

Asset Protection Newsletter

JANUARY 2012 ISSUE

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Welcome to Our January 2012 Asset Protection Newsletter!



Are all lawyers bad?

With so many lawyers around, it is inevitable that there are so many lawsuits.

The thought of nearly a million lawyers running around searching for their next victim endangers anyone with significant assets. You can't blame every lawyer, though. Not every lawyer is in the lawsuit business. And if you look hard you can still find plaintiffs' lawyers who won't file a frivolous lawsuit. They use their good judgment and do not abuse the judicial system. We are proud to be part of the legal profession with these lawyers as our colleagues. But how many lawyers do throw lawsuits around like confetti? How many lawyers see the lawsuit as a way to make a fast buck? How many lawyers don't care if their lawsuit is meritless as long as they can extort enough money from some hapless defendant to make the lawsuit worthwhile? Too many!

Important Reminder About Florida Entities

For those who own a Florida entity, don't forget that starting on January 1, 2012 you can file your annual report online.

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



Important Changes in Florida

Apparently, the tide has turned. The American Bar Association Journal (the largest US publication for lawyers) in its article Protect Your Assets Before A Lawsuit Arises counsels their 400,000 members that asset protection is as critical for them as to their clients. One trial lawyer interviewed for the article frankly admits, "I don't want people doing to me what I do to other people all day in court." So, in a sense, by defending the wealth of prospective lawsuit targets we believe we are helping to counteract a bad system that favors bad lawsuits.

Isn't asset protection only for the wealthy?

That's a fallacy. It's true that America's wealthiest families were traditionally 'the deep pocket' defendants who were most concerned about shielding their wealth. The social elites of past eras sheltered their massive wealth with trusts, family corporations and other protective entities to privatize or lawsuit-proof their property; however, they seldom referred to their financial strategies as 'asset protection'. But the super-rich are no longer the only lawsuit targets. Virtually every American with any assets now needs protection. So asset protection isn't only for the affluent. In fact, most of our clients have only modest wealth. However, their modest wealth is precious to them! That's what counts.

How would you feel if you lost your assets; your home, car, savings? Wealth is relative. It is not only the rich and affluent who need protection. Anyone with any assets needs protection!

Here's an example. An airport shoe-shiner was sued for \$100,000 on a bank loan he guaranteed for his son. He owned only his Bronx home with a \$100,000 equity. Many people don't consider \$100,000 serious wealth. They would hate to lose it, but this loss wouldn't hurt their lifestyle. That's not how our shoe-shine client saw it. His \$100,000 home equity was his entire life savings. How many more shoes must he shine to replace his \$100,000?

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 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

He will have a harder time recouping his \$100,000 than a millionaire would his millions. That's why we take every case serious.

But isn't asset protection less important for people in safe occupations?

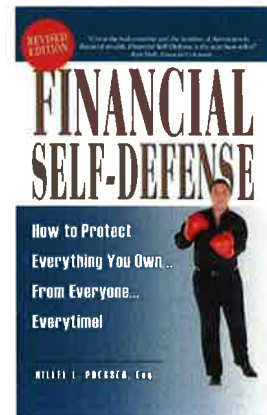
You would think so, but that's not necessarily true. The unfortunate reality is that no matter how safe and secure we think we are, we are each exposed to liability and financial hazards, regardless of our lifestyle, occupation, or how carefully we live our lives. You can minimize the dangers but you can't entirely avoid them. In our litigious society there are too many opportunities to encounter trouble. What financial trouble awaits you next month, or next year? Who knows when they might get hit with a costly accident or negligence claim, a lawsuit for breach of contract or professional malpractice, creditor claims from a failed business or divorce? You see the point. The potential liabilities are limitless. But until trouble strikes, you don't realize your vulnerability. And until you recognize your vulnerability, you may take your financial stability for granted. That's unfortunate. And dangerous! You must think defensively. People shouldn't ask if they will someday face financial danger. They should ask when and how will it happen! Since they can't predict the answer, their only logical option is to build the strongest protective fortress possible for their wealth before trouble strikes.

We sometimes learn that lesson too late. One of our clients claimed she would never be sued because she was a schoolteacher. True, she wasn't sued for her teaching, but a year later she was sued for over a million dollars for the negligent handling of her mother's estate. Obviously, a lawsuit need not relate to your employment. No matter how cautious and careful you are you still can get sued. For instance, anyone who drives could get into an accident. We are all at risk. It is not only doctors, real estate developers, or business owners who attract lawsuits. Everyone is a potential target!

Everybody seemingly wants a piece of the action and a chance to win the legal lottery. Kids sue parents, partners sue partners, patients sue doctors, customers sue manufacturers, students sue teachers, and parishioners sue their clergy. From toddlers to executors of the deceased, anyone can sue and nobody is immune

changed 13,000.455 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!

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!

– not even the President of the United States.

Perhaps more frightening than the blizzard of lawsuits is the number of ridiculous cases that squeeze their way through the court system and reach a jury. It seems that the more ridiculous the case, the greater the plaintiff's victory. Scan the newspapers and magazines. Watch TV. Laugh to the Saturday night stand-up comics. Who can most scintillate us with the day's craziest lawsuit? Why has litigation become our favorite form of entertainment?

Think for a moment, though: Are these cases really humorous when you consider the great waste of time, money, and energy that was expended to defend against them? Are these frivolous and bizarre cases truly funny when you consider the aggravation, worry, and grief that so many defendants were forced to endure before they could shake themselves free of these nutty litigants and their stupid lawsuits? Some of these whacky plaintiffs actually won their cases, which bolsters our argument that our legal system is only a legal lottery where even the bad case has a good chance.

You might argue that these cases are anomalies and rare curiosities within our legal system, but you would be wrong. Hundreds or thousands of equally ridiculous cases are now pending in your local courthouse. We know. We see enough ludicrous cases in our own practice. Take a few minutes to read the weekly Bar journals for equally far-fetched cases breaking new legal ground. There's always a picture of another grinning, victorious plaintiff's lawyer who bagged another defendant on some spurious grounds.

As we say, you do not have to do anything wrong to be sued and lose. You only have to be in the wrong place at the wrong time or somehow come across some greedy lunatic who thinks he or she has reason to be grieved. Voilà! Your wealth could soon be in their pocket!

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



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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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!

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. Starting shortly, 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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