

VOLUME 4 ISSUE 7

ESTATE PLANNING & ASSET PROTECTION



JULY 2013 AMERICAN INDEPENDENCE EDITION:

CONSIDERING THE NEGATIVE EFFECTS OF PROBATE

Without a proper estate plan in place, you may end up costing your family thousands of dollars after you die.

THE PROFESSIONAL'S ASSET PROTECTION GUIDE

Don't become part of the 50 million lawsuits filed each year. Read about how an LLC and LLP can be your ultimate armor.

THE ESTATE PLANNING DOCUMENTS YOU NEED TO PROTECT YOUR FAMILY

Protect the future of America by protecting your family first. Learn about Living Trusts, Assignments of Property into Trust, Pour-Over Wills and more.



WFP

WEALTH FAMILY PROTECTION
Attorneys at Law

WHEN LEGACY MATTERS

At Wild Felice & Partners, we implement estate planning and wealth transfer techniques such as the use of Florida Revocable Trusts and Irrevocable Trusts, Family Limited Partnerships, Limited Liability Companies and other advanced estate planning tools to help our clients avoid probate and limit or eliminate estate tax burdens on family members. We realize that each client is unique and every plan is tailored accordingly to every individual need. Our firm aims to shed the tax attorney paradigm and focus instead on the dynamic relationships between our clients and their loved ones. WFP Law realizes that estate planning is truly for the loved ones that we leave behind

It's a Wild world. Are you protected?



*Protecting What You Value Most Through
Estate Planning and Asset Protection*

PROVIDING SOLUTIONS THAT SECURE AND ENHANCE YOUR WEALTH AND YOUR LEGACY

Everyone understands the benefits of having insurance to protect your assets from unanticipated events. Hazard and casualty insurance is necessary to provide protection from the risks of fire, floods, and wind damage. Liability insurance is necessary to provide protection from the risks of auto accidents and personal injury. But what can you do to protect your assets from claims in excess of your insurance or from risks of lawsuits or from unexpected business liabilities or from an overabundance of tax consequences? Fortunately having an asset protection plan in place can help insulate you from these potentially significant risks.

We believe in providing you with effective solutions so that you can have confidence that your assets and your legacy are protected. An effective asset protection plan needs to be in place before a lawsuit or claim is made against you, and well in advance of your retirement or death, so it is important to take the step toward greater protection today.

WFP Law is a full-service, Fort Lauderdale, Florida based law firm with a specialty in asset protection. We utilize a combination of estate planning, real estate law, corporate formation, family law, and asset structuring to assure that our clients are protected from potential litigation, creditors, and any other threats that may be looming. A properly designed asset protection plan can accomplish many of your most important objectives:

- Protection of family savings and investments from lawsuits and claims.
- Protection against inadequate or unavailable insurance coverage.
- Insulation of rental properties reducing your exposure to potential lawsuits.
- Protection of business assets and accounts receivable from potential claims.
- Elimination of probate.
- Reduction of estate taxes.

It's a Wild world. Are you protected?



Every American should have an estate plan in place but the need for comprehensive estate planning is even greater when you have children.

This Independence Day, Gain Independence of Probate

We are all familiar with our country's most important holiday, Independence Day, commonly known as the Fourth of July. After a grueling period of ups and downs, on July 4th, 1776, the United States adopted the Declaration of Independence, finally declaring independence from Great Britain. If you know anything about the term probate, you know that the process can feel a lot like the grueling encounters that the thirteen colonies fought back in the 1700's. If you are not familiar with the phrase, in South Florida, probate is the legal process of distributing the estate of a Florida decedent to the intended beneficiaries or heirs. If a will is drafted, a probate judge will determine its validity, make sure all debts are resolved, and then distribute property according to the wishes of the decedent. The issues include prolonged waiting time for final estate resolution and additional administrative and legal fees.

If you remember correctly, the thirteen colonies didn't gain independence for four hundred forty-two days after start of American Revolution. Probate can feel very similar; it takes forever. The deceased individual's property must be properly inventoried and identified. All necessary appraisals of any properties involved must be completed, and debts will be paid off. The estate needs to be

distributed. If the deceased owned property outside of Florida, then the entire process may have to be repeated in the proper jurisdiction. With a smaller estate worth just a few hundred thousand, the proceeding might last around 6 months. With an estate under \$1 million, where conflicting interests of family members are present, the process might take up to 18 months. However, for more complex estates, it may take a few years before final resolution.

Probate is also extremely expensive. Living in South Florida, you can expect to pay about three to seven percent of the total estate value in addition to court fees, personal representative fees, attorney's fees, accounting fees, appraisal and business valuation fees, bond fees, and anything else that may come up along the way. The validity of a will is often questioned, and creditors can stake a claim on the estate. This can prolong the process for years resulting in additional legal fees. Finally, there are forthcoming estate taxes that will leave your legacy in disarray.

Continue the legacy of this great nation, and gain independence against the grueling process and hefty costs that are hindering *your* estate – **declare your freedom from probate!**

The Professional's Asset Protection Guide

A new lawsuit is filed every 30-seconds, and 16 million lawsuits are filed in the U.S. each year. It is clearly a Wild world out there, but there are ways that you can protect your assets from your not-so-friendly next door lawsuit opportunist. You are an especially viable target if you have something worth taking. There is no need to be alarmed, just prepared! An LLC or LLP can be your ultimate armor in protecting yourself from such lawsuits.

An LLC & LLP allows you to use and control an asset, yet you will not own the asset in your name. Rather, it will be owned by the LLC or LLP. Therefore, by separating your assets into several LLC's, you are safeguarding them from being pulled into a lawsuit brought against you (or one another), as they are owned by the LLC.

