

# Asset Protection Newsletter

MARCH 2012 ISSUE

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## Welcome to Our March 2012 Asset Protection Newsletter!



**Given that asset protection is legal – what about the ethics or morality of preventing creditors from getting paid?**

The moral or ethical issues are another question. Some people believe it's unethical or improper to shelter their assets from those who have a rightful claim. But these folks might then think about asset protection as financial self-defense to discourage frivolous and harassing lawsuits and to make them a less likely lawsuit target. They'll live life more confident about their financial security. Of course, one can always pay or favorably settle those claims they feel morally obliged to pay, and our clients oftentimes do – to assuage their conscience. And that's their prerogative. But if they're unprotected, they have no choice. They can be wrongfully stripped of their wealth. That's what we want to prevent.

## 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

We can better make the case that those who don't safeguard their families' security are negligent, and in breach of their own self-obligation. Likewise are their lawyers who defend them on a serious case and never suggest that they fortify their assets in the event they lose their lawsuit. Yet few defense lawyers offer such common sense advice. It's sad. Inevitably their clients pay the price for their lack of common sense.

We can also look at the ethics of asset protection from another perspective. Is it unethical to file bankruptcy to eliminate debt? Is it unethical to use corporations or limited liability companies to limit your personal exposure from business debts? Is it unethical to keep your home or retirement accounts that may be exempt from creditor seizure? Most people would think not because the law makes it permissible. Asset protection planners only take advantage of the statutory and case law that in one way or another shields assets. But ultimately, whether or not to pay a claim must be left to the client's conscience.

**Aside from not losing your assets to lawsuits are there other benefits of asset protection planning?**

That's another important question. When you protect your assets, you gain four big benefits. First, it will discourage lawsuits and help you to more favorably settle any pending lawsuits. Second, it can lower or eliminate your insurance costs. Third, it improves your overall financial planning, and finally, and most importantly, it prevents the loss of your assets if a claim is made against you. Those are indeed four powerful benefits. But the biggest benefit is that you get peace of mind. You sleep nights. You worry less about losing your wealth. That's what our clients want!

**I imagine that a major lawsuit can cause quite a bit of stress. How do most of your clients react to litigation?**

Who can be happy about being a defendant in a major lawsuit? It

## **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

can be emotionally devastating. They can spend years and hundreds of thousands of dollars – or even millions – to defend the case. We have seen our share of nervous breakdowns, divorces, health problems and personal bankruptcies triggered by litigation. And how our client responds to the stresses of litigation can influence the outcome of their case even more than their asset protection plan. We have had many clients settle their cases for more than was necessary only because they could no longer endure the emotional strain from the lawsuit. Their own emotional fragility was the weak link in their protective armor. But we well-understand this and we spend a fair amount of our time responding to our clients' stresses. Ultimately, the client's ability to withstand the strain of conflict determines how far we may go with a case.

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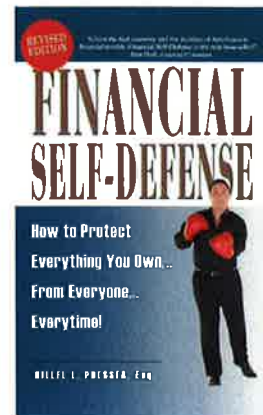
### **The Presser Law Firm, P.A. -- Asset Protection Attorneys**

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

changed 1.0. 000.755 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!

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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. 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



**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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