

**SELF-PUBLISHER'S  
LEGAL  
HANDBOOK**



**The Step-by-Step Guide  
to the Legal Issues of Self-Publishing**

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**TEN GALLON PRESS**

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This Handbook is dedicated to every writer with  
a story to tell,  
a memory to share,  
an insight to explore,  
and a heart to open.

## INTRODUCTION

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**C**ONGRATULATIONS. YOU HAVE WRITTEN A book. You have tackled the challenges of voice, pacing, and structure. More kudos to you if you are self-publishing. You are ready to grapple with copyediting, layout, cover art, and ePub.

As a self-publisher, you face new challenges—legal issues as wide ranging as copyright, defamation, and taxes.

Perhaps you are surprised to discover you are starting a business. You have questions about incorporation and crowdfunding, not to mention hiring freelancers and deducting expenses.

Or you are considering buying a publishing package from a self-publishing service company. You wonder how to distinguish between an honest company and an unscrupulous one. And you worry about losing your copyright.

Do you suffer from *contract anxiety*? When you try to read a contract, does the page look like 5,000 words run through a blender?

What about author platforms? How do you find eye-catching images without spending a fortune? How do you write blog posts

that are provocative, but not defamatory? Does your website need a privacy policy, and what do DMCA, COPPA, and DRM mean anyway?

Dozens of books and websites offer advice on designing covers, editing content, and tweeting effectively, but few will tell you how to protect your Social Security Number or spot a scam. Online advice is often wrong, outdated, or incomprehensible. Who has the patience to sort through such clutter? How do you tell useful insight from utter nonsense?

When I self-published my historical novel, *Coyote Winds*, I found no legal guide for self-publishing writers. That needed to change.

I am a business lawyer with 30 years of experience assisting clients in setting up and running their businesses, legally and successfully. My clients include entrepreneurs such as winery owners, green toy makers, software engineers, and writers. I do not go to court, and no one is ever going to produce a movie about the exciting life of a business attorney. But I get a great deal of satisfaction by keeping my clients out of trouble, so they can focus on their businesses, their creative projects, and their lives.

I wrote this book to help other writers self-publish and promote their work while minimizing legal risks and errors.

Writing and publishing a book is a significant investment in both time and money. It is tough enough to make money in a business where fewer than five percent of books sell over 1,000 copies. You don't want to lose that money (or sleep) by hiring the wrong self-publishing service company or getting sued for copyright infringement.

Many chapters in this book will also help a traditionally published writer who is blogging, tweeting, and creating content for Internet distribution.

The goal of this book is to show you how to:

C	• Control your work
A	• Avoid scams and lawsuits
M	• Maximize tax deductions

**Control:** If you are serious about building your self-publishing business and protecting your rights, then you want to control all components of your work: the copyright, ISBNs, retail pricing, discount rate, distribution channels, and promotions. *Self-Publisher's Legal Handbook* provides the tools for maintaining this control.

**Avoid:** No one wants to lose money in a scam, buy worthless services, pay unnecessary taxes, or get sued for infringement, defamation, or invasion of privacy. This Handbook will educate you on how to reduce these risks.

**Maximize:** Your expenses will exceed your revenues, at least at first. I will advise you on how to improve your chances of deducting these expenses from non-book-related income.

Remember this acronym: CAM (control, avoid, maximize). I refer to it often.

Like most business attorneys, I blend legal and business advice. The most cautious legal advice is useless if it makes no business sense. But an aggressive business strategy that crosses the legal line is just as useless and much more damaging. Even if you are writing a book on how to rob a bank or hack the Pentagon, readers expect you to deal with them honestly and competently. Lose a reader's trust, and you'll lose that reader.

To make this Handbook user-friendly, I've organized the book into sections:

*Starting Out on the Right Foot.* Chapter One walks you through the steps of setting up your business, including registering a DBA (doing business as) name and obtaining a tax identification number.

