The Shocking TRUTH about the U.S. Legal System!
Discover the Hidden Secrets of Litigation that Plaintiffs’ Lawyers Pray you Never Learn!

Inside this controversial report, you will learn the well-guarded and unspoken secrets of the biggest racket in America—The Legal System! You will be shocked and aghast when you learn:

- How the Plaintiffs’ attorneys have ‘rewritten the rules’ over the past 30 years to make it easier, and more profitable, for them to sue you.

- How Lawsuits REALLY WORK, and how lawyers use the ‘no loser pays’ system as a tool for LEGAL EXTORTION!

- Which assets you have are ALREADY protected and which ones are not, and what you can do today to increase your protection with no expenses!

- How we moved from a system where ‘contingent fees’ were immoral and illegal for lawyers to use, to one in which they are virtually the only way plaintiffs’ attorneys now work!

- How clever attorneys removed the prohibition against ‘attorney advertising’ and created an industry of TV, Phonebook, Internet, and Billboard lawyers designed to stir up conflict—just for profit!
• How lawyers have changed their own ethical rules to allow the use of sleazy tactics and frivolous lawsuits!

• What Nevada Corporations really are and why you want to STAY AWAY!

• How Court Attitudes and Rules of Procedures have been modified by attorneys and courts to make it easier to sue, easier to harass, and harder to get a bogus lawsuit thrown out!

• Why all these changes make anyone with even a modest level of assets a SITTING DUCK for almost any plaintiff’s attorney!

• Why if you are a Doctor you are a ‘triple-whammy’ target!

• How, if you are an employer, your employees are now your #1 risk!

• How ONE simple policy you can implement in your office can VIRTUALLY ELIMINATE employee lawsuits!

• What ‘Asset Protection’ really means, and why 95% of all ‘Asset Protection’ planning you hear about or find on the Internet doesn’t work, and may even get you into BIG TROUBLE!

• Why numbered bank accounts and secrecy as asset protection tools Don’t Work!

• What you CAN do that does work to protect 100% of your assets!
Section 1. The Law of Fear!

Let me ask you a question. Have you ever wondered why it feels like you need to consult a lawyer before talking to the parents of your children’s friends about why their kid came home with a bruise from your house? Do you notice how you feel when someone slips and falls, or even bumps their arm in your home or office building? Or, if you own a business or have employees, why even a loose comment or risqué joke around the office now makes you cringe with fear?

Why is that? Why is it that even normal minor accidents or casual conversations can trigger a deep sense of fear and insecurity in you? What do you attribute this to? Why do you think that is?

I bet until now you thought that it was normal to feel guilty or at fault if something happens around you that maybe you could or should have prevented. That it was natural to have a visceral fear of consequences for actions and results that you don’t really control.

Listen! That is not normal and you were not born feeling that way! But I know that you do feel that way, and that this feeling has been growing bigger not getting smaller. As you read through this report, you’re going to find out why some things trigger an almost instant fear in you. Why when someone threatens to call a lawyer or SUE you it is almost guaranteed to make your body immediately go cold and clammy. You’ll discover why when you try to ‘talk yourself out of’ irrational thoughts and fears they just get worse and grow bigger. Why when you try to ignore certain areas that seem to hold the most risk or uncertainty they just keep coming up in your life over and over.

See, you know what it feels like to be confident and secure in what you do. You know when you have done the very best that you can and that after your job is finished it is truly out of your hands. You know how good that feels and I want to tell you something – THAT IS THE WAY YOU SHOULD FEEL!

So does it make sense to you that once you have finished your part, and done the very best you can, that you should then have FEAR of a particular outcome? Or that you should be in a constant state of fear in certain situations or environments? Have you ever asked yourself if that makes any sense at all? Does it make any sense to you?

NO-IT DOES NOT! Just because you have learned to feel that way doesn’t mean that it makes sense. It also doesn’t mean that you have to stay in that place of fear!

By the way, when you hear what I am about to tell you, when you hear these previously hidden, dark secrets of the legal system, you must understand that it applies to everyone. It doesn’t matter what you are told by the press, or by lawyers in the system – the entire system is corrupt and run by one single over-riding issue, controlled by one group. In fact, when you hear the undisputable FACTS about how our legal system works and what part YOU play in it (and I absolutely challenge anyone to dispute these facts) you are likely to go through the classic stages of grief. You will be tempted to first DENY that this is true and want to put this report down because it is too scary or unbelievable. Then you will likely get ANGRY at what I am saying because there is simply too much damaging evidence,
and I GUARANTEE that you will SEE IT by reading this report! Finally you are likely to ACCEPT what I am saying because you will see for yourself the source of the oppressive fear you had not previously noticed. But keep reading, because I promise if you read to the end I will reveal the SOLUTION for you that puts the choice and control back into your hands!

Let’s face it. We have all learned to take on a sense of guilt if anything goes wrong in our own lives AND in the lives of those around us. In fact, this guilt has been around far longer that the problems with our legal system. It is rooted deep in our country’s identity. And while this underlying feeling of guilt is in itself a major issue, it is not what I am here to talk about. What I am here to talk about is how a small group of lawyers and judges has taken that sense of guilt and used it against the very people they are here to serve to create the biggest money making scheme in history and in the process have turned our legal system into a sham!

Just like Cold War Russia or North Korea of today, we are now ruled by the Law of Fear! What this law says is that you better not take any risks, hurt anyone or even be around when something goes wrong in someone’s life, because there is an army of lawyers that will be there to serve the victims of your negligence and find JUSTICE! And since this is America, justice is measured in terms of COLD, HARD CASH – so you will just PAY! (Incidentally, this is also creating a country of victims who are learning that it is easier to not take responsibility for what happens in their lives and to simply point the finger at someone else – but that is another story!)

This my friends, is what has happened to the legal system in America and it is shameful. A few self-appointed rulers telling the rest of us when we are guilty of some action that we don’t control and didn’t create and how much we should pay for getting it wrong. Oh, and by the way, those same self-appointed rulers have also decided to take a cut of the action (a big cut!) for their services – makes sense right?

WRONG! It’s B.S. if you really want to know what it is, and unless you know what I am about to tell you then you have absolutely no say whatsoever about when someone comes in and tells you where to send the check. (More accurately when they simply come in and take the money right out of your account!)

This is NOT how our legal system began and it is absolutely NOT what the founding fathers expected it to develop into. It is a perversion of the concept of the Rule of Law. A perversion which began about 40 years ago, and until now only a very few have had the insight to understand what is really happening or had the guts to take on the interests that rule this new system and challenge the corruption of it. That means to this day there is still no one being held accountable for the destruction of the very rule of law that protects the freedoms we all value so highly and, until now, no one has exposed what is REALLY going on!

Why is that? And for that matter, why have the few people that have raised the flag before this point not been heard, or been silenced so quickly? Good questions.

And I have the answer. But, I have to admit, in all candor, that my answer makes me feel a bit foolish. It makes me sad because as an insider to the system I just didn’t want to admit that it was
happening. The truth is that I went through the same stages of grief that I mentioned above and that I got stuck at DENIAL. You see, I have a very deep faith in this country and in the people who make it great. I just couldn’t believe it was as bad as it is. Even though I KNEW that there was a small group of predator lawyers out there and I saw them feeding on the victim mentality of people who had been unfortunate enough to get sick or have an accident, or lost their job or whatever difficult parts of life have come their way. I still didn’t want to believe that I could not TRUST the legal system to see when there was a real problem vs. when someone was just being opportunistic.

I also had intimate access to the system, even for a lawyer. I had a unique opportunity that only one in a thousand attorneys have. I clerked for Federal District Court Justice, Jack B. Weinstein, in the Eastern District of New York, one of the countries most respected and honored FEDERAL judges! I seriously understand our system and believed in it!

However, I now see that even with my insider knowledge and access to the system, and even though I had spoken with thousands of clients and seen countless examples of how broken the system was, I still held on to the belief that ‘it wasn’t really that bad.’ And it is this denial that keeps the corruption going!

NOT ANYMORE! There is no more sleep in my eyes and as you read I am going to tell you exactly what finally made me realize how fundamentally broken our legal system really is. How the interests are far more deeply rooted than you can imagine and how YOU and I are just pawns within the system unless we take ourselves out from under its mercy– which is exactly what I will show you how to do!

The truth. A concept that our justice system was built to honor. But even that system is capable of being distorted if a lie is repeated often enough. Eventually it becomes confused with the original truth. And at some point after the lie has been repeated so often, and become so embedded, it actually becomes harder to believe the truth than it is to believe the lie! This is the power of a consistent message – true or not!

This is especially true in our legal system. Why? Because it was based on a solid foundation of honoring the truth. In fact, if you look at how our legal system was developed, it was one of the most respected and fair systems ever created, and it STRONGLY discouraged litigation! The way the U.S. legal system was designed, litigation was seen as a pariah, an absolute last resort and a failure of the system!

In fact, President Abraham Lincoln, a lawyer by training, and to this day the most respected President ever to have governed these United States once said:

"Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser -- in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough."
Lincoln saw lawyers as PEACEMAKERS! Can anyone honestly say that this is true today? This is why it becomes even more difficult to believe that our legal system could fall so far the other direction. It’s like the year after Larry Bird retired from the Celtics, or when Michael Jordan left the Bulls. Both teams were so bad the following year it was almost hard to believe!

Well that is where we are today – last in the league! For someone like me who regularly travels all over the world, I am often embarrassed to even admit that I am a lawyer in America. I mean there is an honest disbelief of how we sue each other over anything and everything. I find myself explaining how it happened and why it has gotten so bad. I explain that America has left the fox to guard the henhouse and that in clever response the fox has redesigned the legal system to accommodate nothing less than extortion! (I will explain what ‘Legal Extortion’ is later in this report)

More than once I have heard someone say, “we used to do business in the U.S. but the litigation risk became too great.” In fact, if we look at everything from foreign investment to currency reserves held in dollar, everything is down with no sign of stopping. Why is that? It’s because America is no longer the safest place for people to live, work or do business.

In fact, along with terrorist and currency risk, ‘lawsuit risk’ is now something that investors must consider when investing in any company that does business in the U.S. Ask anyone who was invested in or worked for any one of the 70+ companies that have filed bankruptcy in the nationwide asbestos litigation scandal!

Asbestos litigation is a poster-child for what lawyers can and will do to a company, or in this case an industry, if given free reign. What is so grotesque about the asbestos scandal is that a great many people were actually made very sick, or died, from asbestos. In such a widespread national crisis, it would make sense to create a master plan that would help to compensate ALL of those injured in some reasonable fashion. This is what England did, where the lawyers do not yet own the system. But here, WE SOLD OUR LEGAL SYSTEM TO THE LAWYERS! – What ended up happening?

What ended up happening is that a few who were injured, who acted early while the companies were still in business, got HUGE awards! The lawyers that represented them also got HUGE FEES! These awards were justified to a jury, not as compensation for actual injury, but as punishment to the companies. Once these lawyers had killed the goose that laid the golden egg, by bankrupting over 70 U.S. Companies, the rest of the injured people got little or NOTHING! The lawyers then turned to the 2nd tier companies who didn’t even produce asbestos, but those that had only installed it or delivered it. They then bankrupt them! And all the while under the mantle of JUSTICE for the injured.

Is that true, is it really serving a greater purpose of justice? Because if it was, then this report should be balanced against the good that the lawyers would be serving. The problem is that it is NOT TRUE! The stats are that in 2003, 100,000 new asbestos claims were filed, the MOST EVER in a single year! But here’s the rub! 80%-90% of the claimants have NO ILLNESS!– (For those of you who really like the details please read the footnote below researched and written by a lawyer in a Law Review Article! This is not mass media but a peer review journal using empirical research!)
All this does is leave the 10% who do end up with a problem left out in the cold after all the money has been scooped up by the corrupt lawyers. And even in cases where there was real damage, only 22% of the award ever goes toward the real losses! Where do you think the rest goes? – to the lawyers and to the dysfunctional system!

It is simply not in the interest of those initial lawyers to consider anyone who was to come next. It was in their interest to simply make the case that the biggest possible award against a big fortune 500 company was justified to punish them and make sure they get the message not to do it again! (Tough to do when you are out of business!) It didn’t matter that this would leave nothing left for the thousands of other’s who were injured, or that an entire section of the U.S. economy would be devastated.

You see, in this system there is no JUSTICE, there is only economic reward for the most aggressive and ruthless and connected attorneys! Why are we letting TRIAL LAWYERS set the rules about issues that should be considered as a whole? Why didn’t we see this as a public policy issue and simply cut out the middle men (lawyers) and fairly apportion the resources while still allowing those companies to stay in business an contribute to the reparations? The answer is that THE LAWYERS CONTROL THE SYSTEM! Why would they cut themselves out?

We all saw it again in the Tobacco litigation. The lawyers were compensated at an extreme rate! (One study found that one firm of 33 lawyers were paid over $22,000 per hour each! That is assuming that they all worked 24 hours a day, 7 days a week for over 3 years!) And this hot streak of mass tort litigation that affects us all is not over! The next hot topic is the sub-prime lending market. Look for the lawyers to start putting as many banks, brokers, agents and lenders out of business as possible as they milk their next victims taking home huge fees and leaving us with a coupon for $75 off of the closing costs for our next mortgage!

In fact, if we look at the overall economic impact of litigation in the U.S. it is now measured in TRILLIONS of dollars. Forget the 60,000 jobs directly lost, with $200 million in wages sucked out of our economy, or the 128,000 future jobs lost due to canceled investments by the now bankrupt defendants. Let’s look at the annual cost as EACH YEAR lawsuits are directly responsible for the redistribution of OVER $300 BILLION dollars, of which less than 22% goes to those actually injured!

Add to that the indirect costs and economic impact of the hundreds of thousands of Americas who have lost their jobs and their pensions and the hundreds of thousand more who have been devastated by the trickle down effect of massive bankruptcies, and you can see why in the past 25 years plaintiffs’ attorneys have become some of the richest people in America. Where exactly did all that money come from?

