

Asset Protection Newsletter

"To be successful, you have to have your heart in your business, and your business in your heart." – Thomas Watson, Sr.



Welcome to Our February
2013 Asset Protection
Newsletter!

Is it too late to protect my assets once I am sued or have a potential liability?

Not necessarily. No law obligates a lawsuit defendant to hold his assets for the benefit of his creditors, despite common belief to the contrary. In fact, Supreme Court Justice Antonin Scalia, in one celebrated case, announced, "A creditor has no cognizable interest in the assets of a debtor prior to obtaining a judgment. Anyone can transfer their assets all day long until the sheriff shows up with a Writ of Execution pursuant to a court order."

Also contrary to popular misconception, a fraudulent transfer isn't a crime. It's a civil remedy. It divides irreversible transfers from transfers that can later be reversed by the courts. With a fraudulent transfer, the transferor and transferee don't commit a crime. And frequently, a defendant's attorney can successfully argue that the transfer wasn't fraudulent. However, even if the defendant loses, the court remedy is only to unwind the transfer.



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[February 14, 2013 @ 1pm EST](#)

**The Approximate Length for the
Presentation is One Hour**

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Important Changes in Florida Law

Latest update: In June of 2010, the Florida Supreme Court held in *Olmstead v. Federal Trade Commission* (No. SC08-1009) that a charging order is not the exclusive remedy available to a creditor holding a judgment against the sole member of a Florida single-member limited liability company.

The essence of fraudulent transfer law was well-stated in one Florida Supreme Court case: “A fraudulent conveyance action is simply another creditor remedy. It is either an action by a creditor against a transferee directed against a particular transaction which, if declared fraudulent, is set aside, thus leaving the creditor free to pursue the asset, or it is an action against a transferee who has received an asset by means of a fraudulent conveyance and should be required to either return the asset or pay for the asset. A fraudulent conveyance action is not an action against a debtor for failure to pay an amount owing from a prior judgment and does not warrant an additional judgment against the same debtor because of the fraudulent conveyance.

Clearly, it’s not too late to take defensive measures once you are sued – though you have fewer options than had you planned beforehand. Still, even the most dire of situations has its solutions. Again, to quote the Supreme Court, “A debtor [who is sued] need not be like a deer frozen in the headlights of an onrushing auto. The debtor still has it within his rights the opportunity to attempt to put his wealth beyond harm’s way.”

The safest path, of course, is to protect yourself before you encounter problems. You then have more planning options and less risk that your transfer will later be challenged. Still, many clients in litigation are advised by their attorney that it’s too late to protect their assets because a lawsuit has begun or is threatened. This is poor advice. It makes no more sense than a doctor advising a patient that it’s too late to try to save herself because she has already contracted a disease. Yes, you have fewer wealth-saving alternatives once you have a claim against you, and yes, you need more creative and complex planning to safely shelter your assets – but you do have options.

When is the best time to protect your assets?

What should be obvious from our conversation so far is that the best time to protect yourself is before a creditor threat is foreseeable.

You should always protect yourself: Well before your marriage turns sour and heads for divorce. Preferably, if you wish to do specific pre-marital/pre-divorce planning, and a pre-nuptial agreement is not an option, then set up your program before you get married. Do planning at least one

Be one step ahead, keep following our newsletter for up to date changes in the law!



Craziest Lawsuit of the Month

Husband divorces his wife for having an ugly baby and then sues.

A man in China, who had recently married and had a baby with his wife, claimed that the baby was so ugly that there was no way it could have been his. His wife admitted to having over \$100,000 worth of cosmetic surgery prior to meeting her husband. He then divorced her and sued for lying about her beauty and previous cosmetic surgeries. He won the lawsuit and was awarded \$120,000.

Trending Asset Protection Article

How Your Clients Can Shield Their Assets from Lawsuits

It goes without saying that if your client loses all his wealth, then you lose too.

For that reason, financial advisors should not be indifferent to actions clients can take to legally safeguard their wealth...

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year before you divorce. Before someone threatens you with a lawsuit. Before your business starts going under.

In other words, because we often can't foresee creditor threats before they materialize, a protective plan is best implemented before these threats occur. In sum, you should set up an asset protection plan as soon as possible!

