

Asset Protection Newsletter

APRIL 2012 ISSUE

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Welcome to Our April 2012 Asset Protection Newsletter!



How does asset protection discourage lawsuits?

The most effective way to discourage litigation is to convince a potential plaintiff that you have no exposed wealth that they can seize even if they sue and win their case. By discouraging litigation you avoid the time, hassle and expense of defending against the lawsuit. Isn't it better to discourage a lawsuit than to be forced to defend against the lawsuit and spend huge legal fees, time, and effort to 'win'? If you prevent even one potential lawsuit, you pay for your asset protection plan many times over.

Important Reminder About Florida Entities

For those who own a Florida entity, don't forget that annual reports are due by May 1, 2012.

Important Reminder About Delaware Entities

For those who own a Delaware entity, don't forget that Franchise tax fees are due by June 1, 2012.

Please don't hesitate to contact our Firm with any questions.

Litigation is economics. A plaintiff's lawyer evaluates the case against you and weighs the cost of suing against the odds of winning. The lawyer then factors in the likely recovery based on your exposed assets. Essentially, the lawyer decides are you worth suing? Few sensible plaintiffs sue when they cannot foresee recovering enough to make the lawsuit worthwhile. Of course, you may nevertheless get sued because even a shaky lawsuit has some 'settlement value.' Most people will pay something to make their lawsuits disappear. This legal 'extortion' is one reason people dislike lawyers and litigants; nevertheless, it's reality. It's 'part of the game.' People also sue 'vindictively'. They have a score to settle. There are other reasons why even those well-protected get sued. You may be a peripheral defendant in a lawsuit. Your assets aren't investigated because you're one of many defendants. But as a rule, it's not whether you have assets that determine whether you get sued; it's whether you have exposed assets. To avoid lawsuits, you must convince a prospective plaintiff that you have that impregnable financial fortress and they have nothing much to gain from suing.

Whenever one of our clients is threatened with litigation we try to 'sell' the adversary on the fact that our client is well-protected. We don't use an 'in-your face' approach, but we do quickly let the adversary know that even if he sues and wins, he has little chance of collecting. Why spend years in court only to end up empty handed? It usually works. Most legal threats then vanish or are quickly and inexpensively resolved. Lawsuit avoidance is a major part of our practice.

If I have a good asset protection plan, can I forego liability insurance?

We emphasize that we seldom suggest asset protection as a complete substitute for liability insurance. Nevertheless, certain high-risk professionals and businesses find their



Important Changes in Florida Law

2010 brought a significant change in Florida law with regard to limited liability companies and creditor protection. 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.

A charging order represents a lien that entitles a judgment creditor to receive distributions from the LLC or a limited partnership, for that matter, in place of the debtor-member. It had been understood, until *Olmstead* that this was the exclusive remedy of a judgment debtor against an LLC membership interest. The *Olmstead* decision changed that but left the issue very vague for practitioners who set up

insurance costs prohibitive. Or liability insurance may not be available. Our asset protection plan then complements a low liability policy or substitutes for insurance. The problem with insurance is not only its cost, but that it also attracts litigants. Nevertheless, liability insurance is invaluable for most risk management programs. Cost-effective insurance should be your primary defensive barrier. But be sure to supplement it with an asset protection plan. A lawsuit defendant's strategy then is to settle a case within the policy limits and have the plaintiff forego further claim against the defendant's personal assets. You can achieve this only when your assets are well-protected.

A number of our clients – particularly physicians and manufacturers – ‘go bare’ or without insurance. Their insurance costs are simply too expensive. We then make certain they have the strongest defensive plan. Even in these cases we recommend a legal defense policy to cover their defense costs if they are sued. So in many instances, our asset protection plan can save a client tens – or hundreds of thousands – a year in insurance costs.

How can asset protection improve your other financial objectives?

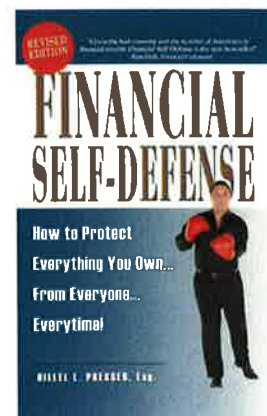
Asset protection is only one financial goal. You must coordinate it with your estate planning, as well as your tax, investment and other financial goals. You want to create a comprehensive, integrated financial plan. For example, we integrate our client's asset protection with their estate plan. People who need asset protection often have no estate plan – not even a simple will. Their need for asset protection oftentimes prompts estate planning. And we can oftentimes accomplish creative results when we combine asset protection with estate planning.

Asset protection plans might also offer legitimate tax benefits. For example, we may use the limited partnership to lawsuit-proof your assets but the limited partnership may also save you significant estate taxes. Of course, you want to avoid promoters who ‘sell’ asset protection through illegal tax schemes (pure trusts, etc.). And your planner should inform you about the tax and other financial consequences of any proposed plan.

vague for practitioners who set up LLCs for clients given that the decision did not clarify whether multi-member LLCs would also be subject to this decision.

The Florida Legislature recognized the uncertainty with which we were all left at Olmstead and recently passed new legislation clarifying the breadth of the Olmstead. They changed F.S. 608.433 to make it clear that the charging order is still the exclusive remedy to a judgment creditor of a member in a multi-member Florida LLC. However, it also clarified that a judgment creditor of a member in a single-member LLC must satisfactorily demonstrate to the court that “distributions under a charging order will not satisfy the judgment within a reasonable time, a charging order is not the sole and exclusive remedy”.

For those who do have Florida LLC's, please do not hesitate to contact us with any questions or concerns.



Read Our Latest Book!
Released September 2011!

For an integrated, complex plan, you should involve your financial and estate planning professionals. They're essential members of the team. We encourage this team approach to our clients' planning – particularly those who have considerable assets or complex estates. Our clients are quite satisfied when we plan their finances together with their other advisors. They then feel that their several financial concerns have been fully addressed and coordinated.

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

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.

Our Asset Protection Newsletter will show you how to utilize proven strategies to shelter your assets; tools and tactics that we use as Asset Protection Attorneys to successfully shield the wealth of thousands of individuals, families, and companies. It will provide scores of little known strategies, tactics, and Asset Protection secrets. It will give you the straight talk, tell you what really works, what doesn't, and why. It will also help you avoid the common mistakes and errors that you may be making right now - mistakes which can undermine your financial security!

Contact us today to book a complimentary Preliminary Consultation with a licensed attorney and receive a free copy of Financial Self Defense - Revised Edition or click the image above to purchase your copy on Amazon!



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



Visit Us At Our Location!

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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.
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