But Doug, you are talking about big business and giant class action lawsuits, this doesn’t really affect me – right? WRONG! Of the 50,000+ lawsuits filed EVERY DAY in this country, the vast majority of them are NOT big class action suits. In fact of the over 1 million attorneys in the U.S. today, the vast majority of them work for small firms or are solo practitioners. And it doesn’t take many of them to saturate the market as they troll for cases to feed their litigation machine!
And where do they go to get them? Just take a look at your yellow pages, or at the billboards that grace your streets. Or type in “injury lawyer” or any number of possible themes on this phrase in Google. Who is advertising? And who are they advertising too? Does it sound to you like they are targeting just the big companies when they say:

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“Injured at Work? Call us for a Free Consultation”
No FEE unless we collect!
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“Call “The Hawk” after ANY ACCIDENT. Aggressive Attorneys that work for YOU!”
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“Medical bills piling up? Understand your Options and get $$ Now!”
(Se Habla Espanol)
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In fact, if we click on any of these links we begin to see the wide variety of injuries and cases that these lawyers are fishing for:

- Truck Accidents - Auto Accidents
- Defective Products - Medical Malpractice
- Wrongful Death - Dangerous Premises
- Traumatic Head and Brain Injuries - Burn Injuries
- Work Injuries - Nursing Home Abuse and Negligence
- Bicycle Injuries - Swimming Pool Injuries
- Cruise Ship and Boating Accidents - Wrongful Termination
- Airplane Accidents - Premises Liability and Falls
- Vehicle Rollover and Tire Defect - Construction Site Injuries
- Birth Injuries - Headaches from Work
- Stress Disorder - Carpel Tunnel Syndrome
- Hostile Work Environment - Workplace Harassment
- And on, and on, and on!

In the end it all comes down to a numbers game for every one of those one million attorneys (one for every 292 Americans). How many cases can I start, how much is my average collection per case, and how much time must I spend on each one. FOLKS – Law is a Business! Nothing more and nothing less! Lawyers are not the defenders of justice and they do not adhere to an ethical code that is greater than that of the people they sue. They are not bad people because of it, but they are human!
They are businesspeople and will exploit every available opportunity to make their numbers. And if you continue to let the fox guard the henhouse of your personal finances you can hardly be surprised if he ends up with feathers in his mouth.

I’ll end this introduction with a brief, but enlightening story. When I wrote my first book about the Litigation Explosion in the U.S. called “The Lawsuit Lottery: The Highjacking of Justice in America,” I sent a copy to a select group of attorney colleagues for comment. Without exception they were all stunned and shocked. They wrote me back: “Doug, are you sure this is a good idea for you to be revealing this much information. I mean you are an attorney, and you do know who controls your profession – Don’t you?” Of course, they meant the Trial Lawyers, the controlling Family in the Brotherhood of attorneys. (I will be telling you much more about the Trial Lawyers and their dubious practices later in this report!)

I can only imagine what they would say if they see how much more I am about to reveal in the following pages about what is really going on! I am sure we shall see.

Section 2. The Truth About Lawsuits!

The lawsuit. Never has man created a more cleverly crafted tool to bring out the least desirable qualities in the human experience. The lawsuit has been despised even from the beginning. The French satirist of the 17th century, Jean de la Bruyere advised: “Avoid lawsuits beyond all things; they pervert your conscience, impair your health, and dissipate your property.”

We all know it too. Conflict brings out the worst in us. This is especially true when we feel that we are right! It is because of this instinctual understanding, that throughout the entire world (the United States Notwithstanding) lawsuits are actually a relatively rare phenomenon. In fact this was true for America as well up until the 1960’s. But something here changed around then. This is the time when lawyers started thinking like businesspeople.

As I stated above, this in itself is not the problem. It is difficult to begrudge anyone for a desire to be financially successful at what they do. The problem comes about in HOW the lawyers have done it.

My goal in this report is to help you understand not only what the effects are, but HOW and WHY we have gotten there. You see, until you understand this, it will be emotionally difficult for you to consider taking back the control that has been stolen from you.

If you are like me, then you want to believe that you can depend on the system and trust that if you are ever in front of a judge and jury that they will see through the lies and find the truth. That in the end they will come to a fair and reasonable result. And as long as you believe that, then you will actually feel bad taking the power of that judge and jury away from them. But if you want any sense to be brought back into YOUR PERSONAL life then taking back that power is exactly what you will need to do – and by the time you reach the end of this report, you will know exactly how to do it.
As we move through this report, I’ll be telling you not only what’s wrong with the current system, but much more importantly I’ll be telling you WHY the emperors of the system do what they do and HOW that impacts you directly every single day of your life, even if you never get sued! I’ll explain the EFFECT of what they do, so you understand far more than just what the problems are. You’ll understand why you spend more money than you have too (even though globalization is making costs less expensive than ever) on everything from groceries to cars, and why all this is happening at a time when you are less secure about your financial future than ever before.

I will also be showing you how the rules have been changing to support creditors! That is not just the people you borrow money from, but that also means anyone who gets a court award or judgment against you! You see when you are sued, and you lose, the judgment is entered into the court records and that plaintiff turns into a creditor! That means they have all the remedies to collect against you that your bank has if you default on your mortgage. That includes seizing your assets, garnishing your wages and even forcing you into bankruptcy! All by someone that you never volunteered or agreed to pay a penny!

I wrote this report because I want you to be educated about the systematic dysfunction occurring in this country, because it absolutely affects you, me, your children and mine! I feel so strongly about this that I am willing to tell you EVERYTHING, so you know what I do! From lots of experience I know that some percentage of you reading this will work with me, and I look forward to meeting you. For other’s this will be an educational experience and will increase the overall awareness of the real problems in our legal and judicial system, and that is very important to all of us.

By increasing our collective literacy of the real issues, I know that you will have a much better understanding of a problem that affects us all. And that one day this information will be very important to you. I also want this information spread around as much as possible. I called this an “Insider’s Report” not a Confidential Report, because I no longer want this information to be ‘Confidential.’ We are not being served by the current dysfunction and this report is one way in which I am choosing to participate in its reform.

I have also found that the only things of true value in life are the ones that increase by giving them away. That is what I am doing here. I sincerely hope that you find this information valuable and share it with as many people as you can.

Let’s get back to the story, to the place were it all begins. It’s time to dissect what has really happened to our legal system and why it is in the shambles it is today. So let me start with some specific examples of things I know you have never heard about on Court TV or Judge Judy.

A. Legal Ethics.

Let’s talk about legal ethics and its relationship to how our legal system was designed to function. Our legal system is based on English law. It began first with a functional criminal code. This code was then designed to be administered using our court system. Under that system we decided to use an “adversarial” approach to adjudicate cases. What the “adversarial” system means is that if you are accused of a crime, you have a right to an attorney who, even if they KNOW you are guilty, will still defend you to the end and try to prove your innocence. In other words, who will be your adversary – no
matter what. I think most people today are familiar with how that works by watching the O.J. Simpson murder trial on TV.

This adversarial concept was, and is, based on the fundamental assumption that you are innocent until proven guilty. The concern was that if the system were going to ‘make a mistake’ it would be better to error on the side of innocence.

While occasionally this can and does lead to an incorrect result in a criminal case, it also creates far less of a chance that innocent people will be put in jail or even executed. (Notwithstanding the evidence that has come to light in the past 30 years that shows that a significantly disproportionate number of minorities are sentenced to jail and death, many of whom are indeed later proven to be innocent – but that is a whole other story.)

So what does this have to do with lawsuits, which are not criminal? Good question. The answer is that when the civil law began to originally develop it became clear that adopting the “adversarial” system in its entirety would definitely be a bad idea. Can you imagine a lawyer who was encouraged by the very legal system itself to take on civil cases in which he KNEW that his client was lying, just to extort money from someone else using the system!

The thought of that was repulsive to the founding fathers, to the Constitution and to the very idea of liberty and justice! In a civil lawsuit there is NO presumption of innocence until proved guilty, because there is no crime. There is only a dispute, which the courts assent to become a part of to resolve if necessary.

The problem was that it was also those same “adversarial” lawyers who would be hired for these civil claims and we needed a system that reflected the “peacemaker” and “resolution” attitude the courts wanted to take in these cases, NOT the adversarial nature of a criminal case. To accomplish this the designers of the legal system relied on “legal ethics” to ensure that lawsuits were definitely not encouraged and that the system did not become an “instrument of corruption and evil.”

These legal ethics were the set of rules by which lawyers governed themselves. Yes, you heard correctly, I said, by which lawyers govern themselves. It is a system set up and designed by the lawyers to modify their own behavior. Well this set of rules basically said that civil lawsuits were bad, that as a lawyer you could not encourage them, and that doing so got you kicked out of the brotherhood of lawyers.

And if you did something really over the line, like chase down an ambulance and hand the person inside a business card, that could even get you thrown in jail!

To accomplish the formidable task of discouraging lawyers from stirring up litigation just for their own selfish desire for increased fees, the Bar Association implemented four primary restrictions. These acted as the four pillars of the courthouse which held up the entire legal profession, image and all.

Firstly, attorneys were forbidden from accepting clients on a contingency fee. This acted as a strong deterrent for both attorneys and plaintiffs not to bring cases which were not well grounded. Contingent fees have long been seen as being easily corruptible, since they encourage lawyers to seek
only the result, which pays them their fees. That means if you need to hide evidence, lie, tamper with
witnesses, or whatever to get paid as the attorney on the case, then there is a far greater chance you would
do so if you are being paid with a contingent fee.

**Second,** Lawyers were forbidden from *advertising.* This was part of the ethics rules that
distinguished lawyers from other, less reputable, forms of business. Lawyers didn’t want to be seen as
chasing business and definitely not stirring up lawsuits. Advertising would by its very nature encourage
more litigation and therefore was strictly prohibited. Lawyers were there for when you needed them, and
everyone knew where to find one. We didn’t need to see their names all over the place drumming up
unnecessary conflicts and problems.

**Third,** the *ethics rules,* promulgated by the Bar Association, governing lawyers were very strict
regarding such things as ambulance chasing, stirring up litigation, taking questionable cases and many,
many related details which made it inadvisable or downright dangerous to a lawyer’s career to take on
bogus cases. Specifically prohibited was taking on a case in which there was not a solid legal basis for a
lawsuit (which the lawyer –not the client – was responsible for identifying). As one great jurist once said:
“much of the job of a lawyer is often to advise your clients that they are being a damn fool and to stop!”
Of course, that was said over 40 years ago when indeed that was the feeling among lawyers.

**Fourth,** the *Court Attitudes and Procedural Rules and Standards* for beginning and continuing
a lawsuit strongly discouraged “fishing expeditions.” The rules and court standards defined exactly how a
case must be brought. This included a statement of the facts and circumstances sufficient to state a cause
of action. It also included the rules of discovery and procedural processes that kept a case moving along.
The attitudes and standards of the courts were clear in their discouragement of lawsuits. The purpose was
very clear, to stop cases which were begun simply to try harass, or to get into the discovery phase to dig
up something worth suing over later on. It was widely recognized and accepted that this would be an easy
tactic used to harass and terrorize someone with a purpose to use the system to extort a settlement with no
real basis for a lawsuit, and that was not wanted!

All of these rules and restrictions made sense, particularly given the incredible power and
responsibility the courts and lawyers who administer them held. And, believe it or not, this actually
worked, more or less, for quite a long time. In general, lawyers were very buttoned up about civil lawsuits
and they were extremely rare. In fact, even as late as the 1960’s, the *feeling* within the legal profession
about going to trial was extremely negative. Lawyers who went to trial on a civil issue were seen as
having failed at their job, which was to help the parties work it out, not to sue!

Of course, this was also a time when courtesy among lawyers was absolutely expected, and where
the appearance of impropriety was as important as the doing of something wrong itself. Image was
everything and no one wanted to look bad, or appear to be stirring up a lawsuit just to create more billable
hours.

So what happened? Where did the civility and honor in law go? And more importantly, HOW did
this happen? I mean, if the lawyers were so good at governing themselves out of this despicable behavior,
how did it all change?
The WHY is easy to see – money! Law as a business took hold about the time that everything American was turned toward the almighty dollar, and lawyers were no exception. They controlled the very system that kept them in check, so why not just change it.

The HOW is really where our story picks up. How to defeat the 4 pillars of legal ethics that kept the lawyers from taking over and corrupting the very legitimacy of our system itself. The answer is with 4 changes in our system. Four changes that began in the 1960’s and culminated in the 1980’s—just over 20 years! 20 years that unleashed a litigation monster and changed everything! These 4 changes were:

1) **Contingent Fees Allowed**,
2) **Attorneys allowed to Advertise**,
3) **Ethics Rules dramatically relaxed**,
4) **Court Attitudes and Procedural Rule changes to encourage litigation**.

I am sure you have already noticed something very interesting about those 4 things. They are the same four pillars of the legal system which held the demon known as lawsuits in check. We have now let that demon out of his cage and are reaping the consequences. *The Lawsuit Lottery* is on! Here is what happened.

1. **Contingent Fees Allowed.**

In virtually every civilized society in the world the contingency fee has been expressly avoided for professionals like doctors, accountants and lawyers. There is simply too much temptation to allow those entrusted with our health, taxes and personal freedoms to be influenced by a contingent fee. English common law, German and French civil law and even Roman law all agreed it was *unethical for lawyers* to accept a contingency fee!

Why does this make sense? All we need to do is look at what Mr. Morris Eisen did to see. Mr. Eisen ran one of the biggest personal injury law firms in the country employing 45 lawyers up until 1990. That was the year it unraveled for this multimillionaire legal success story. Mr. Eisen and his firm became so successful by promoting the use of the contingency fee. He was famous for “no fee unless we are successful.”

Successful he was, maybe too successful. In fact in the end when Federal Prosecutor Andrew Maloney detailed the charges against Eisen, he identified over $9 million in judgments which were collected by Mr. Eisen’s firm, resulting in over $3 million in contingency fees, plus reported expenses. The problem was that these “fees” were earned by winning cases using such lawyerly tactics as *bribing witnesses*, *bribing court personnel*, *suborning false expert testimony*, *doctoring photographs* and *manufacturing physical evidence*!

This included Mr. Eisen producing eyewitnesses whom were not only *not at the accident scene*, but whom were actually *serving jail time* at the time of the accident! In another case Mr. Eisen had someone from his firm use a pickaxe to widen a pothole so it could be blamed for a supposed slip and fall incident.
The case of Mr. Eisen is no exception either. There are regular cases all over the country of lawyers who simply cannot avoid the temptation to outright abuse the system for financial gain. BUT WE ALREADY KNEW THIS! That is why we didn’t allow contingent fees at all – It is just too tempting. I mean, who better than the lawyers, who use and control the system, know how to misuse and abuse that same system!

