Understanding Legal

Tools:

The Key To

Lawsuit Prevention &

Tax Reduction

Speaker:

Dan

McNeff
**Asset Definitions**

**High Risk Asset:** Can Create a Lawsuit

**Safe Asset:** Cannot Create a Lawsuit

**Inside Asset:** Everything owned in One Entity

**Outside Asset:** Owned by Individual or by Separate Entities
Definition of Legal Entity

An Association, Corporation, Partnership, proprietorship etc. that has a legal standing in the eyes of the law. A legal entity has legal capacity to enter into agreements or contracts, assume obligations, incur and pay debts, sue and be sued in its own right, and to be held responsible for its actions.
C/P – Corporation – Tax Advantage with Corporate Resolution

Administrative Entities

2. S – Corporation – Helps Reduce FICA

3. Sole Proprietor – Easiest to use

4. Partnership
What About an L.L.C.

Will Protect Assets Inside of The Entity

From an Outside Lawsuit
Administrative Entities

1. C/P – Corporation – Tax Advantage with Corporate Resolution

2. S – Corporation – Helps Reduce FICA

3. Sole Proprietor – Easiest to use

4. Partnership
Does NOT Protect Your Assets

Does Protect Against Probate
Probate Problems

Time Consuming

Expensive

No Privacy
Two Ways to Avoid Probate

1. Don’t Die

2. Living Trust
United States:

5% World Population Lawsuits

94% of all Lawsuits Worldwide
Lawsuits

USA TODAY:

1. Inherit
2. Lottery
3. Sue Somebody
Lawsuits

Getting Off the Target
Sources of Lawsuits

- Divorce
- Employee Actions
- Guest Accidents at Home
- Joint Ownership Pitfalls
  - If spouse is sued
  - If children are sued
- Involvement in General Partnerships
- Service as Corporate Officer or Director
- A Suit Today for an Act Ten Years Ago
- Just “Owning an Asset” - Dangerous
- Implied Corporate Officer
- Insurance May Not Cover You
- Advisory Board Member Danger
Vicarious Liability

Employee Actions

Partnership Risks

Delayed Discovery
The Beginning of Lawsuit Protection

*** Properly Drafted ***

Family Limited Partnership
Liability?

GP: Total

LP: None

General Partner

Limited Partners
Family Limited Partnership

1) General Partner(s)  
C-Corp - 1%

2) Limited Partners  
Own / Not Control  
H - 49 1/2%  
W - 49 1/2%  
children, grandchildren, elderly parents  
100%

Types of Assets

Business Purpose?

- Home
- Real Estate
- Personal Property

“Any Legal Purpose”

Any Legal Asset

Income

$100,000
Trial Attorney’s Answer:
Passed in each individual state

Would not allow ownership transfer from defendant to plaintiff

Gave a judge the right to force a distribution and order the defendants share of the income to the plaintiff
The Charging Order

Asset protection attorneys changed the wording so that only the **general partner** could order a distribution.

Also gave the general partner the option to take income for management or to loan money from the FLP.
The Charging Order

IRS Ruling 77-137

States:

A plaintiff using the charging order will have to pay income taxes on any monetary judgment even if there is no distribution from the defendant.
The Charging Order

WARNING!!!

Nearly all limited partnerships created in America today use wording that allows a judge to order a distribution
What About an L.L.C.

Will Protect Assets Inside of The Entity

From an Outside Lawsuit
The Remedy for Getting ASSETS Out of an L.L.C. is: The Charging Order
The Charging Order

WARNING!!

Nearly all limited liability companies created in America today use the wording that allows a judge to order a distribution
Limited Partnerships

FLP
Safe Assets ( $$ )

LLC
High Liability Assets ( Home )

LLC
High Liability Assets ( RE )

Lawsuit (Inside)
Family Limited Partnership (FLP)  
OR  
Lawsuit Protection  
Limited Liability Company (LLC)

The right strategy for you depends on:

- State of Residency
- Personal and Business Assets
- Financial Situation
- Financial Goals
Typical Structures

ALL Your Business & Personal Assets

Joint / Individual Ownership / Sole Proprietor:
- Personal Property
- Rental Property
- Vacation Home
- Home
- Personal Property
- Equipment
- Building
- Practice/Business (goodwill)

What does this structure protect?

No!
Typical Structures

Closely Held Corporation
Officer of the Corporation

Joint / Individual
Ownership / Sole Proprietor:

Home
Home

Personal
Vacation
 $$$

Personal Property

Building
equipment

Practice/Business
(goodwill)

Equipment Building

Ownership:

Personal

Rental

Vacation

Vacation

 $$$

What does this structure protect?
Asset Protection Structure

Living Trust

“C” Corp
Practice/ Business
Owns: Goodwill

LLC
Owns: Equipment

LLC
Owns: Building

LLC
Owns: Rental Property

LLC
Owns: Home

LLC
Owns: Vacation Home

FLP
Holds all “safe” assets $$$

Rock Solid Asset Protection
Living Trust

C Corp

Practice/ Business Owns: Goodwill

Owns: Building

LLC Owns: Rental Property

LLC Owns: Home

LLC Owns: Vacation Home

LLC Owns: Equipment

Standard Asset Protection Fees

$3,500 to $5,000

$800 - $2,000

$800

$800

$800

$800

$5,000

$13,300 - $16,000
How do we implement these Tools and Strategies?

The BIG Problem:
Concerns for Consideration

1. Most Attorneys know very little about lawsuit prevention.
The BIG Problem

#1 There are very few Asset Protection Attorneys

The American Bar Association reports that LESS than .05% of Attorneys in the U.S. specialize in Asset Protection.
Concerns for Consideration

1. Most Attorneys know very little about lawsuit prevention.

2. The entities they use are not designed for asset protection.
Concerns for Consideration

1. Most Attorneys know very little about lawsuit prevention.

2. The entities they use are not designed for asset protection.

3. The Cost of entity structuring can be outrageous.
The Solution
Sample Blueprint

Living Trust

Holdings Company (LLC Taxed as “C” Corp.)

“C” Corp
- Practice/Business
- Owns: Goodwill

LLC
- Owns: Equipment

LLC
- Owns: Building

LLC
- Owns: Rental Property

LLC
- Owns: Home

LLC
- Owns: Vacation Home

FLP
- Holds all “safe” assets $$$

FLP
- Holds a “High Risk” asset
Getting Started Now