Can we protect you after a threat to your wealth arises? Except in some circumstances, the answer is usually yes. But your asset protection program will definitely be stronger if it's set up well before your wealth becomes threatened. Furthermore, you may have to take more complex and expensive steps to protect your assets after your problems appear. Our plans may then include international planning with exclusively international managers, or even something as radical, however pleasant, as moving to Florida to buy a homestead property, which is protected against creditors, even if the home purchase is a fraudulent transfer.

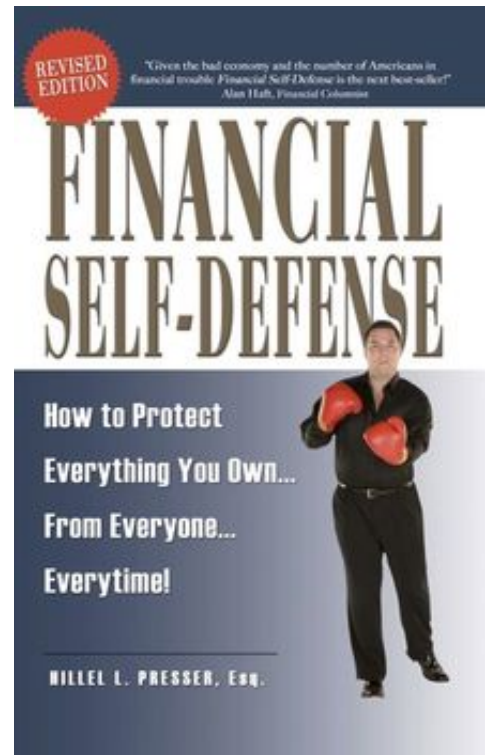
Generally speaking, it's too late to try to protect yourself once you have a judgment against you, unless you arrange to pay the judgment and you follow through with that arrangement and are only planning to safeguard your assets against future creditors. Asset protection planning to thwart collection attempts post-judgment may result in you and your asset protection planner being fined and you can then be worse off than if you planned.

Can a creditor seize my assets or prevent me from transferring my assets before they have a judgment?

Generally not. Litigants, who have yet to win a judgment, ordinarily cannot commence a fraudulent transfer claim or freeze your assets. This is a remedy for judgment creditors. Nor can a pre-judgment creditor usually attach assets or restrain a defendant's rights to transfer his assets – even if the planned transfer appears fraudulent. The plaintiff's remedy is to recover the asset as fraudulently transferred after the creditor wins his case. But there are exceptions when a court does allow a freeze order or attachment of a defendant's assets before the lawsuit is commenced. That's why delay in seeking protection is always dangerous.

The Presser Law Firm, P.A. - Asset Protection Attorneys

[article](#)



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Refer a Friend!

If you know anyone that would benefit from this newsletter, please have them contact us at

Info@AssetProtectionAttorneys.com.

For every 60 minutes you spend making money, spend 60 seconds thinking about how to protect it!

The Presser Law Firm, P.A. represents individuals and businesses in connection with the establishment of comprehensive Asset Protection plans that incorporate both domestic and international components. We help our clients protect themselves from lawyers, creditors, foreclosure deficiencies, former or current spouses, children, relatives, and greedy lawsuit-obsessed citizens. While many people can make money, few know how to protect it. We have been featured in numerous newspapers and magazines, among them Forbes, Sports Illustrated, The Robb Report, The Houston Chronicle, and The Los Angeles Times. We have also appeared on several radio and television stations such as FOX, BRAVO, NBC, ABC, and CBS and have been profiled in the international press in Canada, Germany, Greece, Ireland, and the United Kingdom. We have represented some of today's most well known business owners, celebrities, and professional athletes.

We have been working around the clock to improve our Firm's online presence to ensure that you receive the most up-to-date information on how to protect everything you own from everyone, every time. We will be constantly updating our social media with new cutting edge information, just click the links above to follow us.

If you know a colleague, friend, family member or anyone that would benefit from this important information, please have them contact us to be added to our newsletter!

Best Wishes,

The Presser Law Firm, P.A.
Asset Protection Attorneys

The Presser Law Firm, P.A.
Asset Protection Attorneys

561-953-1050 (w)



Visit Us At Our Office Location!

The Presser Law Firm, P.A.
Asset Protection Attorneys

800 Fairway Drive
Suite 340
Deerfield Beach, FL 33441

Info@AssetProtectionAttorneys.com
www.AssetProtectionAttorneys.com



[Website](#) [Twitter](#) [LinkedIn](#) [Facebook](#) [YouTube](#)

800 Fairway Drive, Suite 340, Deerfield Beach, FL 33441, United States

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