Nevertheless, the contingent fee was the first of the four pillars to fall. The lawyers successfully argued (or should I say, they used the excuse that) too many people were being denied access to the legal system and that it was necessary to introduce a contingency fee model to help those poor “innocent victims” find good lawyers. Ignore the fact that there were no complaints from aggrieved victims who had failed to find legal counsel. It seemed that only the lawyers had been concerned that nameless minions where being underserved by their talents.

But of course, it worked! But why wouldn’t it? I mean who has the friends and influence in the state legislatures to make such a change? That’s right, the lawyers. So state-by-state contingency fees were legalized, and in 1964, Maine was the last state to fall.

Down went pillar number one! Lawyers were now free to become partners (in crime?) with their clients. Now instead of the lawyer encouraging their clients to stop being damn fools, and to settle, they would do just the opposite—encourage more litigation. Their livelihoods (or should I say profits) now depended on it!


With the pillar of contingency fees down, the prohibition on advertising became all that much more important. It is one thing to be able to offer a contingent fee arrangement to a client who is already in the market for an attorney and who has walked in the door. It is another to “stir up” the conflict itself by advertising!

Advertising was simply not allowed. That is until 1977, when an Arizona law firm decided to place an ad in the Arizona Republic. Sure enough, that was it. The Supreme Court got involved and decided that it was unfair to not let the poor lawyers advertise just like everybody else.

However, even the Supreme Court was concerned with what that could mean for the legal profession, and specifically admonished the state bar associations to put “strict limitations” on the type of advertising that lawyers were allowed to do. Specifically that meant only the name of the firm, the type of law practiced and a list of services with standard fees could be advertised. That’s it!

Now, let me ask you, is that what we see on television and billboards today? NOT EVEN CLOSE! Instead what we see is a direct solicitation, using sleazy tactics and false promises to induce people with the lure of financial gain! The shackles are off and lawyers are now able to do the unthinkable! A case in point is Florida lawyer Craig Goldenfarb, who has taken legal advertising to an
arresting new low—cardiac arrest that is. His ad states “Personal Injury, Medical Malpractice, Nursing Home, and Liability for Heart Attacks in Public Places.”

Did you get that? He is implying in his ad, that if you have a heart attack in a public place then he will sue the store, restaurant, city or town in which you had it for you! Yes, that sounds like we have lawyer advertising under control and we haven’t slid into the gutter that the Supreme Court was worried about!

The founding fathers would be turning over in their grave to even think this is where we have come. But wait – there’s more! We haven’t even gotten to the best part. With pillar one and pillar two down, the lawyers really got serious and took aim at the heart of what would start the dollars really rolling – MORE WINS! You see, the 3rd and 4th pillar were still taking too many claims off the table, meaning the lawyers weren’t winning enough. So when you can’t win by the rules, what do you do? CHANGE THE RULES! Especially if you control them!

I think at this point you are getting the picture. But even now you may still be saying: “yes that sounds bad, but it is just business. Lawyers have a right to get paid however they want and advertise for clients just like everybody else. What’s the big deal? I mean the system is still fair right. The courts aren’t getting paid for all these lawsuits. If I get sued I will still get a fair trial. And that’s all I really care about right?”

Let’s move on and you can answer that question for yourself as we go.

3. Ethics Rules.

Let’s talk about what ethic rules really are. The ethics rules are the written codification of what is okay and what is not okay for a lawyer to do. These rules are much stricter than the standard rules of business in general. They are the “Moral Code” of the legal profession and since their inception in the 1800’s they have been taken very seriously!

In 1969 these rules were standardized by the American Bar Association in the Model Code of Professional Responsibility. This codification was VERY detailed and gave a great amount of guidance and specificity as to which conduct was acceptable and which conduct was not. For example Ethical Canon 7-10 said:

“The duty of a lawyer to represent his client with zeal does not militate against his concurrent obligation to treat with consideration all persons involved in the legal process and to avoid the infliction of needless harm.”

In fact, if you were to read the full Model Code, you would have a very clear picture of what a lawyer should and shouldn’t do. The Model Code was also divided into Ethical Cannons and Disciplinary
Rules. This was helpful in seeing what the moral reasoning was behind the actual rules themselves. Additionally there were Notes to help further clarify any misunderstanding and help put forth the underlying purpose of the rules.

Remember, we are dealing with LAWYERS. These guys definitely know how to read between the lines and create alternate meanings when it serves them. They are also not stupid, so when the ABA put together the Model Code—it was specifically drafted to avoid the type of “interpretation” that lawyers do so well!

This WAS the third pillar that held up the courthouse that the legal profession inhabited. But there was a problem for this new breed of lawyer/entrepreneur—It was too strict! It was too clear! And it didn’t give these guys the room they needed to really take advantage of their newfound freedom to advertise with a contingent fee since doing so under the current Model Code might get them disbarred.

Once again, when faced with a system where you can’t win by the rules, what do you do? CHANGE THE RULES! Especially if you control them! And that’s just what the lawyers did. Here’s how they did it!

To get around the detail of the Model Code the lawyers in charge got together and proposed that these rules were too long and that they should be streamlined to be easier to use. So a commission was commenced to propose an alternative to these rules. What emerged in 1983 were the Model Rules of Professional Responsibility.

Before I continue I am going to warn you in advance that I have to give a small lesson on legal construction for you to understand the trick that these lawyers used. You see, there is a fundamental premise that every first year law student learns, which says; “The more detailed the rules, the more clear (and more fair) they can be, but the more difficult they are to use and enforce.”

Basically what this means is that if you make a simple rule that says “NO DOGS ALLOWED” it will be very easy to enforce, but it might not be totally fair, for example if someone walks in with a seeing eye dog. To make it more fair we need to make it more complex, which means adding an exception, in this case: “NO DOGS ALLOWED (EXCEPT SEEING EYE DOGS).” If we want to continue to make it more and more specific and include police dogs, or dogs under 12 pounds, or any other exceptions it will continue to become more complicated.

This is exactly why the I.R.S. code is so ridiculously complicated. It tries to cut out exception after exception to tax exactly who and how the government wants. But it is so difficult to use that we all need to hire accountants just to file a simple tax return. If we went to a flat tax it would be very easy to use, but would also likely not be very fair to many.

The original Model Code was far more complex than the new and “improved” Model Rules. That was because back in 1969 the ABA wanted it to be very specific and CLEAR so that it could be followed. It was, after all, for lawyers, so a little complexity was not only a very good thing, but a necessity!
The new Model Rules, on the other hand, were extremely simple and gave virtually no guidance. The rules did away with the distinction between the reasoning and rule and had no notes! Basically, they simply opened up the field and gave every lawyer in the country a blank check to argue what was ethical and what was not. It was a coup! The new ethical rules became, if there was no rule specifically against it (and those were mostly all gone), then you could make a reason for it!

Of particular importance was the new RULE 3.1. This was the icing on the cake that gave every sleazy lawyer all the reason he or she needed to sue anyone at anytime with no fear whatsoever of being disbarred for bringing a frivolous lawsuit. Rule 3.1 of the new Model Rules says:

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.

To make the point of how much more “streamlined” the new rules were, we should note that this one sentence rule replaced: Ethical Canon 7-1, Ethical Canon 7-4, Ethical Canon 7-5, Ethical Canon 7-14, Ethical Canon 7-25, Disciplinary Rule 5-102, Disciplinary Rule 2-109 and Disciplinary Rule 7-102! That’s right, all of these rules, (which I will spare you from the details of) were replaced with a single sentence!

But that is not the worst part. It was replaced with a single sentence that used one of the most cherished and favorite of all lawyer tricks – The Double Negative Injunction! Bear with me for just a few more minutes of legal construction class, because it is critical that you understand how tricky, how low, and how patently unethical this change really was.

The Double Negative Injunction goes like this: “Don’t do this (bad thing), unless there is any reason that you can cite for doing it that is not bad.”

Did you get that? Now let’s read Rule 3.1 again:

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law.

Do you see it now? Are you even clear what the rules are trying to accomplish? For sure I know what they were trying to make it LOOK LIKE! They want it to look like there is a prohibition on lawyers bringing frivolous cases. Well if that was what they wanted to do, why didn’t they simply say: “it is unethical to bring or defend an action that is frivolous.” In fact this is exactly what the effect of the original Model Code was!
So why didn’t they just say that? THE ANSWER is that they didn’t want to make it unethical to bring a frivolous case! They actually wanted to give the lawyers any possible reason they could come up with to do just that. So instead of simply saying NO FRIVILOUS LAWSUITS, they said don’t UNLESS you can point to ANY BASIS that it could be brought which is NOT frivolous.

DO YOU GET IT NOW! This is a HUGE legal distinction and completely obliterated the pages of canons, rules, notes and guidelines from the original Model Code with this one sentence!

To top it off, they even included the most liberal and all inclusive of all reasons by saying: “which includes…a good faith argument for an extension, modification or reversal of existing law!!!!” That means that you can bring a completely frivolous case and simply say: “yes, I know this case is frivolous, but there is ALSO a reason to bring it that is not frivolous because we are arguing for a change in the law (which they don’t care about and know they won’t get anyway) and therefore it is OKAY!!

Can you say (please excuse my French) BULLSHIT!!!


Okay, so we are down to the final pillar (if you can call it that by now). Clearly the courthouse has already collapsed and is laying on the ground. I hope by this point you can see that we have all been hoodwinked. The legal system is now little more than a scam run by some of the most cleaver scammers of all – lawyers! And there is no one watching them but themselves. The foxes have finally figured out that they were the only ones guarding the henhouse! The lure of easy money has won the day and you and I are left with a crooked legal system controlled by the very people who have turned it into an extortion racket!

So we have now seen how the lawyers have given themselves the right to become part of the action directly with a contingent fee. We have seen how they have given themselves the permission to aggressively advertise and spark up the litigation frenzy we are now all in. And we have seen how they have dismissed the ethical rules that would have prohibited them from using the legal system as a tool for extortion. The only thing left was to figure out how to keep their cases “in play” even longer for their pressure cookers to really start heating up their profit machine!

So let’s take a look at the final pillar – Court Attitudes and Procedural Rules. To help you understand what this pretty big topic is all about and why the attitudes of the court and their procedural rules are so CRITICAL in keeping our legal system from corruption, I need to first explain how the legal system is REALLY used today by the predator lawyers, and what a far cry it is from its original design.

This is the REAL SECRET of lawsuits! This is the heart and soul of the aggressive, sleazy tactics, predator attorneys are using to literally EXTORT your money using our, once cherished, legal system!! HERE IS THE REAL STORY!

Just for the sake of argument. Let’s say that you are someone who is willing to get money any way you can, using any method or system available. You don’t care how it works, where the money
comes from, or who it hurts, as long as doing it isn’t going to get you thrown into jail. You just want as much cash as you can get your hands on. Granted 95% of the people out there do not fit this description, but unfortunately we all know that some do!

So what if you are that person, AND you happen to be a lawyer who understands how the legal system works. The question becomes: “Is there a way to use the legal system that is technically ‘legal’ to essentially extort money from someone?”

As I am sure by now you have figured out, the answer is YES! The question then becomes, what would that “scam” look like? Here it is!

The SCAM goes like this:

1. FIND someone with money that you would like to extort.
2. Create a REASON that you are entitled to the money.
3. Get in front of a judge who has the POWER to forcibly take the money and give it to you.
4. And then to somehow CREATE a legitimate incentive for that person to voluntarily GIVE you their money, and
5. Do it all without getting into trouble for doing it!

That’s it right? Now do I really care what the ‘reason’ is? NO I don’t! Do I even care if it is a legitimate reason? No! In fact, it is better if I can use ANY possible reason, since finding legitimate reasons would only make my job harder.

The trouble comes in at step 4 – which is that I need to create a legitimate incentive for the other party to actually GIVE me their money. That part sounds difficult.

Here is where the trial lawyers who reshaped our legal system into its current distorted form knew something that you probably didn’t. The REASON that someone would voluntarily give you their money is if it actually cost them less time, energy and money to do it than it would be just beating your phony reason outright in court.

Did you get that? The challenge in this scam is that the lawyers had to make it MORE EXPENSIVE for you to fight, than to simply PAY THEM OFF! So HOW did they do that? This is where the trial lawyers got organized and started taking aim at the attitudes of the courts and the procedural rules that they employed to keep lawsuits in check.

You see, in order for this scam to work, the lawyers need the lawsuit itself to be a long and drawn out process, which in turn makes is emotionally and financially expensive! This is the key in the Legal Extortion racket. The case, even a bogus or frivolous one, needed to be expensive and create fear. If not, the extortion wouldn’t work since the phony claims would eventually be found out.

The judge, in conjunction with specific court rules and the Rules of Civil Procedure are what determine which cases get in and how long and drawn out they will be. Well, up until around the 1970’s the attitude toward litigation was decidedly negative. As such, judges and the Rules created a high barrier
to instigating just any old lawsuit. They also created strict procedures around the discovery process, which kept cases moving along, and didn’t allow them to stray from their original issues. It didn’t do the lawyers any good to get into court just to get thrown right back out.

Once again, when faced with a system where you can’t win by the rules, what do you do? CHANGE THE RULES! Especially if you control them! And yet again, that’s just what the lawyers did.

Now I need to take a moment and stop here to make sure that you understand exactly who the players are in this scheme so you will understand exactly how they did it. In 1977 (does this date seem at all coincidental to you?) these aggressive trial lawyers decided that in order to affect such a large scale change in the attitude toward lawsuits, they needed to get some serious clout in Washington. So in that year they created the Association of Trial Lawyers of America (ATLA). This was not a social club or even a study group – it was a lobby. A Political Action Committee (PAC), designed for one thing—to influence Capital Hill!

Now what did the trial lawyers care so much about in Washington? Laws, that’s what. You see, the trial lawyers not only wanted to influence the courts and procedural rules, but they wanted to control which laws were passed and HOW they were passed. More laws make more lawsuits! Remember, their motto even to this day, is that lawsuits are good and that we need more of them! (Please tell me I am not the only one who thinks this is insanity!)

And they absolutely wanted to STOP any attempt whatsoever to limit their right to sue or the amount of money they could seek in damages. It doesn’t matter to them if as a society we are suffering and creating an untenable legal morass in which only they really win. As the middlemen, they want lawsuits at all costs! And if you want to know who someone is, just look at what they say. Past president of the ATLA, Roxanne Conlin, said about even the prospect of some type of tort reform:

“The system works just fine...That is a fact. What those who seek to limit the rights of the innocent injured seek to do is make it not work. So we don’t think of these as reforms; we think of them as deforms.”

