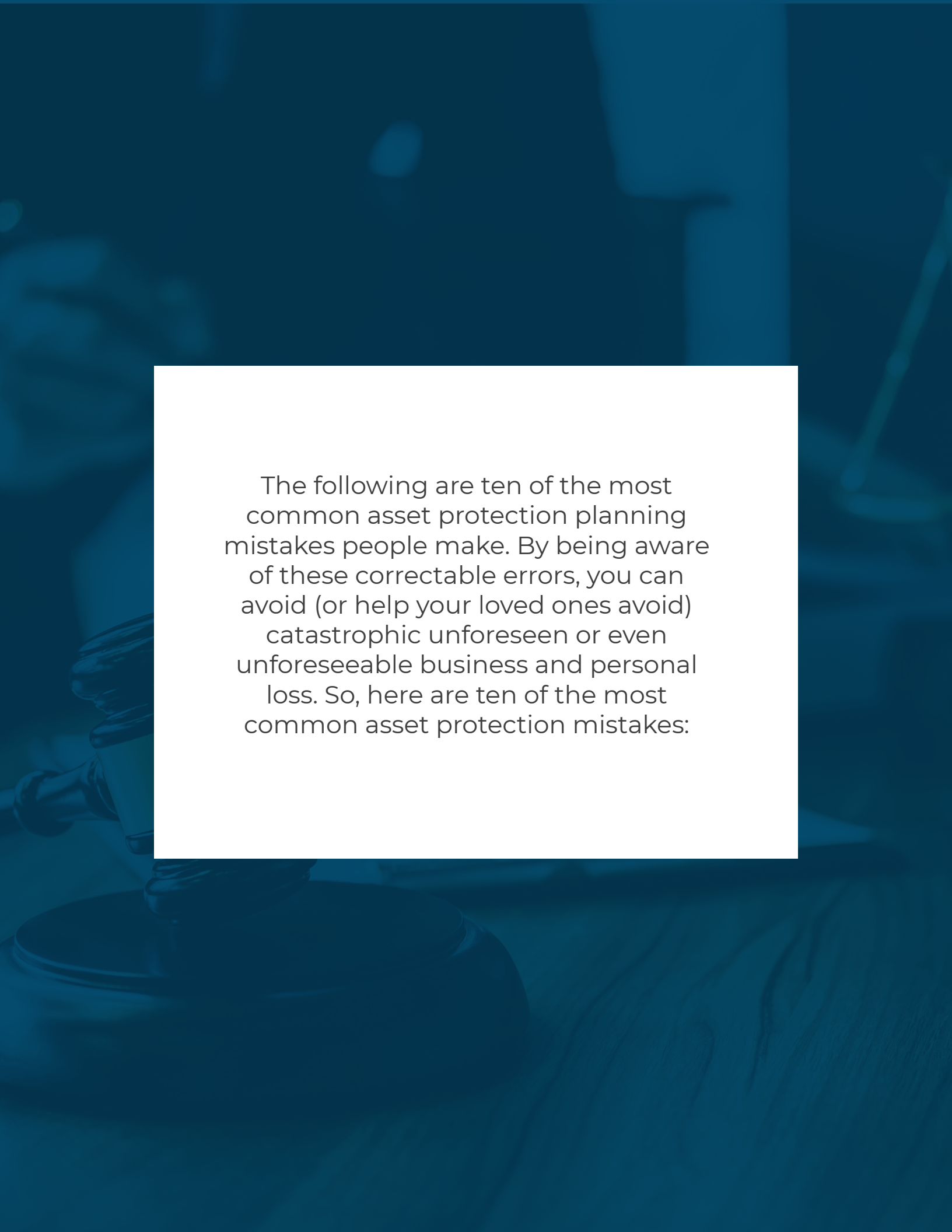




Avoid These 10 Major Asset Protection Planning Mistakes





The following are ten of the most common asset protection planning mistakes people make. By being aware of these correctable errors, you can avoid (or help your loved ones avoid) catastrophic unforeseen or even unforeseeable business and personal loss. So, here are ten of the most common asset protection mistakes:

ASSET PROTECTION MISTAKE:

Thinking you
don't have
enough assets
to protect.

01

Asset Protection is **not just for the wealthy**. If an individual worth \$20 Million is sued for \$500,000 to \$1,000,000, it is easier to withstand the hit without a lifestyle change. Meanwhile, if an individual worth \$300,000 to \$3,000,000 is faced with an unforeseeable claim or healthcare crisis, it is more difficult to absorb the impact without a significant reduction in their standard of living. So **the less you have, the more important it is to protect** yourself and those who look to you for support.



ASSET PROTECTION MISTAKE:

**Relying on
insurance
— alone.**

02

While insurance is a helpful addition to an Asset Protection plan, it is **not a replacement for an Asset Protection plan**. Insurance has limits and protects you from certain types of risks that are policy specific. An Asset Protection plan will protect your property regardless of the reason for the lawsuit.



Additionally, insurance companies may attempt to escape paying a claim if a large judgment is rendered against you. Your Asset Protection plan will remain in full force regardless of whether or not your insurance is available.

ASSET PROTECTION MISTAKE:

03

Relying on a Will or Revocable Living Trust to protect assets.

Everyone needs a Will or Revocable Living Trust as a bare bones estate plan. However, a Will and Revocable Living Trust will not protect assets from **claims of creditors or nursing home poverty** during your lifetime. A Will comes into effect at the death of an individual and, for this reason, provides **zero** Asset Protection during life. Similarly, because a Revocable Living Trust is just that – revocable– it provides **zero** Asset Protection. If Asset Protection is a goal, a Will or Revocable Trust is not the right tool.



