

T H E H E R I T A G E C O M P A N I E S

Protecting Your Families Future

A REPORT ON PROTECTING YOUR ASSETS



WHITE PAPER

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Protecting Your Assets

Counting The Cost

By Larell Baldwin

LET'S SPEAK FRANKLY

We live in a world where lawyers get rich suing people. Statistics tell us that 1 in 13 people will be sued in their lifetime. If you have worked hard and accumulated any amount of wealth you have what lawyers refer to as “deep pockets”. That means you are a good target for a lawsuit.

But Doesn't My Liability Insurance Protect Me?

Actually your liability insurance does protect you up to its limits but it doesn't protect you from punitive damages. Punitive damages are the things that make lawyers rich. Wrongful death, loss of the ability to work through bodily injury or pain and suffering due to injury caused by your negligence or action are what we refer to as punitive damages and awards for this type of damage run into the millions of dollars. And the attorney gets from one third to one half of the award. They can become millionaires on one good lawsuit. Have you ever heard the term “ambulance chasers” when referring to a lawyer? It means they are metaphorically following the ambulance to the scene of the injury to to get the punitive damage case. I say it again...liability insurance doesn't cover punitive damages! So where does the money come from to pay these claims? Well, if they are suing you, the money comes right out of your pocket. Your assets can be taken to pay the judgment and that includes your business, your home, your savings, your retirement, and everything you have worked a lifetime to accumulate. You can literally be wiped out in a punitive damage case if you lose. And don't forget that you have to pay your own attorney to defend you...even if you lose!



Often Its Too Late To Start Over

Remember that anyone can sue anyone at any time for any reason. It can happen without warning and you have no choice but to defend yourself. When a lawsuit is filed against you, you are compelled to legally answer the complaint or you default and the party suing you wins without a fight. This means you must hire a lawyer

to answer the lawsuit or defend it yourself in a court of law. Defending yourself without a lawyer is the worst thing you can do even if you are a lawyer yourself. No lawyer will take a defense case without a retainer and that means significant expense to defend your property even if you feel you have done nothing wrong. Losing such a case where you are the owner of your assets can mean the loss of your assets up to the cost of the judgement, the court costs, and all legal defense costs. If you win the case you still have to pay your attorney tens of thousands of dollars for defending you.

If you encounter this experience later in your life and you lose the lawsuit at a cost of all you have worked a lifetime to build and accumulate, you may find it is too late to start over. This can be emotionally and financially devastating. It isn't my intention to speak in such terms for the purpose of scaring you. what I have described in these pages is a truthful and realistic account of what has happened to many people and can happen to you. The real purpose of this paper is to convey information on intelligent planning and protect you from this devastating experience before such an occurrence can destroy all of your assets.

What Constitutes A Risk

Some people have more liability risk than others. Lets discuss what a liability risk is and how you can protect yourself from such risks. Often the risks that lead to lawsuits are not easily recognizable. If you own a home or other real estate you are at risk when people come on your property and are injured...even if its a delivery boy. If they slip on your sidewalk, or your dog bites them they can sue you for damages and you have to hire an attorney to defend yourself. If you are driving your car and cause an accident and the other party suffers bodily injury or death, your insurance will cover their medical expenses but it won't cover the millions of dollars they will sue you for because they are in pain or can never work again. If you own a rental property, every tenant in your property is a liability risk if they are injured on your property due to your negligence. If you own a business and have employees...if those employees work in hazardous conditions



or drive your business vehicles you have extraordinary liability exposure. Any one of those employees could sue you for punitive damages if they are seriously injured or disabled while working for you.

It's alarming to see how many independent business owners are operating their business as a sole proprietorship and own all their personal assets in their own name along with all their business assets and everything is exposed to the possibility of a lawsuit. Attorneys love to find these situations. such a circumstance almost always means a handsome judgment for the plaintiff and the dev-

astating loss of all assets, both personal and business, for the party defending the lawsuit. Unless you are properly prepared, this situation could be you!

Is There Any Defense Against The Loss Of Your Assets?



Yes there is. Which leads us to the purpose of this information. Intelligent people prepare for these circumstances in advance. Lets look at the example of the Airlines. What would happen if an airplane goes down and kills all the passengers aboard. If it is due to pilot error and 200 people die, it seems almost certain that 200 lawsuits by loved-ones would result and probably for millions of dollars per passenger. What protects the airline from such a devastating legal assault? Certainly 200 lawsuits for

100 million dollars could bankrupt an airline, even if they had insurance. What saves the airline from certain bankruptcy? Intelligent planning and a well planned legal strategy is the answer.

The same is true for each individual who wants to protect themselves from financial destruction. A well designed defensive strategy should be put into place before the possibility of a lawsuit. There is a well known saying in the legal profession when designing a defensive strategy...*"it is better to have the beneficial enjoyment of your assets than it is to own them"*. The "old days" are still with us when it comes to protecting our assets... we still think it is better to "own them". This is a risky and dangerous notion. When you own them, if you are sued, they can be taken away from you. If you don't personally own them, a lawsuit can't take them. This is the fundamental strategy that the wealthy have used for generations. They used Corporations, Trusts, and Foundations, to hold and protect what they valued. These strategies have been very expensive to set up...until now. New forms of legal entity have come along in the last 10 to 20 years that work far better than Corporations and are affordable to the general public. Now all of us can afford to protect our valued assets so that our families are secure. Not only can these strategies and structures protect us from lawsuits, they can eliminate the Federal Estate Tax, the Medicaid spend-down, and leave our lifetime fortunes to our spouses and children as functioning businesses that can't be invaded by greedy attorneys acting on behalf of people who want to take from us what we have worked so hard to create.