Indeed it DOES work just fine if you are a TRIAL LAWYER! These are the guys (and girls) we are talking about. They are the ones that sue and the ones who want the system to be a stacked in their favor as much as possible (remember they are now part of the action with the contingent fee). And they are good at what they do! In fact, Lester Brickman (a professor at my alma matter law school in New York, Cardozo Law) said:

“The Association of Trial Lawyers of America has achieved an unparalleled track record on Capital Hill. While other special interests regularly sacrifice losses on one front in order to win on another, and occasionally leave Capital Hill licking their wounds, ATLA has never compromised and never lost. Ever! No other lobbying group can make that claim.”
Can you say POWER! I really want you to get this. The Trial Lawyers are stacking the game! Why do you think that we are the ONLY country in the entire world with a litigation crisis? Really? It’s not because we are more fair, it’s because we are more UNFAIR. We have created a country of victims who have an army of hired guns using unethical tactics to capitalize on someone else’s misfortune, creating yet another misfortune by suing to death someone else, regardless of merit!

Now I want to be very clear, Congress could end this crisis in a SINGLE DAY! And they could do it AND create a fair system where compensation for misfortune would not run by lottery. They could do it and create MORE money for real victims by cutting out the middlemen (LAWYERS!) One simple shift in one simple rule would bring it all to an abrupt end! Britain, Canada, France, Germany, Switzerland, in fact every other civilized country in the world – none of them have SOLD the keys of their county to their lawyers! We are the ONLY ONES, not one single other country has the killer combination of allowing contingency fees, advertising, removing ethics and court and legislative consent! No one! Doesn’t this seem odd?

Everyone but the lawyers are punished in our system. Not only do the victims not come out ahead for being used as pawns in this ridiculous charade (studies show that the people who receive their share of these ridiculous awards are worse off and less happy after receiving their awards than before they won the Lawsuit Lottery), but our entire system has become a joke! And a small group of exceedingly powerful lawyers are laughing all the way to the bank. They don’t care that we are bankrupting not only our system, but our legitimacy as well. They want to ride this horse until it’s dead – period!

Forgive the polemic rant, but this really is infuriating, because it affects us all. It also points out how much power our system has given to so few and how money runs it all! Well let’s get back to the meat of the story.

What the trial lawyers have been so successful at doing by changing the overall attitude of courts and their respective rules of procedure is give themselves more leverage at step 4 of the Legal Extortion scam. Let’s look at the stats of the average med mal case (I am using a malpractice case since the best stats are available; however, it is very representative of the overall legal system).

- The average time to complete a lawsuit is 45 months (almost 4 years!)
- The average cost of a lawyer is $400 per hour
- The average cost for expert testimony is $5,000-$10,000 (per expert)
- The average cost to defend BEFORE TRIAL is $46,000
- The average cost of a TRIAL $180,000
- Average cost to SETTLE a claim is $260,000
- 57% of all malpractice fees go toward paying attorneys
- 43% of all insurance defense costs go toward claims that have NO MERIT

Now let me put these stats in context with how our Legal Extortion scam above really works. If I sue you with a bogus or frivolous reason, I will most probably (although not certainly) eventually get thrown out of court. But I will also create a significant amount of expense, and more importantly fear in your life for as long as I can keep the lawsuit going. If I can count on at least a couple of years of
dragging the case out (remember the average is almost 4 years) you will have to factor in the overall cost for you to defend the lawsuit.

This is the trick. If I then come to you and offer to ‘settle’ my claim with you for something that approximates your overall cost to defend, AND give you the added bonus of having all the pain end right away, would you take it? The answer for most people is yes! And this is just as true for a frivolous lawsuit as it is for a real one. That, my friends, is LEGAL EXTORTION!

As one humorist once wrote:

"If a man stopped me in the street, and demanded of me my watch, I should refuse to give it to him. If he threatened to take it by force, I feel I should, though not a fighting man, do my best to protect it.

If, on the other hand, he should assert his intention of trying to obtain it by means of an action in any court of law, I should take it out of my pocket and hand it to him, and think I had got off cheaply."

- Jerome K. Jerome

Is this racket beginning to make sense to you now? Some of you are probably moving from the resistance or denial phase to the anger stage, and I understand that. These are very infuriating facts! And I want to warn you that there is more. It actually gets worse. When I tell you specifically the reforms and changes beneficial to us all that ATLA has been successful in lobbying against you will be truly astounded! You will understand how fundamentally corrupt our legal (and political) systems have become. You will see how the lawyers continue to strike down anything that will affect their ability to increase their fees, no matter how good for the country it might be.

But first we need to wrap up our conversation about Legal Extortion. You might have noticed one small detail that has left an open question for you in our scam. Doesn’t it make sense that the loser of a lawsuit, especially a frivolous one, would have to pay back the legal expenses and costs that they forced the winner to incur as a result of their failed attempt?

YES, it does. This is called the “loser pays” system, and it is employed in virtually every other developed country in the world. How it works is simple. If I sue you and I lose, then I am responsible to pay you back the costs and expenses you had to incur because of my lawsuit. The idea is to put you back into the position you were in BEFORE I sued you! That’s it. As I am sure is completely obvious to you, not only is this FAIR, but this makes TOTAL SENSE! It absolutely discourages me from suing you unless I have a very solid reason, by creating a financial risk for me to begin the dispute. And if I do have a good case, I have every encouragement to still bring it.
In fact, this one feature alone can be credited to a great extent for the reason that no other country in the world has the litigation crisis we have here in the U.S. And, guess what? WE DON’T USE IT!

This is that **one single change** I was referring to above that would end this ridiculous scam overnight. It would immediately topple the billboards and make the onslaught of television commercials disappear. Why? Simple – Money! That’s right, it would turn the tables on the trial lawyers because they would then have a **financial risk** for taking on bogus cases. It would be their client, not the defendant they dragged into the case, who would pay the winners ‘ridiculous fees’ if they lost. And to top it all off, if the plaintiff was not able to pay, then the lawyer would be responsible! Does anyone think that might change things around a bit?

YOU BET IT WOULD! But don’t hold your breath. Not only is this the holy grail of features that the trial lawyers will die defending, but there isn’t even a conversation around changing our “No Loser Pays” system. **Not even a conversation**! That means that ATLA has killed even the mention of any changes in this!

Again, I would like to ask you: “Does this make any sense?” I sue you with a frivolous claim, you run up $82,000 in legal fees, not to mention that you have to live with the stress and uncertainty of a lawsuit for several years and then YOU WIN! In fact, let’s say that you win on ALL COUNTS and I get flatly thrown out of court with a strict admonishment by the judge not to bring this kind of junk in his courtroom again. But guess what? YOU ARE STILL OUT THE $82,000 and I don’t have to pay you back a cent! DOES THAT MAKE ANY SENSE!

Okay, we are almost done with this section. But before we move on I want to give you what I promised earlier and take a look at the list of ‘accomplishments’ by the TRIAL LAWYERS (ATLA) since their inception in 1977. Here is what you can be proud your system in Washington is doing for you:

1. In the 1977, ATLA killed federal no-fault automobile litigation, which would have eliminated hundreds of millions of dollars in lawyers fees, **each year**! It would have also eliminated one of the most common types of lawsuits, thus relieving tremendous pressure from our legal system and providing a built in remedy for EVERYONE (not to mention a strong incentive to buy your own auto insurance)! In fact, NO FAULT is one of the most respected, developed and proven ways to create a FAIR system and cut out the HUGE expense of the unnecessary middleman. It would have also DIRECTLY led to decreased insurance premiums for EVERYONE, which would have come directly out of the lawyers’ pockets! So yes, of course the lawyers killed that one!
2. Since 1977 to the present day, ATLA has successfully warded off dozens of attempts to reform the Medical malpractice arena, usually killing any bills before they even leave a Congressional Committee. As a result doctors are facing their own malpractice insurance crisis and in many states insurance is now unavailable, or ridiculously expensive. (This has produced so many negative effects in our system that a separate report could be written on this issue alone!)
3. From 1977 to the present ATLA can be most proud of their relentless crusade to kill any legislation which attempts to reform product liability laws. Some of the proposed changes would have capped ‘punitive’ damages against manufacturers and forced the loser in the case to pay all
the legal costs! (DID YOU GET THAT? They have been massacring any attempt to change to a
“loser pays” system).
4. ATLA has been successful at killing any reforms around any of the mass torts like; asbestos
litigation, breast implant, tobacco, etc. Basically any proposal that would have created a sensible
compensation package for victims has been killed in favor of a case-by-case winner takes all
approach that maximizes the trial lawyer fees.
5. ATLA stopped the Montreal Protocols, which would have created a system for compensation on
airplane crashes, creating sustainable predictability. (Jonnie Cochran was famous for being on
the ground “to support victims” in an Alaska Airline crash before most of the victims had been
seen in the hospital by their own relatives!)
6. They have consistently killed attempts to introduce more Alternative Dispute Resolution (ADR)
systems like mediation and arbitration since these produce faster, less expensive results and
require less attorney involvement, meaning less fees!
7. ATLA has been successful at killing reforms of the Joint and Several Liability laws. Currently
these laws say that a co-defendant, which is 1% responsible, can be made to pay 100% of the
award. Reforms would have limited that to only the percentage of their fault (1%). This would
have limited the lawyer’s ability to find the ‘deepest pockets’ regardless of fault, and thus was
summarily killed!
8. ATLA has been hugely successful at keeping the FORUM SHOP open. Forum shopping is
where lawyers choose a jurisdiction to bring the case, which has the most favorable rules for
THEM. Reforms would have required the cases to be brought in the jurisdiction in which they
are connected, not the best jurisdiction for the lawyers.
9. ATLA has been successful at killing any attempts to reform the jury selection (voir dire)
process. Currently we don’t have a jury of our peers, we have a hand-selected jury, which is
most likely to return the largest awards. Reforms would have limited the Trial Lawyers from
their ridiculous hand selection process and given them the luck of the draw instead of allowing
them to stack every jury using a team of trained specialist who are free to use everything from
questionnaires to videos to face reading experts to dissect the reactions of the possible jurors and
find the ones most likely to support their case and bring back the biggest awards.
10. ATLA has killed any legislation designed to identify and address ‘fraud and abuse’ of the
litigation system by plaintiffs’ and attorneys. (This is so self-serving and patently absurd that it is
hard to comment. So much for them governing themselves).

Even when individual States have been successful in introducing some form of Tort Reform,
ATLA has often been successful in using its influence to reverse or overrule these reforms as
unconstitutional! And always with a cynical smile and the line that they are “protecting innocent victims.”
Please! Give me a break! How about looking at the legal system as an extension of our social and
governmental systems and think about what is best for everyone, not just the lawyers.

In fact ATLA has been so successful in the last 30 years that their name has become synonymous
with POWER POLITICS in Washington. It has also attracted a lot of attention from those who would like
to see reform and even the mention of “Trial Lawyers” now creates some seriously negative press and bad
feelings.
These guys are so bad that they have even soiled their own name! So what do you do when you can’t win by the rules? Change the rules of course! Especially if you control them. This strategy has worked so well that they decided to try it again to get the huge negative publicity off of themselves. So in 2006, the Association of Trial Attorneys of America officially changed their name to the American Association for Justice (AAJ)! Now doesn’t that even sound more humane? Right!

So what has all of this JUSTICE really gotten us? Well let’s just look at it this way. All this money has to come from somewhere to pay the lawyers. Guess where?

- The cost of the U.S. tort system for 2003 (last available stats) was $246 Billion dollars, or $845 per citizen or $3,380 for a family of four. 2008 estimates are over $5,000 a year for a family of 4!
- This cost is paid by YOU in increased prices for everything from a ladder to a car to your medications. It’s like taking $5,000 out of the average families pocket in a TORT TAX every year! (The average family in America makes approximately $48,000 a year, making their tax a whopping 10.1% of their total income!!!)
- U.S. Tort costs increased 35.4% from 2000-2003!
- The U.S. Tort system is inefficient; it returns less than 50 cents on the dollar and less than 22 cents for actual economic loss and damages. (Which is to say, even if you agreed with the premise behind the system, it still DOESN’T WORK! There is simply too much FAT in the middle!)

This is how each of us is affected even if we never get sued! In fact, if you make over $200,000 a year, then for your family, the estimated TORT TAX for 2008 is going to be more like $20,750! Did you get that? You will pay over $20,000 next year in increased prices for products and services just to cover the costs of the ravenous lawyers in our legal system.

Okay, I think we have made the point. Our legal system is broken! And we know why! We have SOLD our legal system to the lawyers and they are squeezing it for all its worth. It really doesn’t make any sense to keep beating this horse. Right now that is the way it is, and there is no foreseeable change in sight. The interests at hand are just too strong and until we have a major nationwide crisis, or a real change of heart in the American people, then this is the way it is likely to stay.

Our challenge is not to continue to get angry but to simply ask; “is there anything I can do personally that helps me live within this type of system?” Because, unless you are considering opting out altogether, and moving out of the country, then you are in the Lawsuit Lottery, like it or not!

Section 3. The Options.
Understanding the Alternatives to the Litigation Crisis…
WHAT WORKS AND WHAT DOESN’T!
OK. We’ve come a long way, and if you’re still listening to this, you must be very interested to know how our legal system has been corrupted. And my guess is that it wasn’t 100% new information to you either. I think by now most Americans have a felt-sense that something is very wrong. But what you now have, that most people don’t, are the FACTS of exactly WHAT is wrong! Most people have never been given access to this information, and you are better prepared now than 99% of all Americans to understand what we are going to talk about next.

What **YOU** can do about it?

Let me first give you the lay of the land in this next area. We all know that every action produces an equal and opposite reaction. The *Lawsuit Lottery* is no exception. Since about the mid 1980’s lawyers on the other side of the fence started coming up with clever ideas and concepts to combat the increasing chances that they and their clients would get caught up in the frenzy and risk everything they own.

A few of these ideas and concepts turned out to be VERY, VERY GOOD! In fact one particular idea really takes the cake, and turned out to be unstoppable, creating a virtual block to the entire lawsuit madness. (I will tell exactly what this one idea was and why it is so powerful later in this report) However, many of the ideas and concepts that sprung up were incomplete, weak, worthless, or just plain bad. And in some cases they were outright scams!

