

Asset Protection Newsletter

*"Time and health are two precious assets that we do not recognize and appreciate until they have been depleted."
Denis Waitley*



**Welcome to Our December
2012 Asset Protection
Newsletter!**

What is a fraudulent transfer?

Every state has fraudulent transfer laws. Some call it the Uniform Fraudulent Conveyance Act (UFCA), and others the Uniform Fraudulent Transfer Act (UFTA). Fraudulent transfers or fraudulent conveyances laws can be interchangeably discussed here since they are so similar. The fraudulent transfer laws essentially let a judgment creditor unwind transfers previously made by a debtor so that the fraudulently transferred property can be claimed by the creditor. In other words, given certain circumstances, courts invalidate and revoke prior sales, gifts or other transfers. Whatever assets the debtor sold or gave away for less than fair value are then re-transferred to the judgment creditor. Fraudulent transfers then partially or totally destroy your protection.

For effective protection, you must safely title your wealth. That's the only way to keep your wealth beyond the reach of your creditors. Judgment creditors trying to seize a debtor's wealth often use the fraudulent transfer laws to seize assets the debtor previously transferred. The fraudulent transfer may be to a spouse, other relative, friend, corporation, partnership, trust or anyone else. Whether the creditor can succeed on their fraudulent transfer claim chiefly depends on whether the creditor can convince the court that the transfer was simply a last-ditch effort to defraud the creditor.



**FREE WEBINAR!
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[*December 11, 2012*](#)

[*December 12, 2012*](#)

*For additional information on the
webinar, please send an e-mail to
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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.

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

What must a creditor prove to win a fraudulent transfer case?

There are two types of fraudulent transfers: 1) Fraud in fact, or actual fraud, and 2) Fraud in law, or constructive fraud. Actual fraud is when you actually intended to hinder, delay or defraud your creditor. This, of course, is usually difficult to prove because the creditor must prove your state of mind – unless you admit to fraudulent intent. However, courts can infer fraudulent intent from badges of fraud such as transfers to close family members or friends, secretive transfers, transfers for less than fair value, situations when the debtor continued to use or possess the property after the transfer, concealing assets, transfers made after the debtor incurred a large debt or anticipated a lawsuit, and transfers that rendered the debtor unable to pay the debt. It's important to understand that a fraudulent transfer is not the same as fraud. Fraudulent transfers should more appropriately be called 'voidable transfers'.

What if I transferred my assets but didn't actually intend to defraud my creditor?

Since actual fraud cases are difficult for creditors to prove, creditors more often claim constructive fraud. Constructive fraud is a gift or sale of property for less than fair value (or fair consideration), made in the face of a known or probable liability and which leaves the debtor insolvent. A transfer can be constructively fraudulent, even if you act innocently and without actual intent to hinder your creditors, but a creditor challenging your transfer must still prove each of these three elements.

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.

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.



Craziest Lawsuit of the Month

False Weather Predictions

A woman sued a TV station for making an inaccurate weather prediction; they said it was going to be nice weather when in fact it rained. The woman claimed that the forecast caused her to dress lightly- resulting in her catching the flu, missing work and spending money on medication. She sued for \$1,000 - and won.

Trending Asset Protection Article of the Month

How Car Sharing Can Get You Sued

Car sharing programs allow you to rent out your car to strangers for a fee, but if the stranger is involved in an accident, you could catch some of the blame.

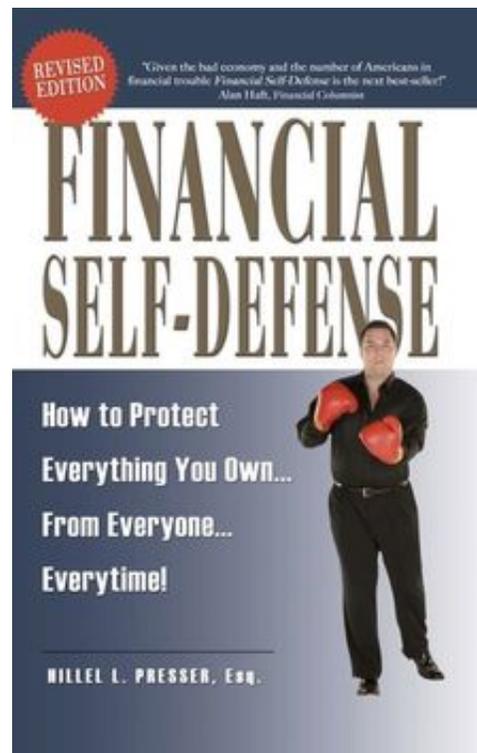
Once such car sharing company is RelayRides, which went nationwide last March. It offers each car \$1 million in liability insurance, but in some cases, this simply isn't enough.

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Best Wishes,

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



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making money, spend 60 seconds
thinking about how to protect it!**



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

800 Fairway Drive
Suite 340
Deerfield Beach, FL 33441

Info@AssetProtectionAttorneys.com
www.AssetProtectionAttorneys.com

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



561-953-1050 (w)

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

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