

# HOW TO PROTECT REAL ESTATE ASSETS FROM A LAWSUIT

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*John Smith is about to be sued. What should he do to protect his assets?*

CALIFORNIA, USA, February 8, 2022 /EINPresswire.com/ -- He should not use his home address to receive mail.

Why? 1. Identity theft by mail theft is rampant; 2. His address will be public, making it very easy for anyone to find him; and 3. If he gets served personally, he will have to attend the hearing, i.e., deposition, Debtor's exam, etc. A Debtor's exam is generally taken after a judgment. This is where the creditor or his/her attorney can ask him in detail where his assets are located. In a Debtor's exam, the creditor has the right to ask for his personal belongings, i.e., his watch, ring, etc. If John Smith is not served in person, he does not have to attend this hearing.

How creating a Trust account can protect John's assets.

John can create a revocable trust with a separate tax i.d. He can open up a trust account which he can use just like his checking account. He can use a virtual office address for this account. He will not use a UPS address or a P.O. Box address as the banks will not allow him to open an account. The virtual office should be convenient because he would need to pick up mail from the virtual office.

IRS and other judgment creditor's levies will go to the bank's legal department. If the tax ID's do not match, it cannot levy.

## Homestead Exemption

Before looking at sophisticated asset protection strategies, let's look at the low-hanging fruits. One of them is filing a homestead exemption. Effective January of 2021, California raised the homestead exemption to \$300,000 to \$600,000. It was \$75,000+ before January of 2021. This means that he can protect \$300,000 to \$600,000 of his equity in his principal place of residence from judgment creditors. If done properly, he can protect up to 6-months of sales proceeds from judgment creditors.

## Equity Stripping

Another relatively easy way to protect his equity is to get a Home Equity Line of Credit (HELOC). He can also have a friendly lien placed on his real estate.

### Domestic Asset Protection Trust

A Domestic Asset Protection Trust (DAPT) is generally irrevocable. This type of trust is formed in a jurisdiction such as Delaware, Alaska, Nevada, and many others. Alaska is the first state to adopt DAPT. Under DAPT, an independent trustee has absolute discretion to make distributions to beneficiaries, including the Trustor.

### Offshore Asset Protection Trust

An Offshore Asset Protection Trust is formed under the laws of a foreign country. Even if a judgment-creditor is to get a judgment, foreign countries, such as Cook and Cayman Islands will not enforce that judgment.

### Intentionally Defective Grantor's Trust

An Intentionally Defective Grantor's Trust (IDGT), if drafted properly, would allow him to segregate certain trust assets.

### Irrevocable Life Insurance Trust

An irrevocable life insurance trust (ILIT) is first and foremost, irrevocable. The trustee of the ILIT will purchase a life insurance policy and hold it in the ILIT. An ILIT has many advantages. First, it is not part of John's estate. This is important when it comes to estate taxes. ILIT also acts as an asset protection vehicle.

### Spousal Lifetime Access Trust

A Spousal Lifetime Access Trust (SLAT) is also an asset protection vehicle. A SLAT is an irrevocable trust A SLAT is structured to transfer wealth outside of an estate.

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