Because there are so many of these things floating around out there (especially on the Internet), I am going to first take the time to address every major concept out there and give you the REAL STORY on each one. Because, unless you understand the whole landscape of choices, then it will be difficult for you to see which ones apply, or are right for you.

Let me also be clear here. Some of these ideas are good and many of you will discover how to protect virtually everything you own with almost NO EXPENSE at all, because I am going to tell you EVERYTHING! Others of you will understand exactly what you would need to do to protect yourself and will have the information and options at your fingertips so that you can make the best choices, both legal and financial, for yourself.

In general the various methods developed to combat the litigation crisis come under the heading of *Asset Protection*. While this is a very broad topic, it basically applies and has become the industry standard term, so I will use it here. So let’s just take a look at them one by one.

**a. Bankruptcy Exemptions.**

Let’s start with a form of asset protection that you already have! That’s right, believe it or not, you already have a list of assets that are protected from your creditors. This list is written in 2 places and comes under the name of ‘Bankruptcy Exemptions.’ The first place is in your State’s Bankruptcy Code, and the second is in the Federal Bankruptcy Code.

What these exemptions are is what the State or Federal government has said you can KEEP in the event that you choose, or are forced into, bankruptcy! In general the State exemptions are much better and
until recently you were free to choose the rules that worked best for you (I will tell you shortly how special interest have now changed that and made it much harder to use this protection).

Depending on which State you live in, the bankruptcy exemptions could either be very good and protect quite a lot, or not so good and protect almost nothing. For example, if you live in Florida or Texas, you have an unlimited homestead exemption! That is VERY GOOD. Basically what that means is that you can have a home worth $10 million dollars and still discharge ALL of your debt obligations, including a lawsuit judgment!

Also included in that may be the cash value of any life insurance or annuities you might own, as well as all of your qualified Pension Plan money and even your IRA’s. What this means is that, as long as you have all of your assets in one of the exempt assets, then you ALREADY HAVE all the asset protection you need! That’s great, and for some of you (if you live in Florida or Texas) that might be it. No more planning is necessary or advisable!

That is the good news! Now for the not-so-good news. If you don’t live in one of those 2 states, OR if you have other assets that are not exempt, then bankruptcy will do less and less for you. And in most states the exemptions are not nearly as generous as Florida or Texas. For example, California has the following exemptions:

- **Home**: $50,000 (double if married)
- **Jewelry**: $5,000
- **Car**: $1,900
- **Tools of the Trade**: $5,000
- **Pensions**: Unlimited
- **Life Insurance**: Only exempt if it says cannot be used for creditors

* You may also keep your home appliances, food and your burial plot, and that’s basically it!

Not so cool if you happen to live in the most populated state in the country. This is especially true if you have any equity in your home, which almost everyone does in California! New York, New Jersey, Pennsylvania and most other states are much like California, which means bankruptcy is not a great option if you are serious about really protecting your assets.

But there is more on this topic. As if this weak form of asset protection weren’t already limited enough, in 2005 your Congress in Washington decided to get involved and pass the *Bankruptcy Abuse Prevention and Consumer Protection Act*. That sounds pretty good right?

WRONG! What this act really does is make it harder, not easier, to use the asset protection provided by bankruptcy. This is, yet again, another example of your Congress working not for YOU but for the special interests that give them the most money. This ACT was drafted by guess who? Credit card companies and other lenders!

See these companies are very good at getting you INTO debt, but don’t want you to have access to relief if they get you into too much debt, or if you fail to pay the 25% interest rates they charge. So they
lobbied Congress to enact a law that purports to “promote fiscal responsibility of individuals and business entities.”

The REAL EFFECT is that the act makes it much harder to use the protections afforded in bankruptcy, even in FLORIDA and TEXAS! The effect of the law is basically that you can no longer choose to use your own State’s exemptions anymore. Instead, unless you have lived in the state and owned your home for 1215 days prior to your bankruptcy, then you must use the new FEDERAL guidelines. And guess what they are? $125,000 for your home, even in Florida and Texas!

That’s not all, there is also means test, which you must pass which makes it more difficult to use Chapter 7 (liquidation), which wipes out ALL of your debts. Instead, the Act forces you into Chapter 13 (reorganization), which makes you PAY back much of your debt! It also creates criminal penalties and sanctions if you try to shift assets from a non-exempt form to an exempt form prior to using bankruptcy. The Act also expands the list of non-dischargeable debts, and a whole lot more – none of it good for you and all of it good for your creditors!

Without boring you with all of the details, basically it comes down to this; bankruptcy exemptions are VERY LIMITED, and it is now very DIFFICULT to use, unless you fit into them perfectly. Bankruptcy should be seen as an absolute last resort and definitely NOT a strategy you should rely on to protect your hard earned assets!

Let’s move on.

b. Titling Assets in the name of your Spouse or Children.

This is what I call the “Doctor’s Special.” Somewhere along the line someone said to a doctor (or other high-risk professional), “why don’t you just put all your assets in your wife (or husband’s) name?” The theory was that since the doctor was the high-risk spouse it would be safer to put all of the assets into the name of the other spouse, or better yet, the children. There is only one problem with that approach – IT DOESN’T WORK!

This is really the ultimate in bad planning and totally misunderstands the reach of a judge to ‘recast’ almost anything to fit his or her desire.

First, I will point out the most obvious flaw in this approach. It creates a nightmare if there is a divorce or other issue that requires the division of family assets!

Second, it is worthless to protect against the liabilities of the spouse (or kids). It is simply a “poor man’s” version of asset protection and doesn’t work!

These two obvious reasons alone should be enough to completely erase the idea that somehow this is good planning. Not to mention many possible negative estate planning and tax consequences. However, if this is not enough, then let me briefly explain how a judge has the power to ‘reallocate’ or ‘recast’ almost anything they want to enforce their own decision. Here’s how that works.
First, you should understand that judges like power! They absolutely don’t want anyone telling them what they can and cannot do. THEY are the ones giving the orders and if you have ever REALLY seen a judge in action you would be left with no doubt that this is the way they work.

Next, it is important that you know how the law works when the ‘form’ of a transaction is different than the ‘substance.’ Basically, there is a well-established legal doctrine called “Substance over Form.” What that means is that no matter how perfect the form is (you can’t touch my assets because they are all in my wife’s name), the substance is what really matters (Did Dr. Neurosurgeon really give all his assets to his wife?)

Once the judge has decided that the Form of the transaction is that the wife is simply holding the family assets, but the Substance is that we all know that they are not really all hers, then the judge dips into his bag of legal tricks and pulls out the appropriate tool to overcome the charade. In this case he would simply say that the husband and wife have formed a ‘Constructive Trust’ and that she was in fact ‘holding’ those assets for him as a Constructive Trustee.

From there it is an easy legal move for the judge to say that as a Constructive Trustee for him, she must now turn the assets over the court, and voila! The transaction is undone before you can say, “hold the check.”

We should also address one other form of titling that is occasionally touted as an asset protection tool, Tenancy by the Entirety. TBE is a special way of holding title to an asset. It is only available in a few states and only between a husband and wife. Basically it says that both people own 100% of the asset. Thus the theory is that if one spouse has a liability, then the creditors cannot seize an asset held in Tenancy by the Entirety, since it is also 100% owned by the other spouse.

Once again, it sounds better than it really is. The problem is that the tenancy can be severed very easily by death or divorce, thus leaving the property again open to a creditor. It also has no effect if both spouses are liable (you are sued by a party guest (and their victim) for leaving your home drunk and getting into car accident on the way home). Unless there is no other asset protection available I would not rely on TBE.

So the next time someone says to you, “I’m safe I don’t own anything! My wife is the rich one in the family...haha...ha...” You can just laugh and then suggest they double check their facts!

c. Insurance.

This is important to cover because insurance is really a double-edged sword! Let me say that I LIKE INSURANCE! There is simply nothing better than having an insurance company, and their team of lawyers, in between you and someone who wants your assets!
It feels wonderful and because of that I strongly recommend that as a general rule you should buy as much insurance as the insurance company will sell you! That means homeowners, liability, umbrella, renters, business liability, even rental car coverage!

I know that is pretty strong, and I DO NOT SELL INSURANCE. But I have represented over 3,500 clients, who collectively have over $3.5 Billion dollars in assets and so I do have some frame of reference to speak from. Trust me! BUY INSURANCE!!

And, if you are a doctor, dentist, chiropractor, or any kind of healthcare professional, CPA, lawyer, contractor, architect, realtor or any other professional service provider then you MUST have malpractice, or errors and omissions insurance—no questions asked!!

Not only is all this insurance absolutely necessary, but in many, if not most cases, it is not that expensive. Except for the malpractice issue in the crisis specialties, the check you write to the insurance company is not going to be even close to the biggest check you write this year. And what you get for it is significant peace of mind, if nothing else.

Now having said all of that, I am going to tell you that under no circumstances should you rely on all that insurance as your ONLY line of defense! Did you get that? I am going to say it again; “DON’T RELY ON IT!”

Now that I have confused you, let me clear it up. The reason why I am advising you to buy insurance is that IF it turns out that you are covered by the insurance you bought, then there is really no better deal out there. We all know this is true, I mean doesn’t it feel good to get a check for the whole amount of the car you just totaled even if you only paid 2 months of insurance premiums? That is a very good return on your investment.

The problem comes in NOT when you are covered, but when you are NOT covered! And this is where learning how your insurance really works now, can save you a lot of grief later on. Here’s how it works:

Insurance works by covering you for a specified liability. For example, auto insurance covers you for auto accidents, but it doesn’t cover your home if it burns down. For that you need homeowners insurance, which will cover your house burning down, but won’t cover you if your boat gets stolen. For that you will need a separate boat owner’s policy, which will cover your stolen boat, but won’t help you if you get sued for selling a bad product. For that you would need a separate business policy, which will cover the business liability, but won’t help you if you get sued for malpractice. For that you need a separate malpractice insurance policy, and on and on and on…

But what if you get sued for something that is NOT covered, like a harassment lawsuit from an employee? Or what if the particular liability exceeds the amount of coverage you have (statistically very easy to do and getting easier as available coverage goes down and average jury awards go up)? Or what if your bookkeeper forgot to pay your last premium on time and you don’t have the coverage you thought you did (which happens a lot!) In these cases you are plain out of luck!
What would make a lot more sense is if you could buy an overall insurance policy that just insured everything you owned, instead of needing a specific policy for each and every different liability. Something like *Net Worth Insurance* that covered everything! In fact, this concept makes so much sense, that many people think that is what they have. This is particularly true when they buy an umbrella policy. But unfortunately it is not true at all!

Insurance companies DO NOT SELL anything like *Net Worth Insurance*. They sell liability insurance. And it is because of this that you cannot rely on it! The reason they only sell liability insurance is that they need to limit their liability. And the only way they can do that is by limiting what they cover. That is why you need a separate policy for each possible area of liability in your life and that is why the exceptions in those policies keep getting bigger and bigger as insurance companies carve out more and more of what they will not cover. (Just attempt to read any insurance policy you have lying around your house. They have cornered the market on fine print!)

Because of all that it is now just too easy for you to have a liability that is not covered, excluded, or exceeds your coverage from your insurance. And this, my friends, is a lesson that you absolutely do not want to learn after the fact! It will be too late.

There is also another very dirty, very hidden secret that insurance companies ABSOLUTELY do not want you to know! This dirty little secret is not one you are likely to find out with your average fender bender claim. But if you ever file a real claim, then you will very likely get a peek into this dark closet!

The SECRET is that your insurance company doesn’t work for you!

Yes, I know you ‘hired’ them to cover your liabilities and you PAY them their monthly fee in the form of your premiums, but THEY STILL DON’T WORK FOR YOU, and they never will!

So who do they work for, if not for their customers? The answer is so simple that you probably just never noticed – they work for their shareholders! What that means is that they are working to maximize their return on the shareholders investment in their company. YOU play the role of INCOME, and as long as you don’t make any real claims, then that is all they see you as.

The issue comes in when you really need them and you make a real claim. Then you are no longer on the income side of their balance sheet, you are on the potential liability side, and that gets you a whole different level of ‘customer service!” Here is what really happens!

Let’s use your professional liability coverage as an example. That could be your E&O policy or your general business liability policy, or your malpractice policy if you happen to be a medical professional. I am going to ask you a question that I bet you have never asked yourself; “If you get sued and file a claim for your insurance to defend you, what is the very first thing your insurance company is going to do?”

Do you know the answer? Would it surprise you to know that the very first thing they do is to audit your file and see if they can find any reason whatsoever to DENY you coverage! That’s right. You see the insurance company is working on their own return on investment, and each time they pay a claim,
their ROI goes down. When you make a claim, especially a big one, you immediately become a potential liability. They don’t care at that point if you are no longer a client, they simply want to minimize their loss on you!

Here is what it looks like in real life with one of my clients. Dr. Jerston (I have changed his name to protect his identity) was a Chiropractor who treated a patient who had been in a car accident. He saw her 6 times over a 3 month period before she self-discharged. 3 months later he got a request from a lawyer (with a signed release from his patient) for notes on his file, specifically the X-rays he took. And here, he made a fatal assumption. He assumed that the lawyer was representing his patient in the car accident case against the other driver, and trying to be helpful he sent the X-rays and his notes to the lawyer.

He didn’t hear a thing until 6 months later when HE GOT SUED by his own patient for malpractice! He immediately reported the claim to his carrier and they too requested a complete copy of his file. What they found out was that his X-rays were missing (he didn’t keep a copy), and since he billed for taking them they claimed FRAUD and completely DENIED him coverage under the exclusions in his policy.

He ended up fighting a bogus malpractice claim AND fighting his own insurance company to get the coverage he thought he had. He ended up losing on both fronts and it almost completely wiped him out. (By the way, this is about the time he called me for help – and as I am going to show you later, it was too late!)

I don’t love insurance companies, and I have seen some amazingly unethical behavior that rivals that of even the most vicious predator attorney. Nevertheless, they do often do what they are hired to do, so take advantage of them when you can. The problem is that their list of exceptions and exemptions and ways in which they can get out of covering you, added to the growing list of liabilities that are not even covered in the first place, leaves us with this basic rule:

“Buy it, Just Don’t Rely on it!”

Let’s move on.

d. The Corporate Shield.

The ‘corporate shield’ is one of the most misunderstood concepts in all of law. It is easy to understand why, since the concept is actually a real legal concept. It applies in cases of a corporation, like GM or Microsoft with respect to their shareholders. What the corporate shield does is provide a barrier from liability to those shareholders.

