



WHAT IS THE PURPOSE OF ASSET PROTECTION PLANNING?

Our judicial system is as fair as it can be, but it is inherently unfair in a significant way: it is often expensive to defend against unwarranted claims. It is no secret that society has become highly litigious and this is unlikely to change. This is in large part due to litigation services based on a contingency fee. In an ideal world, the contingency fee model would wean out frivolous claims because an unsuccessful attorney would not be reimbursed for costs and billable time. However, the “success” of the plaintiff’s attorney is often achieved with a settlement before an expensive trial. Of course, the success comes at the expense of the defendant, who chooses to pay a known amount than risk the possibility of paying a much higher amount, potentially a catastrophic amount. Therein lies the purpose of asset protection planning: to obtain negotiating leverage against a future unforeseeable creditor by using local state law to protect exempt assets and using other laws, whether domestic or foreign, to protect nonexempt assets.