An LLC is a "Limited Liability Company." It provides the desirable liability features of a corporation, without all of the extra hassle (paperwork, etc.). Lets say you have a boat. So you give it a clever and punning name, and put it in an LLC. A judgment against you is not valid against the LLC and the asset it holds (the boat). Furthermore, lets say you have an investment property (a high risk lawsuit property), and tenants injure themselves on the property, and commence a lawsuit. They can only sue the LLC. Your home and other assets (bank account, etc.) may not be touched, because you do not own the property, thus you are not personally liable. It is like being a stockholder in a corporation.

Due to the fact that there are several requirements to properly forming an LLC, you may want to seek an attorney (that has a thorough understanding of asset protection) to assist you in ensuring that the LLC is valid; otherwise, your safeguarding efforts will be futile. Also, keep in mind that the timing of the asset transfer cannot be done to actively avoid a present creditor, as it may be considered a "fraudulent conveyance." Therefore, it is important to partake in these asset protection strategies prior to any legal or financial problems. The early bird gets the worm!

Enjoy the fruit of your labor, but don't own it; control it!



The Estate Planning Documents You Need to Protect Your Family

As we enter the month of American Independence, let the spirit of the Red, White & Blue guide you in protecting your future America; your American dream; *your family*. Estate planning documents function to provide you with the independence and control that you would not otherwise have; control over your assets, as well as your *life*. Such control is the best way to ensure that your family is protected in the event that you cannot actively do so. The following documents prove to be some of the best tools in protecting your assets, and providing for your family.

A *living trust* is a trust that is created during life. It is revocable, meaning the grantor (the creator of the trust) can revoke it at any time, as long as he or she is legally competent. A revocable living trust is often incorporated into an estate plan in order to avoid the time and expenses associated with probate (which can be a colossal inconvenience, as demonstrated in the article above, "*This Independence Day, Gain Independence from Probate*"). Therefore, you want to fund the trust with all of your assets to avoid probate. Another desirable aspect of avoiding probate is privacy. Due to probate proceedings being a matter of public record, the decedent's affairs can be kept private through the use of a trust.

In order to receive the benefits associated with a trust, it is crucial to actually assign the property into the trust; what we call the "*assignment of property*." It is not sufficient to merely set up the living trust, as property must be transferred into it separately. For example, if you want to transfer real estate into a trust, the deed must be prepared to name the trustee(s) as the owner(s). If this extra paperwork is not done, it may render the purposes of the trust useless; and thus, is an area where you will likely want the assistance of an estate planning attorney.

A *pour-over will* often goes hand in hand with a revocable living trust. It takes all of the property that passes through the will, and funnels it into the trust. Said property is then distributed to the trust beneficiaries pursuant to the terms of the trust. A pour-over will functions to ensure that all of the decedent's property is transferred into trust. Think of it as a safety net that catches all of the assets that were not properly transferred into trust. All the contents of the net are then poured into the trust, ensuring that all of the property is ultimately distributed through the living trust. Keep in mind that the items that are funneled into the trust via the pour-over will do not escape probate, and this is why it is preferred to assign as much property as possible into the trust from the onset.

Okay, so at this point in the estate planning process you have designated who will receive your assets, & how they will receive them. Now comes the question of who will receive your *powers*. Who can make decisions on your behalf in the event that you cannot? This is where a durable power of attorney and a living will and designation of healthcare surrogate come into play. A durable power of attorney allows someone else to step into your shoes (or wear your hat; see "The Power Wielding DPA Hat" to the right) and make decisions on your behalf, and is especially important in the event that you become incapacitated. A living will is used to document your wishes regarding life prolonging medical treatments, designating a healthcare surrogate to make such decisions accordingly.

The Power-Wielding DPA Hat

Q: What is a Durable Power of Attorney?

The designation of a durable power of attorney ("DPA") functions as a transfer of the grantors power, in the event that he or she becomes incapacitated.

Imagine the DPA to be a power-wielding hat; it can be your favorite baseball cap, party hat, top hat, or whatever fits your fancy (or head). So you, the owner of this hat, wear it to make your own financial and legal decisions. You can only transfer your hat to the individual (or sometimes entity) that you have designated as a power of attorney. A "durable" power of attorney means that the power hat is still effective even when you (the "principal") are incapacitated.

Remember, anyone who is sporting *your* power hat can only use such powers for *your* benefit, not their own.

When deciding who you will chose as a DPA, think of who you would want wearing *your hat*.





A LITTLE FABLE AT THE COUNCIL TABLE



IN THE NEXT ISSUE:

DIGITAL ASSET PLANNING EDITION

THE DIGITAL ASSETS TO INCLUDE IN YOUR ESTATE PLAN

Start your digital asset inventory with these helpful prompts, and identify what digital assets you will want to include in your estate plan.

THE SOCIAL NETWORKER'S ASSET PROTECTION GUIDE

Don't leave the fate of your social networking sites to chance. Read about the important considerations when destroying or preserving your digital presence.

THE BENEFITS OF PRESERVING YOUR DIGITAL LEGACY

Failure to properly incorporate your digital universe into your estate plan can lead to a loss in your estate, exposure of private material, and much more.

THE ANTS AND THE GRASSHOPPER

The **Ants** were spending a fine winter's day drying grain collected in the summertime. A **Grasshopper**, perishing with famine, passed by and earnestly begged for a little food. The Ants inquired of him, "Why did you not treasure up food during the summer?" He replied, "I had not leisure enough. I passed the days in singing." They then said in derision, "if you were foolish enough to sing all the summer, you must dance supper-less to bed in the winter."

It is thrifty to prepare today for the wants of tomorrow.

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