So if GM gets sued for a defective auto claim, the corporate shield will protect the shareholders from also getting included in that lawsuit. The shareholders might lose their investment if the share price goes down, but they will not be at risk for any excess liability the company might incur. That is the corporate shield and it does work, as long as we are talking about shareholders in a public corporation.
But what about the doctor who has a ‘corporation’ for his medical practice. Or the businesswoman who has several corporations for her various investments and businesses. Does the corporate shield work the same way for them? NO it doesn’t!

The difference is that when the corporation is run or managed by the same person or people who are also the shareholders, then the ‘corporate shield’ virtually disappears. What that is called is “piercing the corporate veil,” and this has become the absolute rule of thumb for any personally held corporation.

What that means is that if your company gets sued for any reason, you are almost certainly going to be just as liable as the company! That is true for a doctor, lawyer, CPA, business owner, real estate investor or virtually any other type of business you can think of. And guess what else? If you DO happen to serve on the Board of GM, or better yet are the CEO, CFO, COO or any other executive, for any company, then the corporate shield doesn’t work for you either! Just ask Enron CEO, Ken Lay (before his demise) or WorldCom CEO, Bernie Ebbers how well the corporate shield worked for them!

In fact, if you do happen to hold a senior position at any company (big or small), then the real asset protection tools that do work (which I will explain in detail later in this report) will become all that much more important to you.

So where does that leave the corporate shield as an asset protection tool? Well it is not totally dead, but it is very limited! The corporate shield concept does almost nothing to protect you from liability in your own company. But as long as you understand this and don’t see the corporation as some catch all liability protection, then the Corporation, and its cousins the Limited Liability Company and Limited Partnership, can and are very useful in an overall plan when used as appropriate.

The corporate shield and the limits on liability are very useful! Not in the form of ultimate protection for the owner, but as a way to insulate risky assets from safe assets within a whole portfolio. When properly structured, especially when used in conjunction the real secret weapon of asset protection, these tools are very important to an overall asset protection plan. But let’s not jump ahead of ourselves.

Before we see how these tools integrate into an overall plan, let’s look at one final corporate form that has gotten so much press and is so misunderstood that it deserves its own section.

e. Nevada Corporations.

If you thought the corporate shield was misunderstood, then you can’t even imagine the confusion around the infamous “Nevada Corporation!” What is all the hullabaloo? We just busted the myth around the corporate shield, so how is a Nevada Corporation any different?

We are now crossing over from the legitimate to the illegitimate. And there is no better place to start than the Nevada Corp. Here is the real story. The Nevada Corporation Scheme is NOT about asset
protection. It is about tax avoidance and tax evasion! This is why there has been such a buzz, because anything that promises lower or NO taxes gets some serious attention!

There is one simple lesson to know here – Tax Planning and Asset Protection NEVER go together! That’s it! NEVER, and I mean NEVER! So the minute you hear anyone tell you they have an asset protection program that will create more deductions or where you won’t have to pay any taxes until you ‘take the money out.’ RUN and fast!

It doesn’t work! And because I want to keep this part very clear and very simple, I am going to dispose of each of these scams as quickly as possible. Here we go.

The Nevada Corp is just like any other corporation. There is NOTHING SPECIAL about it. It is just a corporation registered in Nevada—that’s all! Why it has gotten so much attention is because some unethical promoters decided to use it in an unethical way! Here is their scam.

Let’s say you have a business with $200,000 of net income. Thus you pay taxes on that $200K at the net personal tax rate of, let’s say 35%, leaving you with $70,000 in taxes! Their scheme says, create 4 Nevada Corporations. Charge off your $200K in profits to these 4 (phony) consulting companies and pay only the Corporate Tax rate (which is only 15% up to the first $50K of income, which is why you need 4 phony Nevada Corps).

By doing this you will have 4 Nevada Corps, each with $50K of income, taxed at a rate of 15% for a total tax of $30,000! That is a $40K tax savings each year!! And by the way we will only charge you one year of saving ($40K) to set this all up for you. Sounds good right? WRONG again!

The problem with this little scheme is that it relies on YOU lying! That’s right—lying!

First of all you need to lie about what the 4 companies do, and make up phony companies to shift income (definitely not allowed by the IRS).

Second you need to lie about the fact that you own all of these companies, because if you don’t then the IRS rules would require you to consolidate the earning of all 4 companies and your tax rate would be HIGHER not lower than your personal rate!

Finally, in their plan you are then encouraged to lie about the deductions that these 4 companies have so that you can still get the money out for you to spend without triggering a double tax!

You see, even if you followed their plan, and even if you actually did have 4 separate jobs you could really have those 4 companies do, they are C-corporations, and that means there are 2 taxes, Corporate and Personal! What that means is that AFTER you pay your 15% corporate tax, then the balance is distributable to you as a dividend and STILL INCLUDED on your personal return and thus you are pay MORE TAX – NOT LESS (unless you lie!)

Now, I am not sure about you, but I do not advise clients to enter into planning that is based on them needing to lie for it to work! And the ONLY reason these promoters chose Nevada, is because
Nevada allows the formation of corporations which does not require you to list the shareholders, which makes it easier to lie. And that is ALL that the Nevada Corp Scam is all about!

So what is the lesson? Simply stay away! There is no reason you need to do a Nevada Corp, unless you live and work in Nevada, and even then there is no special benefit to you. You can be sure that anyone pitching these to you is only putting you at risk by doing so, because when you are eventually found out it is not the promoter who will be responsible for the back taxes, penalties and fees, OR the possible jail time – It will be YOU!


Now we are getting to the outright scams! And, unfortunately 95% of what you find on the Internet, which goes by the term Asset Protection, actually fall into one of these scams! These are all based on a complete misunderstanding of how U.S. tax law really works. And they not only do not work as asset protection tools, but they can get you into big trouble, so be aware! Here is how these scams works.

Promoter advises you to set up a special entity. It could be a Massachusetts Business Trust, or an International Business Corporation (IBC), or a Constitutional Trust, or a Pure Trust, or some other entity, real or made up. They are basically ALL THE SAME because they are all abused in the same way.

Now to be clear, these things I mentioned all so exist. They are real entities. And all of the material a promoter will show you will be to prove to you that you can set them up. I will tell you right now YOU CAN! The problem is not in setting them up, it is in using them! And this is where the scammers, once again put you at huge risk!

What they advise is that you set up one of these entities. You are then supposed to lie about what that entity does. Usually they will encourage you to call it a consulting company and again you are told to shift income from your main business to this phony consulting company (or trust or whatever). Once again, the idea is that you will have less net income from your real company and thus less taxes.

They then tell you that, “as long as you keep the money in,” whatever abusive tool they advise then there is no tax due. This is especially convincing if they are promoting the use of an offshore tool like a Trust or IBC. I mean it does actually sound logical, that if the money is sitting offshore, you would not be responsible for U.S. taxes until you brought it back in right? Again WRONG!

U.S. tax law is very specific and very clear. We are taxed on worldwide income! That’s right, the rule is that it doesn’t matter where you earned the money, you are taxed on it—period. And this is where their scam breaks down, because they misstate the law to you and encourage you to abuse the tax system.

On top of that most abusive trust plans are sold as legitimate asset protection! Why? Because using an international Trust DOES WORK, as long as it is only used for Asset Protection. It doesn’t work as a tax planning device! So the promoters call their planning asset protection as cover for an abusive tax plan that leaves only you exposed.
Now if this is not enough to keep you away, or you are thinking that, even if it is not legal it still gives you plausible deniability and you probably won’t get caught anyway, let me tell you one final fact. Most of the people who do these plans do get caught! Here’s why. The plan promoters are easy for the IRS to identify and track, and one by one eventually they all get a surprise visit from the IRS. During that visit the IRS is not coming in to audit their books, they are coming in to TAKE their books. And whose names are in the books? You guessed it, all the clients of these promoters.

That is how the IRS kills many birds with one stone. So at all costs, you do NOT want your name in their files. It is an invitation for the IRS to pick you for an audit and when they do it won’t be the promoter who is responsible for the back taxes, penalties and interest, all of which can add up to more than your entire contribution to the plan – IT WILL BE YOU!

The rule here is just like the Nevada Corp.– STAY AWAY! If anyone tells you they have a plan that will protect your assets AND save you taxes RUN!

g. Numbered Bank Accounts and Bank Secrecy.

This is a holdover from the James Bond days of tax evasion and money laundering. There is almost nothing to say except it doesn’t exist and doesn’t work. This is more true than ever after 9/11 and the international banking reforms.

There is NOTHING WRONG with having your money in a Swiss bank, or German bank or French bank or anywhere in the world you choose. Absolutely nothing. But the IRS must know about it and you must pay taxes on the money you earn. That’s it!

If anyone tells you that you can set up a “numbered account” and earn money without the IRS knowing it and pay no tax – they are lying! Not only is it virtually impossible to do nowadays! But even if you could, you are still responsible to pay the tax, and if you don’t it is tax evasion and it is illegal!

And I am not kidding about it being impossible to do. All foreign banks are required to identify who the beneficial owner of the account is, AND if that person is a U.S. taxpayer, the bank is required to issue a 1099 for any interest or dividends earned – just like a U.S. Bank!

You will absolutely NOT get into trouble if you choose to use a foreign bank. And hundreds of thousands of U.S. people do it every year for many reason such as bank stability, access to investments, access to currency, diversification of risk, asset protection, and many other legitimate reasons. Just know that you will also absolutely be reporting it!

As long as you are clear on that, then you can have as many numbered Swiss accounts as you like and give yourself all the reason in the world to take a European vacation to visit your money. Just don’t cheat the taxman!
h. Alternative Dispute Resolution.

This section is very important! It is important because there is one area of risk that has been growing faster than any other, and almost every one of my clients faces it—employee lawsuits! This has become such an issue that we had long been working to develop something to reduce our client’s risk. These lawsuits started getting more and more out of control as the trial lawyers began fishing in the employee pond in the 1990’s. In fact, by 2000 employee lawsuits had become a huge issue!

An updated report on Trial Lawyers, prepared by the Manhattan Institute for Policy Research completed in 2005 focused on California in particular. This report found that employment litigation abuses have become particularly grotesque in that State and under influence from the trial attorneys California has become one of the most employer unfriendly states in the country! The report states:

“California has long been the national leader in suits alleging wrongful termination; by the early 1990’s, not only were jury verdicts in employment cases in excess of $1 million commonplace, but the average such award topped $1.5 million.”

This puts employers in a tough spot! Employees are essential to running a business, and while most employees are not going to sue you, it only takes one to ruin a business and a life! The question I had been asking myself is, was there a way to avoid this? Was there a way to mitigate this risk without becoming paranoid or cynical? And, was there a way to provide a fair and just process within your office for the resolution of legitimate disputes without being subjected to the potential abuses of the U.S. Courts and unethical employees and attorneys?

The answer is yes—Arbitration. Arbitration is an alternative dispute resolution procedure that bypasses the courts, juries and abuses seen in today’s legal system. It is neutral and fair, but far less subject to the unpredictability of a jury, propelled by an aggressive attorney, and encouraged by a complacent legal system.

Arbitration has been the preferred method of dispute resolution between attorneys in their own business dealings for years! Why does almost every contract signed by those familiar with the legal system mandate that the sole remedy for dispute resolution shall be binding arbitration? Here’s why!

Arbitration is a process similar to a legal court proceeding. There is a neutral judge (called an arbitrator) who will hear evidence, ask questions, make a final decision in the case and determine any awards. There is an opportunity to present evidence and call witnesses. Each side may be represented by an attorney if they choose, but often they are not. Arbitration, however, is dramatically different in the following ways:

1. Arbitration is much faster than the courts. A typical dispute resolved via arbitration is done within weeks of filing the claim. This removes the leverage enjoyed by the plaintiffs’ attorney by dragging out a case endlessly.

2. Arbitration is far less expensive than the courts. Since the arbitration process does not have the formalities of the courts, or the time commitment involved, and typically does not require an
attorney for either party, the costs are a small fraction of typical court costs. Most arbitration cases cost only a few thousand dollars for both sides from start to finish.

3. Arbitration is far **more predictable** than the courts. In arbitration it is the arbitrator, not a jury, who hears all evidence and determines any awards. Arbitrators are typically attorneys who are specially trained to resolve disputes and who specialize in the area of the dispute. As such they are far more reasonable and predictable and are not swayed by confusing technical or legal arguments that easily influence the average jury.

4. Arbitration is **fair**. The goal of resolving disputes is not to “get” the other side; rather, it is to fairly determine what is reasonable and just. This is exactly what the current U.S. legal system has become dysfunctional at doing. Arbitration is now the **only legitimate alternative** to a court system that has been corrupted by the massive influence of power and money.

5. Arbitration is **balanced**. One of the most abused features of the court system is the fact that a defendant is almost never awarded the costs of legal defense, which can be significant. This is used as leverage to force a settlement in even the most frivolous of cases. Arbitration grants the authority to the arbitrator to award legal fees to the winner. This is **highly discouraging** to contingency fee attorneys and their clients since it creates a financial disincentive to file frivolous or questionable cases.

6. Arbitration **discourages frivolous lawsuits**. Because the arbitration process is faster, less expensive, more predictable and fairer than the courts, most plaintiffs’ attorneys are not interested in taking arbitration cases on a contingent fee. This discourages cases that do not have substantial merit! It also encourages cases that do have merit to be settled **reasonably**. This is because the prospect of a long and abusive court battle with a potentially huge jury award has been removed and replaced with the prospect of a fair hearing and the possibility that the plaintiff and even the plaintiffs’ attorney may have to pay legal fees out of their own pocket if they lose.

Considering all of this, the question is: **If you had the choice, would you still choose to be subject to the legal system with respect to your business and employees?** Do you have a choice? The answer is **YES!**

There was one little problem however. Up until 2001 the courts had been divided and confused on the issue of whether an employer could mandate arbitration with respect to employees. As such it was unclear whether any such policy or agreement would be enforceable! And I simply am not in the business of providing services and solutions to my clients unless I am sure they are going to **work every time**!

However, in 2001 that all changed!! In that year, the **Supreme Court of the United States** heard a case called **Circuit City.** Circuit City, the huge electronics retailer, had been plagued for years by aggressive trial lawyers and employee lawsuits. The courts had been increasingly difficult to manage and notoriously easy for these attorneys to abuse. Even the allegation of wrongdoing by an employee acted like a guilty verdict.

