

Asset Protection - The Wrong Way

February 9, 2012 by Deirdre Wheatley-Liss



In a case of "you have got to be kidding me" a Florida man adopts his girlfriend (in her mid-40's) as part of an "oh no - I should have done this sooner" dubious asset protection plan. Steven A. Loeb, Esq. points out that there is a right way and a wrong way to approach asset protection and talks about the situation in more detail below. Aside from the shake your head in disbelief factor, **the take-away here is that key to asset protection planning is having a plan - and a plan is something that is put into place to address an issue before that issue happens.**

Before we get to the details of this case, it is important to understand that while asset protection planning can be part of an estate plan - as in, "I want my daughter's inheritance protected in case she gets a divorce", it can also be a stand alone plan for individuals who are concerned about personal liability. The clients we work with tend to be

professionals (doctors, lawyers, accountants, veterinarians, dentists and architects), as well as real estate developers and closely-held business owners. The liability risk profile of these individuals is more elevated than the general population, and they may have accumulated some wealth that they wish to shelter from risk of litigation. For a greater understanding of what asset protection entails, look at a more in-depth article on our website "Asset Protection Trusts - How to Plan Correctly"

But now, lets find out more about our Florida friend:

A recent case against John Goodman, founder of the Polo Club of Balm Beach, is another reason **individuals should consider asset protection planning prior to a lawsuit being initiated.** The facts of this case (click here for details) are unusual; however an individual running a stop sign is unfortunately an every day occurrence. Proper planning is critical in order to protect one's assets from creditors and unknown situations. Unfortunately for John, it appears he did not have a proper asset protection trust in place prior to the accident. It would appear from the facts that a potential purpose of adopting Mr. Goodman's girlfriend would be to provide access to an irrevocable discretionary trust originally created for his then living children; however the ability for Mr. Goodman to have access to those dollars by adopting his girlfriend (and hence make her a 1/3 beneficiary of said trust given she is now his issue) is suspect. This may be a case of first impression in Florida given the circumstances.

Yeah, we couldn't believe the facts when we read them either. But it does serve to illustrate the negative alternative to proper planning.

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