The Solution

The solution is simpler than one might imagine. It fundamentally involves constructing legal entities separate from yourself and transferring your assets into them. These entities have a legal existence distinctly separate from you. Once you have



transferred your assets to those various entities they no longer belong to you on a personal basis and can't be taken in a legal judgment if you are sued. The trick is in setting up those entities correctly and categorizing the distribution of your assets in such a way that a high liability asset (such as your car) doesn't convey risk to your non-liability assets (such as cash, stocks, etc). Learning to operate such a system, once it is in place, is no more difficult to manage than managing your business or checking accounts were before you set up the system.

The Strategy of Separating Assets By Risk of Loss

The value of such a system lies in its strategy. This strategy is unique to the Heritage Companies and has been developed over many years of research and experience. It is effective but not complicated. Once it is established and operating it will last a lifetime.

The primary strategy is based on the segregation of assets based on the amount of liability each asset carries. For example: An automobile carries a lot of liability. If you have an accident or kill someone with your car you can be sued for millions that your auto insurance won't cover. Tenants that reside in your income properties are all lawsuits waiting to happen. These are examples of "high liability assets" and there are many more assets that fall into this "high risk" category. One strategic rule is...*"Never mix high liability assets in the same ownership with no-liability assets"*. Examples of low risk or non-risk assets are...cash, stocks, bonds, collectables, jewelry, antiques and so forth. These types of assets never create risk or liability hence they can never create a lawsuit. Our strategy is to put them into separate ownership entities so they can't be taken by a lawsuit. Once we have determined what kind of assets you have and the nature of your liabilities we can design a system that gives maximum protection in case you are sued. You only have to do this once in a lifetime. Once established, it protects you forever and you are the one who manages the whole system.

Building Your System

Once we have determined the type and extent of your assets we proceed to design and construct your system. Such a system may consist of several entities and depending on how stealthy you want the system to be you can even make your identity invisible so that any legal research by a hostile attorney would not be able to find your name on your assets. Lets take a graphic look at what a well thought out system would look like.

The Limited Liability Company

Corporations are an invention of the IRS and have been around for generations and at one time were an excellent way of shielding yourself from liability. In recent decades the Corporation has been defeated in so many ways that it has lost most of its value for asset protection. This is a subject for another time.

The Limited Liability Company is far better suited for this purpose, both from a tax point of view and liability protection point of view. It is regulated by state law not the IRS. It is a tax pass-through entity

and files an information return as a partnership and doesn't pay taxes itself. Assets are conveyed into it by capital investment and not by gift so a true change of ownership of the asset is achieved.

The Land Trust

A Land Trust is a special trust designed to hold real estate. When the ownership of real estate is held in a land trust and the beneficiary is properly structured using an LLC, it makes the person controlling the property (you) practically invisible. If you are personally sued it is virtually impossible to trace your interest in the real property to you.

The LLC and the Land Trust are just two highly effective entities we use to structure your liability fortress for the protection of your assets. Although anyone can sue anyone for any reason at any time, the type of strategy we just described can actually make you judgment proof. They may be able to sue you but they won't be able to find any assets to take away from you. Most attorneys work on a contingency basis in bodily injury cases which means the attorney gets a share of the judgement if they win. Typically if an attorney wins 10 million in a judgement he would get about 3 to 4 million and his client would get 6 to 7 million. If there are no assets to recover because you effectively repositioned them there is no possibility of recovering anything from the lawsuit and most attorneys would refuse to take such a case. The only other alternative would be for someone to hire an attorney and pay his going rate of \$300 to \$400 an hour to sue you only to find that you have no assets to take. Bad idea...most people won't even bother to sue you on those terms because it would cost them dearly and they would recover nothing.

Protecting Your Estate From the Medicaid/Medical Spend-down

A very specialized use for this type of planning is protection from the Medicaid or MediCal spend-down and recovery program. Medicaid is the governments program for Long Term Care assistance. However, before they will provide for this type of care you must pay for all your own medical care until you are almost broke. If you own your home you can keep your home until you die, but at your death the Medicaid Recovery Program will take the home to reimburse them for the cost of the medical care they provided for you. If you are a widow or widower when you go into Medicaid/MediCal you must spend your own assets until all you have left is \$2,000. This makes you poor and qualifies you for government assistance.

The legal repositioning of your assets under the right circumstances and with the proper procedure removes your assets from your ownership and preserves them from the Medicaid/MediCal spend-down. You can preserve what you worked hard for all your life and leave it for your children without Estate Taxes and still participate in the Medicaid program.

It Sounds To Good To Be True?



Many have suggested that it is too good to be true. In truth, it is not. Thousands have been using these strategies for generations with the help of their expensive attorneys. The rich get richer through the intelligent use of just such strategies. The impression that it is too good to be true comes from the fact that most people have never heard of such effective legal strategies. Fortunately these strategies are now accessible and available to anyone who is intelligent enough to choose to use them. For

more information and a proposal on how you can protect your assets from liability and frivolous lawsuits contact Heritage or your Heritage representative.

GRAPHIC EXAMPLE OF LIABILITY PROTECTION SYSTEM