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To combat the problem Circuit City included a mandatory arbitration clause in their employment application that required all employment disputes to be settled by arbitration. The enforceability of this clause was challenged by the plaintiff, and was the issue that concerned the Supreme Court. The Supreme Court has continuously commented that arbitration is a fair, equitable process, and has actively encouraged it as a legitimate alternative to the U.S. court system. They state specifically in Circuit City:

“There are real benefits to the enforcement of arbitration provisions. We have been clear in rejecting the supposition that the advantages of the arbitration process somehow disappear when transferred to the employment context.”

- Supreme Court of the United States, 2001

The employee-employer relationship is a voluntary one in which neither side is forced to enter. It has been well-established by the courts that an employer has the right to set the rules, procedures and policies within their own working environment, as long as such rules do not violate established laws.

The result: The Supreme Court of the United States in Circuit City v. Adams confirmed that employers may mandate binding arbitration for the resolution of employee disputes as a condition of employment!

This is absolutely HUGE if you are an employer! Within days of this case, we had drafted a rock-solid binding arbitration policy for our clients. This was especially true for our doctor clients who we saw as triple-whammy targets. They had all 3 of the things trial attorneys just love; they had lots of assets, they were in a high-risk profession and most of them have employees!

This is also an area in which we really noticed the difference between the type of law we practiced and that of our competitors. I had expected that other firms would also see the huge amount of risk we could alleviate with the use of this one simple policy! And I kept waiting for them to come out with their own versions of an ADR policy. It is now 7 YEARS later and guess what? We are still the only asset protection firm in the country who has developed, and are using one of the most powerful tools available to stop employee lawsuits in their tracks!

Not only have we developed the first, but it is also the most tested and cutting edge policy available today – and I GUARANTEE that! And this policy gets used, I know! And I am continuously making it better and better as I discover what works best for my clients. Law is not static and the tools you use better not be either!

I also know this reflects our underlying attitude about how we work, which is by putting ourselves on the same side of the table as our clients! Not only am I an advisor for thousands of high net worth individuals, doctors, executives and business owners, but I understand their issues and concerns, because I experience them myself. I know what feels good and how I want to be served and I have designed my practice to reflect these values.

That is why my office returns every call, every day! We also don’t charge our clients by the hour! The last thing I want is for my clients to be discouraged from calling me to get the right answer on an
issue because they are going to get a $175.00 bill for a 5 minute call! That would piss me off too, and I am not going to do that to my clients! The development of our proprietary, copyrighted employment policy, *The Workplace Integrity Package*, is a direct reflection of those shared values! And I know that my clients sincerely appreciate how we work, because they tell me all the time, and I am very proud of that.

i. The International Asset Protection Trust.

Okay, I know I mentioned earlier that there was one idea that really took the cake. One asset protection tool that virtually eliminated the chances that you would get sucked into the lawsuit hell. And we are down to it. *The International Asset Protection Trust.*

Now for me to explain exactly how this tool works we are going to draw on almost every concept we have already talked about, and introduce a few more. Because this idea is *so powerful* and *so good*, and *works so well*, unless you understand exactly HOW it works, you just might not believe it!

I can also promise you one more thing. That after reading this section, you will know more about asset protection than 99% of the *lawyers* in America! That’s right – you will be *more knowledgeable* about asset protection than all but a handful of the most trained specialists. Why? Because I am going to tell you EVERYTHING! So get ready!

Let’s start with the concept of a Trust. A Trust is a legal arrangement in which one person agrees to *hold* the assets of another person as a Trustee. A Trust is created when the person who originally had the assets gives (or Settles) those assets on the Trustee and the Trustee accepts them. For that reason the person creating the Trust is called a *Settlor*.

The Settlor, also does a few more things, which are: 1) to tell the Trustee *who* they are holding the assets for (the *Beneficiary*), 2) to tell the Trustee *how long* to hold the assets (the *Term*), 3) to tell the Trustee *what to do* with the assets while they are holding them (the *Provisions*), and 4) to tell the Trustee *how* you want the assets given out (the *Distribution*).

So far so good? So let’s settle a Trust! Let’s say that you give your uncle John $1,000 and tell him to hold it for your son for 10 years. In the meantime you want John to put it in the bank to earn a little interest. Once the ten years is up, you want John to give your son the money, plus any interest it earned. You also add that if you aren’t around and your son really needs the money before the 10 years is up, that it is okay for John to give it to him. And you tell John that you trust his judgment in deciding when that would be.

You also say that if your son is having any trouble, or owes any money to anyone, then John should not give him the money. But you add that in that case, it is okay if John uses the money for his son’s benefit to pay his bills, rent him an apartment or whatever he might need, again using his judgment. You just don’t want the money to get scooped up or used by anyone but your son.
You just created a Trust! And as soon as John accepted the money, he became the Trustee. You also didn’t create just any old Trust; you created a special kind of Trust called a “Spendthrift Trust.” You see, what you said to John about not giving his son the money if his son had any creditors or problems are actually called *spendthrift provisions*. These are terms that not only limit your son’s access to the money, but they also limit a court’s access as well! And they are very powerful!

Guess what else? That money is completely 100% protected from the creditors of your son! Why? Well the reason that the law recognizes this form of Trust and absolutely protects the assets, is that the assets were not your son’s to give, lend or spend away. As such, they are NOT available to his creditors!

This basic premise in U.S. law is extremely well established and has been used almost from the inception of legal system, to protect and preserve the assets of a family for generations. And to this day it is still one of the most rock-solid ways to protect family assets from one generation to the next!

Well that’s great and gives you at least one bulletproof way to completely protect your assets. Just set up a spendthrift trust for the benefit of your children and put all of your assets into it! And I will guarantee you that will work! The one little problem with that plan is that most people are not ready to give away all their assets! Not to mention that doing so creates significant tax and estate planning consequences that you may not be ready for. If you are then, fire away! But if you would like to keep your assets for yourself, at least until you are sure how much you want to spend before you kick that old bucket, then we need to come up with another plan.

And here is where the lawyers really showed their ingenuity! Law is not about creating something new. In fact it is pretty difficult to just create something new out of nothing in the legal world. We are far too dependant on things like statutes and precedent to just allow everybody to make anything they want up. Instead the really clever lawyers use what already exists in new ways. And this is what we did!

In the 1980’s, when the litigation crisis was really heating up, we (and a few other) attorneys began to search for ways to directly protect our client’s assets! At the time there were a lot of ideas coming up, and most of them relied on complicated plans with many different corporations all trying to isolate pockets of risk to insulate the individual client. The problem was that they were simply too complicated for both the clients and the advisors to use, not to mention they were all still subject to the U.S. courts!

It didn’t do anyone any good to propose a plan that was too hard to use. On top of that, we started getting court cases that were throwing out perfectly good plans, because the judges didn’t like them! And as we saw previously, if a judge doesn’t like it, he just needs to look in his bag of tricks to find a way to throw it out! In one case a judge threw out an entire plan, which was so complicated that expert witnesses were being called in to ‘explain’ it, by saying “no reasonable business person would ever create such a complicated plan unless he was up to no good!”

What became very clear to us, was that leaving it up to a judge, or worse yet a jury, to tell our client whether their plan would work or not was just not acceptable. As Bill Messing once said: “Having
your fate rest in the hands of a jury is the same as entrusting yourself to surgery with a mentally retarded doctor."

We couldn’t agree more! So the challenge was to find a plan which was not dependant on what a judge or jury would say after the fact. It was just too risky to rely on such an unknown, especially since we knew judges! So where we started looking is to what was already the most solid of all asset protection tools – The Spendthrift Trust! Now bear with me just a little longer and it is all going to make perfect sense.

There was one problem with the Spendthrift Trust, you could only create it for someone else! You could not create it for yourself. That would be called a Self-Settled Spendthrift Trust, and the statutes and case law in all 50 States were all clear on this point – No Self-Settled Spendthrift Trusts! Which meant that unless our clients were ready to give away all their money, then it was no good. So dead-end, right? Not quite.

And this is where thinking way outside the box can really win you the prize. At least one person asked, “Do we have to use one of the 50 States to Settle the Trust?” BINGO! The answer was NO! We didn’t! In fact, the law was also clear that as long as it was not created for an illegal purpose, the Settlor was free to use any jurisdiction they wanted to settle their own Trust. That included any other country as well! And from there the race was on!

All the lawyers needed to do was find an international jurisdiction which would allow a Self-Settled Spendthrift Trust. That search ended in 1984, when a small island country called The Cook Islands, enacted The Cook Islands International Trusts Act of 1984. This was an asset protection planners dream! It not only statutorily allowed the use of a Self-Settled Spendthrift Trust, but it also created a barrier to accessing the money that was stronger than anything the world had ever seen! It was truly astounding!

For example, the Trust Act was drafted for the sole purpose of making it very clear, and very difficult for anyone other than the intended beneficiaries of the Trust to access the Trust assets! To do this the Trust Act implemented the following features:

1. No action could be brought against the Trust without the filing of an affidavit, which specified the exact claim being brought, which was not amendable! If you found something out later you had to file a completely new and separate claim – if you could! That killed the beloved tactic of suing first and figuring out what for later.
2. The Burden of Proof on anyone suing the Trust was the highest possible standard, “beyond a reasonable doubt.” (This meant that wishy-washy arguments and tricky legal stunts are just not going to work here!)
3. The plaintiff (person suing the Trust) was required to pay all of the costs and fees up front, which included flying a judge in from New Zealand to hear the case. (Hit them where it counts, in the pocketbook!)
4. Attorneys in The Cook Islands were prohibited from accepting a contingent fee! (I think this one is self-explanatory. If you want to try to sue a Trust here, then get out your checkbook!)
5. *The Cook Islands* would recognize NO other jurisdictions court orders – including the U.S.!
(That means that even if a plaintiff wins a judgment in the U.S. it is worthless in *The Cook Islands*!
They would have to come down and try the case **all over again**, if they were even allowed to!
Not only ridiculously expensive, but now with a much higher burden of proof and no free lawyers working on a contingent fee!)

6. *The Act* also gave the court the power to **award legal fees and costs** to the winner of the case!
(Can you say reversal of fortunes for the Trial Attorneys!)

7. And the crème de la crème, the **STAY DOWN** provision that is unbeatable! *The Act* implemented a hard 2-year Statute of Limitations on bringing **any action** against a Cook Islands Trust! (What that means is that if you don’t get your case filed in the Cooks within 24 months of the Trust being Settled and Funded, then you are OUT OF LUCK! It doesn’t matter when the incident occurs it only matters when the Trust is Settled and Funded, and that is now within the power of the Settlor!)

Do I have your attention now! Does that sound like an asset protection plan worth having? I think so! And so did a lot of other people. In fact, the Trusts now able to be created under this new statute were so ridiculously strong that many attorneys and commentators predicted that the U.S. Courts, or the States themselves would enact clarifying legislation to make them illegal! And if that had happened then our story would be over right here.

But it didn’t. In fact, it has now been over 20 years since the creation of the International Asset Protection Trust, and what has happened has been just the opposite. Let me give you the facts:

1. Over 2 dozen other international jurisdictions have enacted their own Trust legislation including, Nevis, Bermuda, Belize, The Bahamas, Cayman, Gibraltar, Mauritius, and Turks & Caicos just to name a few.
2. As opposed to enacting legislation designed to prohibit the use of the Self-Settled Spendthrift Trust, 11 States have done **just the opposite** and enacted their own Asset Protection Legislation! These are Alaska, Colorado, Delaware, Nevada, Rhode Island, Utah, Oklahoma, Missouri, South Dakota, Tennessee and Wyoming, with more states considering doing so every day!
3. There have been very few cases in which a plaintiff has actually tried to extract assets from a Cook Island Trust. In **every case**, they have failed to force an extraction of assets! This is true even when the Trust was drafted very poorly and when the Settlors where actually doing something illegal. The Trust still worked!-
4. The U.S. Courts have been frustrated at every turn whenever they have come up against an APT, but not a single court has ruled that the creation of a Trust is in any way illegal or immoral. In fact, **just the opposite** has occurred! For example, in one well-known asset protection case the court noted that the Trust was established “**for the legitimate purpose of protecting family assets.**”

The reaction of the States is actually predictable, since the Trial Attorney’s control Washington, it is logical that the States themselves would actually want to create ways in which to combat the litigation crisis that is eating them all alive! Not only is this tool the **very best** asset protection vehicle out there in
concept, but it is also the very best plan out there in practice, with over 20 years of an undefeated and proven track record, and no sign of stopping!

Are you starting to see how powerful this tool really is and why using it can completely shift the landscape of how a lawsuit would change for anyone that has a Trust! In fact, let’s look at that now. What would happen if you had your assets protected inside an APT and you got sued?

Well, this is where the trial lawyers just might have outsmarted themselves. We know that it is virtually impossible to even hire a trial attorney using anything but a contingent fee (One recent study indicated that 90% of all trial lawyers will only work by contingent fee). Normally this is very bad for us, for all the reasons we already discussed.

However, if we are using an APT look how the tables turn! Once the trial lawyer taking the case discovers that the probability of collecting any assets are slim to none, specifically because the defendant (YOU) have an Asset Protection Trust in place, what happens to his contingent fee? It begins to look a little too contingent!

You got it! Why would an attorney take a case when there was virtually no chance of getting paid – even a good case! They wouldn’t! And that is the real story behind how Asset Protection really works. It works as a DETERRENT to the trial attorney from taking or pursuing a case against you! And what does this do to their little legal extortion scam? It makes it fall apart, since they can no longer use the fear and scare tactics to get you to fold your hand! You have successfully turned the tables on the biggest racket in history and GUARANTEED your family’s financial security with NO RISK!

Before we move on, let’s look at a few other questions that I know many of you may be wondering about.

1. Can’t I just set this great plan up later if I end up with a lawsuit or any troubles? 
   NO. Absolutely not! There is only one real weakness to an asset protection plan, and that is called fraudulent conveyance. This is a little feature in our law that says if you “convey an asset with the intent to delay, hinder or defraud a creditor, then that conveyance is voidable.” In an asset protection plan the conveyance occurs when the plan is established! This means that it must be done BEFORE a lawsuit, when the waters are calm! You simply cannot wait until you are sued, it will be too late!

