

Asset Protection in the 21st Century - 'Suing Doctors is Like Shootin' Fish in a Barrel'

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A famous lawyer once bragged that Suing doctors for profit is like shooting fish in a barrel. Was he right? Ask a physician. Forty percent of them have already been sued. No one in the healthcare industry is safe from litigation.

Why, you may wonder, do physicians, dentists and chiropractors rank among the top targets of predatory attorneys in the world's most litigious society? For one thing, medical professionals are viewed as having deep pockets. As Willy Sutton answered when he was asked why he robbed banks, that's where the money is.

Equally important to those health professionals targeted for potential financial ruin is the fact that unprotected wealth is perilously vulnerable to being sucked into an outrageously dysfunctional U.S. tort system. Today, Americans are suing Americans to the tune of nearly \$300 billion a year, with only about 10% of it attributable to medical malpractice lawsuits, which have increased in cost more than twenty fold since 1975!

But physicians, dentists and chiropractors have more to worry about than malpractice complaints. Today's healthcare professionals must also contend with other potentially ruinous lawsuits, including:
Often frivolous charges of negligence

Discrimination

Sexual harassment

All of this has fostered a growing fear among individuals whose vulnerability to predatory litigation seems to expand in direct proportion to their success. Fear of liability has become the defining feature of our culture, according to noted lawyer-author Philip K. Howard. What has prompted this culture of fear? Let's take a brief look at some of the issues.

Out-of-control lawsuits.

Emotion-led juries

Compliant judges

Skyrocketing judgments that can easily exceed insurance coverage, particularly in malpractice cases
Recognizing this disturbing trend about 20 years ago, some attorneys began developing a system of hard-to-crack legal tools aimed at shielding client assets against the rampant abuse of law that has come to dominate the U.S. tort system. Called asset protection planning, this new field of law is attracting increasing numbers of Americans (many of them healthcare professionals) to these carefully crafted anti-litigation strategies. (Attorneys at Lodmell & Lodmell have been creating sophisticated asset protection plans for over 15 years.) As a result, individuals now have a number of powerful proactive legal options available to help them, even though the odds are otherwise stacked against them in the U.S. justice system. And Americans have been gravitating to such planning in increasing numbers.

A survey by the Wall Street Journal shows:

35% of Americans with \$1 million-plus in assets have some form of asset protection.

That's more than twice what the research showed just three years earlier.

Of those without asset protection, 61% say they are interested in having a plan.

At the heart of today's greatly improved asset planning systems are layers of customized legal structures designed to preserve and protect your hard-earned net worth from those who would take it away. Once

viewed as a luxury for the rich, asset protection planning is fast-gaining a reputation among experienced attorneys and knowledgeable CPAs as a virtual necessity for all high-risk professionals.

At Lodmell & Lodmell, asset protection planning typically has at its core two important legal tools that are client-customized and carefully integrated to legitimately shield accumulated wealth against even the most vigorous creditor attack.

Family Limited Partnership

The first of these sophisticated tools is the reasonably well-known Family Limited Partnership. This is the most popular legal tool for domestic asset protection available today. It's the tool that keeps you and your wealth legally separated and protected from those who would take it away.

International Asset Protection Trust

If sued, a second key tool kicks in. This is a less well-known and more sophisticated International Asset Protection Trust (IAPT). The ultimate in lawsuit deterrence, the IAPT is a creatively constructed, tax-neutral U.S. grantor trust, and this legal entity pulls the FLP's assets out of the jurisdiction of U.S. courts when triggered by a lawsuit threat.

In essence, these powerful tools build a legal fortress around a client's vulnerable assets, placing them, when necessary, in legal jurisdictions beyond the reach of predator attorneys and lawsuit-happy plaintiffs. The real value of such planning is:

Formidable ability to deny unwanted access to a client's valuable assets

Retention of beneficial ownership of the Trust's assets by the client

Continuation of the client's distributive rights with respect to those assets

Despite years of court-tested effectiveness and the well-documented benefits of legitimate asset planning, research reported in *Trusts & Estates* magazine has concluded:

Most lawyers surveyed admit they need to know more about asset protection

Two-thirds of the lawyers indicated asset protection would probably play an increasing role in their law practices in the coming years.

Likewise, most CPAs lack the in-depth knowledge of legitimate asset protection planning that they need to appropriately advise their clients on the pros and cons of this relatively new field of law. The purpose of this series of articles is to help remedy that situation.

So there is no misunderstanding, what asset protection doesn't do (and shouldn't do) is conceal assets from legitimate creditors or hide income from the Internal Revenue Service. Unfortunately, some lawyers and their clients may attempt to do just that. The Government has a word for that type of planning. It's called fraud. What legitimate asset protection does is protect a client's assets from abusive litigation, not cheat the Government by evading income taxes. Unlike schemes that promise huge tax benefits, legitimate asset protection plans are always income tax neutral. Period.