordinances, and even the constitutional rights others have to their image and likeness, and what you can and can’t use those images for. Taking others’ images without their consent and using them for commercial purposes especially can be a violation of another’s rights. (This is where photo releases with broad use for you to sell, edit, re-sell, and publish come in to make it clear you can use the photos for any (or no) purpose.) Or, taking an image of another but publishing it in a context that adds a false implication that damages their reputation could expose you to potential libel (defamation) liability. We definitely recommend working with an attorney to understand the parameters of your intended use and business (see below), your rights, and the rights of others.

4. Seek the pros.

We’re all about utilizing the resources you have access to help you thrive. From talking to your accountant about the best strategic and compliance requirements surrounding your work (for example, when sales tax applies to photography and when it does not), working with an insurance agent to make sure the policy you have for your business is accurately covering the business you do (for example, is it covering photo shoots that occur outside of your studio?), and working with an attorney to understand your unique business and needs. [Download our resource with all kinds of professionals](#) who may be able to help you out.

5. Learn more!

There is always more we could say. Check out a few other free resources you may find helpful as you build (and protect) your business and your art:

- [Business Advertising 101](#) covers important legal considerations when it comes to advertising your business, organization, fundraiser, or anything where you’re asking people to buy into the goods, services, and opportunities you offer.
- [The Intellectual Property Toolbox](#) outlines various tools you can employ to protect – and potentially enforce – your own intellectual property.
- [Art Licensing Resource](#) outlines key considerations relating to the contract you would want to have between you, the photographer, and the company or person utilizing your work.
- [Legal Considerations for Social Media](#) - includes a non-exhaustive to-do list of legal concepts, policies, and considerations around sharing, engaging, and posting and

(re)posting to ensure your rights and the rights of others are protected.