*Moving from Manuscript to Book.* Chapter Two compares the options of engaging a self-publishing service company (SPSC) to doing it yourself using a print-on-demand (POD) provider. Chapter Three explains the mechanics of hiring designers, editors, and other freelancers.

*Getting Rights Right.* Chapter Four covers the basics of copyrights, trademarks, fair use, and public domain, including how to find copyright holders. I also provide tips on licensing images and music for little or no money.

*Avoiding Marketing and Internet Minefields.* Chapter Five discusses marketing and distribution choices, including paid reviews and giveaways. It also covers typical scams such as expensive, but meritless, contests. Chapter Six translates the alphabet soup of SPAM, COPPA, and DMCA. The intimidating topics of defamation and invasion of privacy are covered in Chapter Seven.

*The Inevitable Taxes.* Chapter Eight touches on the mechanics of sales and income tax, including tips on saving money.

*Working Well with Others.* Chapter Nine explores collaborations, and Chapter Ten explains how to find and retain an attorney.

*Beyond the Book.* Self-publishing is a new business and still evolving. Law is an old business and still evolving. In the last chapter, I invite you to send me your questions and to share your experiences—the foolish, the infuriating, and the successful. Who knows—your contributions may

end up in the next edition of the *Self-Publisher's Legal Handbook*.

*Addendum.* I have annotated and explained key portions of the CreateSpace and KDP (Kindle Direct Publishing for e-books) publishing contracts. Once you know what to look for in a contract, the words will form into concepts, and the concepts will grow into understanding. I also include excerpts from a shockingly predatory (and completely real) contract to help you recognize the fine-print traps to avoid.

You don't need to read the chapters sequentially. You could be working on transforming your manuscript into a paperback and e-book while you are setting up your business and designing your website. Copyright and defamation issues are ongoing, and taxes are forever. I reference useful websites throughout the book, and you will find the web addresses for them in the Addendum and on my website, <http://helensedwick.com>.

A few disclaimers:

- Although I am a lawyer, I am not *your* lawyer. Reading this book does not create an attorney-client relationship between us.
- If you ask an attorney a question, her favorite answer will be “it depends.” In giving legal advice, much depends on the particular facts and personalities involved. The information in this book is general in nature and may not apply to your specific situation.
- I am not soliciting you to send me legal work. Frankly, my plate and practice are already quite full.

- I am licensed to practice in the State of California only. While much of what I say applies in many states, I do not know the law in all 50 states, much less foreign jurisdictions.
- This Handbook should not be used as a substitute for the advice of a competent attorney admitted or authorized to practice in your jurisdiction. You should never delay seeking legal advice, disregard legal advice, or commence or discontinue any legal action because of information in this Handbook.
- I provide hyperlinks and references to other resources as a convenience to you. My hyperlinks and references are not meant to imply an approval, endorsement, affiliation, sponsorship or other relationship to the linked resource or its operator.
- I will not tell you, *“Don’t worry about it. No one (the IRS/ state sales tax authority/ copyright owner) will ever know.”* I will lay out the law and the customary practices. I may suggest the path intended to avoid legal landmines. Whether you follow the law is up to you. Some people enjoy the thrill of living near the edge; others have trouble sleeping when they take any risk.
- If you ask, *“Should I put it in writing?”* the answer will be *yes*.
- You may want to consult an attorney directly. I give advice on how to find, interview, and engage an attorney in *Chapter Ten: Attorneys*.
- On a stylistic level, I will avoid the awkward *his or her*. I may say *his*. I may say *her*. I mean both.

Finally, I am assuming:

- You will not be hiring employees. If you are successful enough to hire employees, then I congratulate you. You will soon outgrow this book.
- You are ready to spend some money. If you produce an e-book only and are willing to do your own editing, designing, website design, and so forth, then your outlay could be \$100. Or you can spend \$30,000 on designers, editors, publicists, and advertising. The choice depends on what you can afford and whether you are giving yourself permission to invest—*yes, invest*—in your dream.

My advice: *Go for it*. You have worked a long time on your book, most likely years. Give it the best chance to spread its wings and fly.