2. Do I have to send all my money offshore to a foreign bank to utilize the APT?

   This is an excellent question and the answer is NO. In fact, the very best way to use an APT is in conjunction with a U.S. Limited Partnership and often an LLC or Corporation which act to insulate the risky assets such as real estate or an airplane, from the safe assets like cash and investments. In general we would create a U.S. Limited Partnership with the clients as the sole General Partners. This gives them 100% control of their assets. Cash and investments would go directly into that partnership. If there is also any real estate, we would wrap it up into a Limited Liability Corporation or regular C-Corporation and then have that company owned by the Master Limited Partnership.
Your money will continue to stay just where it is right now in your bank or brokerage account, but just under the name of the partnership instead of in your name directly. As the General Partner, YOU will continue to have 100% control, just as you do today!

Where the secret weapon of the APT fits in, is as the majority Limited Partner of the Limited Partnership. What this does is give us the ability to distribute all of the LP assets if there is ever a crisis and 100% protect them if you ever find yourself on the wrong end of a lawsuit. These assets can then be moved by the Trust outside of the U.S. and completely away from a U.S. judge and jury! And unless your plan can REMOVE the decision from the U.S. courts, then your assets are not truly protected! And because the ownership of the assets was previously established prior to the lawsuit when we set up the plan, we can “trigger” the plan later, and do it 100% LEGALLY without any nasty fraudulent conveyance issues – even after a lawsuit is later filed!

3. How much money do I need to have to use a plan like this?

About $250,000 in protectable assets is when you should begin considering this type of planning. At $500,000 it becomes very important, and any more than that it is critical! When I say protectable, that means assets that are not already protected in some way. So if you have a home with $125,000 in equity and an IRA or retirement plan with $500,000, and nothing else, then you don’t need any additional asset protection. If, on the other hand, you have $500,000 in equity in your home and $250,000 in mutual funds then you need planning if you want that protected.

Another interesting point, which you won’t hear most places, is that it is not always true that the more assets you have the more you need asset protection. Think about it, if you have $10 or $20 million or more, then you can handle a lawsuit liability of even $5 million, and your lifestyle basically won’t change at all. But if you have $250,000 to $5 million, then almost any decrease due to a lawsuit loss puts a big dent in your assets and can really affect your ability to maintain your lifestyle or even when you retire! We call that the “Target Zone.” The majority of my clients have between $500,000 and $3 million, and they definitely don’t want to lose a penny!

4. If this is so good why isn’t everyone doing it?

Many are! So serious is the litigation crisis that asset protection is one of the fastest growing fields of law today. In fact, I teach several continuing legal education seminars for attorneys each year designed to educate them how to best use asset protection planning, and attendance is up! Additionally, many legal commentators are now suggesting that if a client comes to an attorney for business or personal planning, it is now a responsibility for the attorney to inform that client about the asset protection options available to them. Some have even suggested that it could be malpractice if the attorney doesn’t and later the client loses assets that could have been protected!
5. Is asset protection planning expensive?

Depends. For some it is just a matter of moving some assets around to make sure they are protected and may cost virtually nothing. For others, a full asset protection plan can cost upwards of $50,000 or more, and $5,000-$10,000 a year to maintain. This is especially true considering that the International Asset Protection Trust is the key to the planning and the average cost of that tool alone ranges from $30,000 - $50,000! (I will show you how to pay **MUCH LESS** than that for a full Asset Protection Plan, including the Secret Weapon!)

6. If 11 States have enacted Asset Protection legislation, can we just use one of them instead of using a foreign jurisdiction?

Yes, you can. And a few people have. However, there is one VERY BIG issue – you are still in the U.S. and subject to a U.S. Court and U.S. judge and no matter what a statute says here, it is just too easy for a judge to find a way around it!

We have been doing Asset Protection planning from the very beginning, for over 20 years. We have seen it all and been there through all of the changes and developments. And under no circumstances would I recommend a U.S. Trust over a Cook Islands APT. There is simply no comparison! Not only do none of the U.S. statutes come anywhere close to the **Cook Islands Trust Act** we discussed earlier, but there is a little something in the U.S. Constitution that puts a big damper on using another State to protect assets.

It's called **Article IV of the U.S. Constitution**, which States: “Section 1. Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.” The legal interpretation is pretty straightforward. The States must recognize each other’s judicial proceedings! That pretty much kills the idea of Nevada becoming an asset protection jurisdiction for California!

For serious asset protection you simply must be able to look a U.S. Court and Judge in the eye and have **no fear**!

**Section 4. The Solution.**

*How to level the playing field and take yourself out of the dysfunctional side of the legal system… WITH 100% CONTROL OF YOUR OWN FINANCIAL FUTURE!*

We did it! We have covered an impressive amount of ground so far. By now you understand the **real** story behind our legal system. You also understand the most common reactions to this systematic dysfunction and which ones are worth your time and which ones you need to stay well away from. And
you also understand in great detail the true **Secret Weapon** of Asset Protection – the *International Asset Protection Trust*!

And with this information you are now prepared to make the choices that are best for you in protecting your own hard-earned assets. The real question for you at this point is what makes the most sense in YOUR personal situation. And how important is it for your own personal peace of mind?

For many of you nothing less than certainty is good enough. And I very much understand that. This is my personal position and why I ONLY use the best possible protection, which includes the *International Asset Protection Trust*, for my clients. What this means is that I completely remove their assets from the risk of the dysfunctional system and provide the absolute highest level of protection possible! Nothing second best for me will do!

But where you are is a personal choice that is completely up to you. I wrote this *Special Insider’s Report* because I really do want this information out there. I also really do want clients that understand what I do and how I do it. This report serves to both educate those who just want to know, and educate those who want to do! I sincerely hope that you got something out of reading it and it was valuable to you!

I am also going to do something here that I have never seen another attorney do, and doubt that you ever will see another attorney do. I am going to give you my own *real* internal statistics! And given the fact that I have over 3,500 clients and protect over $3.5 Billion dollars in client assets, these stats are pretty significant! Here they are.

Out of my entire client base only about 10% of my clients have ended up needing to ‘use’ the planning I created. Out of those, less than 10% have had to actually “trigger” the International Trust and move any assets outside of the jurisdiction. That means that only 1% of my plans is ever fully triggered!

Now let me explain what that means. Of my 3,500 clients, approximately 350 of them have called me at some point and said “Doug I think I need to use the planning we set up because…(whatever reason).” Each and every time I personally walk them through the case and together we would come up with a strategy to engage the attacking attorney. 90% of those times we don’t have to rely on the plan to actually defend the assets. The reason for this is because in all of those cases we USE the *very existence* of the planning to ward off the entire attack. And as we saw above, this is the *real* value of the plan. Because in those cases, we did better than winning, we deterred the plaintiffs’ attorney from even bothering to file, or to continue against my clients! That means my clients completely avoid not only the expense, but the whole lawsuit, like depositions and court appearances, as well as the emotional anguish and worry!

That means, *based on my own stats*, only 10% of you would ever actually trigger your plan. Does that mean that you need it? I don’t know, and I am not going to tell you if you do or not. You already know whether you need it and that is not something anyone else can tell you! And it really has nothing to do with *using* it! It has to do with *choosing* it!
I will also share one other statistic. No one has ever forced an extraction from a single client of mine — EVER! This one I am very proud of, because it truly shows how strong my planning is. And I have definitely been put to the test, and in 100% of the cases my clients have prevailed! I know that is a strong statement, but so far it’s true. And I plan on it continuing to be true for one very big reason. I am extremely careful about the clients I accept!

Let me explain. Virtually the only reason a properly drafted asset protection plan would not work, is if the Settlor of the plan was already in some sort of trouble. For me, what that means is that I am exceedingly careful to make sure that my clients meet a very high threshold of due diligence BEFORE I accept them. Because once I do accept them, then I am 100% on their side, and I do not like losing or being caught off guard.

I also make sure that the way I do my planning matches the goals of my clients. And frankly if they don’t I do not modify my planning, instead I decline the client. Let me say that again in another way. I do asset protection only one way – the best! If you come to me and want a second rate plan, then I am not the attorney for you. I simply do not and will not give you something that is just ‘okay’ or ‘pretty good.’ Because if you are choosing to protect your assets, then you will be as serious about it as I am! Which means I turn away a lot of potential clients who think it is a nice idea, but are not serious. And that is perfectly fine with me.

The relationships I build with my clients are also very strong and very long-term. In fact of all the clients who have ever engaged me to do their personal planning, 97% of them are still an active client of my firm! Many of them are close friends and I speak to all of them every year! And what I know from speaking with them is that 100% of my clients use the plan every single night when they go to bed without fear and sleep well!

That is what they are really giving themselves, which is true peace of mind! I said earlier that I don’t sell insurance, and that is true as far as traditional insurance goes. But in reality I do sell a form of insurance that is better than anything I have ever seen and anything that has ever been developed – I sell Net Worth Insurance!

It insures everything you own regardless of the liability, merit, or facts and circumstances of the case! If you can come to the point that you are really serious about taking control of your own financial security, and overcome the due diligence hurdles it takes to become a client, then this form of protection is available to you right now!

So what’s left? What’s left is for you to get the facts about your own personal situation. I know that if you have listened this far, you are very likely to be serious about protecting your own assets. I am going to make you an offer to help you understand those options, and again I am going to offer it at NO CHARGE to you!

If you are serious about understanding your own personal situation then I invite you to call my office directly at 800-231-7112, and I will give you a personal asset protection analysis at no cost to you! As you now know after reading this report, what you need depends completely on your own personal situation. But I will tell you this.
My planning, which is the absolute most sophisticated and best planning you can possibly implement, does not cost $50,000 or $75,000. In fact, I guarantee that you cannot find anyone who has our level of expertise, or who will be able to implement the level of planning we use that will be anywhere close to my fees – GUARANTEED!

I sincerely hope that you feel compelled to call and find out how you can give yourself true peace of mind! You have absolutely nothing to lose and everything to gain! The worst that can happen is that you spend a little time and educate yourself with the nation’s leading law firm on what your personal options are with no obligations. Your current financial situation isn’t going to get any stronger or safer by itself, and you now have the chance to truly take back the control that the trial lawyers and the dysfunctional legal system have stolen from you. You have the chance to go to sleep every night knowing that no matter what – YOUR ASSETS ARE COMPLETELY SAFE!

So give us a call at 800-231-7112 NOW, and put in place the one and only plan you will ever need that will protect everything you own for as long as you are here to enjoy it! And will continue to protect it for your children and grandchildren for generations to come! You’ve found what you are looking for, it’s up to you to take advantage of it, so give us a call now! We look forward to talking with you soon!

Sincerely,

Douglass S. Lodmell, J.D., LL.M.

P.S. Don’t wait until it’s too late. The most frustrating call I ever take is from someone who just got sued. It is a shame when they learn that it is too late to do the planning! This is particularly true when I see that I spoke to them years before and they just didn’t take advantage of what they knew they could do. Don’t let that happen to you! This is Inexpensive Net Worth Insurance, and there is no reason not to have it in place. Call or e-mail us now with any questions you have and get the protection you need in place NOW!


2 The dramatic shift in the overall environment around litigation is not a new premise. In fact it has been discussed at great length in many legal journals and articles. For example the Connecticut Insurance Law Journal, Vol 12, P. 35, Fall 2006, states: “In previous published writings on asbestos litigation, I discussed how the litigation underwent a radical shift in the mid-1980s from the traditional model of an injured person seeking a lawyer to an entrepreneurial model under which plaintiffs’ lawyers and their agents actively recruited hundreds of thousands of
potential litigants who could claim workplace exposure to asbestos containing products. I concluded that a substantial percentage of the nonmalignant claimants thus recruited had no disease caused by asbestos exposure as recognized by medical science and no loss of lung function.”

3 Pepperdine Law Review, Vol 31, No. 33, 2004. To quote: “The core of the article is an empirical analysis of attorney-sponsored asbestos screenings which account for approximately 90% of claims being generated. On the basis of that empirical research, I conclude that asbestos litigation today largely consists of former industrial and construction workers:

1) recruited by an extensive network of entrepreneurial screening companies which are employed by lawyers to “screen” hundreds of thousands of potential litigants each year at local union halls, hotel and motel rooms, shopping center parking lots, and other locations throughout the country;
2) asserting claims of injury though they have no medically cognizable injury and cannot demonstrate any statistically significant increased likelihood of contracting an asbestos-related disease in the future;
3) in a civil justice system that has been significantly modified to accommodate the interests of these litigants by dispensing with many evidentiary requirements and proof of proximate cause;
4) mostly in forum-shopped jurisdictions, where judges and juries often appear aligned with the interests of plaintiff lawyers;
5) often supported by specious medical evidence, including: (a) evidence generated by the entrepreneurial medical screening enterprises and B-readers - specially certified x-ray readers that the enterprises or plaintiff lawyers select, who fail to exercise good faith medical judgment but instead conform their findings and reports to the expectations of the plaintiff lawyers who retained them, and (b) pulmonary function tests which are often administered in knowing violation of standards established by the American Thoracic Society and result in findings of impairment which would not be found if the tests were properly administered; and
6) who frequently testify according to scripts prepared by their lawyers which include misstatements with regard to: (a) identifications of and relative quantities of asbestos-containing products that they came in contact with at work sites, (b) the information printed on the containers in which the products were sold, and (c) their own physical impairments.”

4 Stats are from Tillinghast-Towers Perrin. U.S. Tort Costs: 2004 Update, (New York, New York, 2005). It should also be noted that these stats DO NOT include the overall costs to society such as the economic impact of the bankruptcies, lost jobs, decreased GNP and other related costs and expenses. These are only the DIRECT costs associated with the Litigation Machine. It is estimated that the overall impact is 3-5 times the direct costs! That’s a TRILLION dollars a year!


7 The most famous case on point is FTC vs. Affordable Media, otherwise known as the “Anderson Case.” I am including this footnote only because some very uninformed advisors, will still cite this case as an example of how asset protection using an International Asset Protection Trust didn’t work. The facts are just the opposite, and the Federal Trade Commission (i.e. the U.S. government) got thrown out of the Cook Islands court for the 3rd and final time in December of 2005. The Trust worked despite the fact that the Andersons were crooks and the Trust was very poorly drafted. For a more detailed look at the case you can see my article called “Planning and Drafting Considerations for Offshore Trusts in light of Recent U.S. Litigation” By Douglass and Gary Lodmell, Asset Protection Journal, Winter 2001 issue.


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