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Estate Planning & Asset Protection for Healthcare Professionals

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Three Primary Risks to Assets and Income



1. LAWSUITS

2. DISABILITY

3. DEATH

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Risk #1: Lawsuits

Healthcare professionals face an increased risk and are attractive targets for lawsuits



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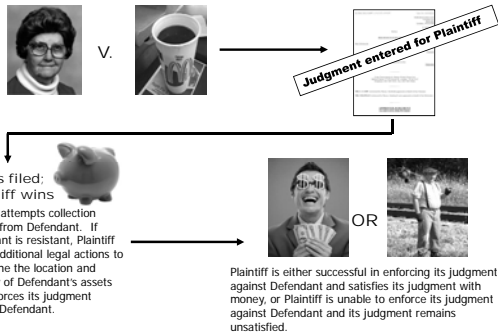
Lawsuit and Judgment Enforcement Basics

1. Lawsuit is filed by Plaintiff against Defendant
2. Assume Plaintiff wins a money "judgment"
3. Defendant now owes Plaintiff a sum certain of money
4. If Defendant does not willingly pay, Plaintiff must attempt to enforce its judgment against Defendant's assets
5. Defendant's assets may not be subject to Plaintiff's enforcement action

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Lawsuit and Judgment Creation and Enforcement

EXAMPLE



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Risk of Lawsuit—Defense #1: Malpractice Insurance

Key Attributes

- Inexpensive (relatively)
- Effective
- Healthcare professional must be sure he/she is covered!

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Risk of Lawsuit—Defense #2: Asset Protection Planning

What is asset protection planning?

Placing assets into "pockets" of legal protection

Focus on first 10 to 20 years of career:

Basic Strategies

1. Qualified Retirement Assets
2. Gifting
3. Ownership of Residence

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Asset Protection Planning: Qualified Retirement Assets

1. Includes 401(k), 403(b), Pensions, IRAs
2. Illinois law protects principal balances and withdrawals for living expenses upon retirement

Strategy

Save for retirement via qualified retirement accounts to protect funds from judgment creditors

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Asset Protection Planning: Gifting

Assets owned by a person other than a judgment debtor/defendant cannot be reached by a judgment creditor/plaintiff

Example: College Savings—two methods

1. Parent contributes to child's college fund by contributing money to savings/securities account in parent's name
Result: Owned by parent, no asset protection
2. Parent contributes to child's college fund by contributing money to a spendthrift trust or 529 Plan
Result: Owned by child, protected from both parent and child's creditors

Strategy

Transfer ownership of assets if purpose for assets has been determined.

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Asset Protection Planning: Ownership of Personal Residence

Three methods of holding title to real estate:

1. **Tenants in Common:** Each tenant has a specific percentage interest
➢ No Asset Protection
2. **Joint Tenants:** Each tenant is treated as owning the whole
➢ No Asset Protection
3. **Tenancy by the Entirety:** Each tenant is treated as owning the whole
➢ Asset protection

NOTE: Tenancy by the Entirety—allowed only for married couples

Strategy:

Husband and Wife own primary residence as Tenants by the Entirety

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Asset Protection Planning: Some Advanced Strategies

- Foreign and Domestic Asset Protection Trusts
- Limited Liability Companies and Family Limited Partnerships

NOTE: Estate size of several million dollars needed for costs of design, implementation and maintenance of these Types of strategies to be economically advisable

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Asset Protection Planning: Limits

1. **Timing:** Asset Protection Planning must generally be done before the client knows of specific threat of litigation or debt
2. **Amount:** Asset Protection Planning cannot leave client insolvent

NOTE: Courts can reach through asset protection plans if these general considerations are not met.

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Risk #2: Disability

The work of many healthcare professionals requires both mental and physical capabilities.

Permanent and temporary disabilities of all kinds can reduce or eliminate earning potential and place assets at risk.



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Risk of Disability—Defense #1: Disability Insurance

Key Attributes

- Inexpensive (relatively)
- Effective
- Can provide income replacement for both short term and long term disabilities

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Risk of Disability—Defense #2: Basic, Comprehensive Estate Plan

What is a basic comprehensive estate plan?

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Risk of Disability—Defense #2: Basic, Comprehensive Estate Plan

A Six Pack!

Also known as executing the six “Core Estate Plan Documents”
(known as the six-pack), including:

- Revocable Living Trust
- Pour-Over Will
- Power of Attorney for Property
- Power of Attorney for Healthcare
- Living Will
- HIPAA Authorization



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Six-Pack Document #1: Revocable Living Trust



Centerpiece

The Revocable Living Trust is the centerpiece of an effective estate plan.

You control your property through your trust the same as if you owned it individually.

When you die, the property is distributed per your wishes without the need for probate.

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Six-Pack Document #2: Pour-Over Will

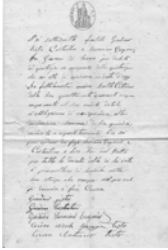
The Pour-Over Will is the safeguard for the distribution of your assets.

If, at your death, any of your assets are not held in trust or otherwise transferred to your intended beneficiaries, this document directs such assets to be “poured-over” into your trust to be distributed according to the terms of the trust.



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**Six-Pack Documents #3 and #4:
Powers of Attorney for Property and Healthcare**



The Powers of Attorney for Property and Healthcare give your chosen, trusted agents the ability to make decisions about your property and your healthcare if you become unable to do so yourself.

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**Six-Pack Documents #5 and #6:
Living Will and HIPAA Authorization**

A Living Will provides notice to the world about your wishes for your healthcare upon your last illness.

The HIPAA authorization gives permission for your healthcare professional to reveal your federally protected health information to your trusted agents.



Terri Schiavo

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**Six-Pack Document:
Disability Defenses**

How does a six-pack protect against the risk of disability?

- Avoid short-term confusion
- Avoid long-term disability proceedings

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**Six-Pack Document: Disability Defenses
Avoid Short-term Confusion**

In the immediate aftermath of a disability event, an estate plan will

- Allow your trusted agent to deal with your property on your behalf
- Allow your trusted agent to make critical healthcare decisions on your behalf

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**Six-Pack Document: Disability Defenses
Avoid Long-term Disability Proceedings**

In the months and years following a long-term disability, an estate plan will

- Allow your trusted agent to manage your property without the time and cost of an official guardianship proceeding

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Risk #3: Death

Everyone dies (of course), but Healthcare Professionals, like other high net worth individuals, face the risk of larger losses at death than others.



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**Risk of Death—Defense #1:
Life Insurance**

- Inexpensive (relatively)
- Effective
- Can provide liquidity for wealth transfer (inheritance) and administration purposes

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**Risk of Death—Defense #2:
Estate Plan**

How does an estate plan protect against the risks of death?

- Provide for intended asset distribution
- Avoid probate proceedings
- Plan for estate taxes

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**Assuring the Desired Distribution of Assets
Provide for Intended Asset Distribution**

America's most famous signatory... forgot to sign his own will!



John Hancock

John Hancock wanted to give to the State of Massachusetts his mansion for use by the State as a Governor's residence. But, since he failed to sign his will before his death, the mansion went instead to his heirs who, years later, attempted to sell it to the State at an inflated price. Unfortunately, the mansion was demolished in 1863.

With careful estate planning, this patriot's wishes for his residence could have been fulfilled.

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Assuring the Desired Distribution of Assets Avoid Probate Proceedings

The estate of an American hero was reduced by probate litigation!

What is Probate? The court-supervised distribution of your estate. Probate can be more or less time and money consuming, depending upon the size of your estate and how well your loved ones get along!

After her death, Mrs. Parks' nephew prolonged the probate administration of her estate by filing actions in the probate court seeking review of her finances and possessions.

With proper planning, this civil rights activist's estate and intended heirs could have been spared the expense of defending these probate claims.



Rosa Parks

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Assuring the Desired Distribution of Assets Plan for Estate Taxes

Paris Hilton has led a life of privilege due, in part, to very sound estate tax planning!

What is the estate tax?

A tax on the net value of your estate prior to any distributions to your heirs.

America's richest families have likely saved BILLIONS with sound estate tax planning.

Tax attorneys can help you retain your wealth so that one day your children can become famous for being famous.



Paris Hilton

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Estate Planning & Asset Protection for Healthcare Professionals

Conclusion

Basic asset protection and estate planning has the potential to return many, many times the cost of legal fees in the form of cost savings and asset insulation.

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Thank you!

Questions?

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