ASSET PROTECTION MISTAKE:

04

Failure to consider state law exemptions.



A legal crisis requires no fault and often results from unavoidable circumstances **beyond our control**. Each state has different protections if a claim is reduced to a Judgment. The extent of the protection depends upon the state where the debtor resides.

Louisiana is arguably the **most litigious state** in the United States. State law actually **encourages lawsuits**, which is one reason auto insurance rates are among the highest in the Nation.

Louisiana is also one of the least protective jurisdictions in the event of a legal crisis. Exemptions from seizure and sale include **one family cow** (literally), tools of the trade, pets, and a wedding ring. With the exception of retirement plans, life insurance, annuities and the like, virtually any personal asset, including your home, can be **seized and sold by a creditor** in Louisiana.

Against this backdrop of Louisiana simultaneously being one of the most litigious and least protective jurisdictions in the entire United States, Asset Protection planning should be a key consideration in every estate or business plan for residents of Louisiana.

ASSET PROTECTION MISTAKE:

**Failing to
protect your
home.**

05

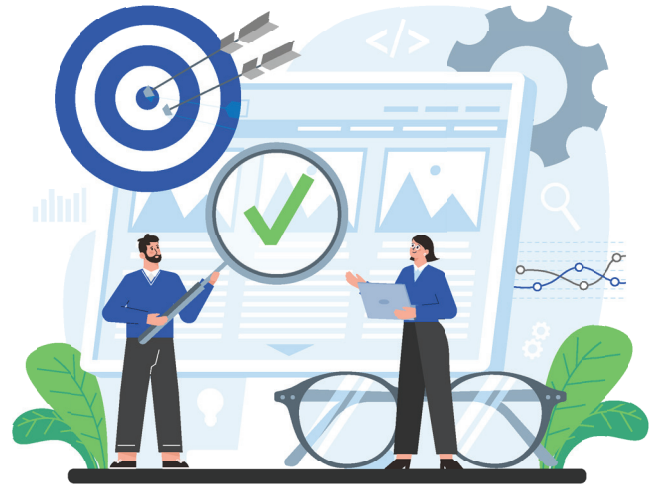


Your **home is not a protected** asset in Louisiana. It can be seized and sold to satisfy claims of creditors. O.J. Simpson bought a house in Florida for a reason -- to shelter his personal assets in the wake of a money judgment against him. Because Louisiana offers little protection for anyone caught in a legal crisis, one should employ every means possible to protect the most sacred asset – home sweet home.

Proper Asset Protection planning provides this security and Theus Law Offices has developed a trademarked method to help **protect your home** in a manner that still allows you to retain the homestead tax exemption.

ASSET PROTECTION MISTAKE:

06



Not utilizing a charging order protected entity, such as a Limited Liability Company.

The general goal with Asset Protection is to **avoid direct ownership** while **maintaining total control**. A limited liability company (“LLC”) is an easy way to avoid direct ownership of assets and thereby reduce exposure to lawsuits.

Think of an LLC like a protective bubble. It provides both “outside in” and “inside out” asset protection. In the event a judgment is rendered against you (“outside” the bubble), a creditor would only be entitled to a “charging order” against the LLC, which **protects assets** inside the bubble.

Conversely, if a judgment is rendered against the LLC (and not you personally), assets held outside the bubble are protected.

Properly layering the “outside in” and “inside out” protective features of an LLC with other estate planning tools, such as a trust, can be a **powerful and effective** Asset Protection Plan.

ASSET PROTECTION MISTAKE:

07

Relying on a Single Member LLC.

Some states, like Alaska, specifically provide that charging order protection exists for single member limited liability companies (“SMLLCs”). Unfortunately, Louisiana law does not provide this protection.

The policy behind charging order protection is that it would be unfair to the non-debtor member(s) and the LLC to be subjected to the claims against a debtor member. When there is only one member of the LLC, the policy of protecting innocent members and the company does not exist. There have been multiple court cases arriving at this conclusion and, thus, allowing the single member LLC to be pierced. A limited liability Company is a great way to reduce your exposure to lawsuits in Louisiana, but a single member LLC standing alone may not provide sufficient Asset Protection in Louisiana. A full Asset Protection plan employs other layers.



ASSET PROTECTION MISTAKE: _____

**Failing to
use the
right type
of Trust.**

08

Many people have the misconception that any type of trust will provide asset protection. This is not true. Revocable trusts, for example, provide **zero** Asset Protection for the Settlor.

At the bottom, a Trust is simply a combination of words on paper. Think about how many words there are in any given language. Now think about how many combinations of those words there could be, and that's how many types of Trusts that may exist. **The possibilities are endless.**

An Asset Protection Trust must be "irrevocable." However, just because a trust is irrevocable does not mean it will provide asset protection. This requires highly specialized drafting techniques with an eye toward the particular risk to be avoided, whether a legal or a healthcare crisis. One wrong word will open the Trust to attack.

Properly drafted, an irrevocable trust provides **bullet-proof Asset Protection.**

Theus Law Offices attorneys are licensed in multiple jurisdictions and utilize highly advanced techniques employed by the Nation's top Asset Protection attorneys. When you partner with Theus Law Offices, rest assured the "right" Trust will be deployed for Asset Protection purposes.

ASSET PROTECTION MISTAKE:

09



Not discussing Asset Protection Planning with your Estate Planning Attorney.

Estate Planning isn't just about what happens when we die. It's very much about the here and now to ensure you **stay in control, don't run out of money, or become a burden on anyone.**

Many Estate Planning attorneys center the discussion around Wills and Revocable Trusts to provide for what happens to our assets at death, which is somewhat mechanical. This hurts both the client and the attorney because **protecting everything you own and everyone you love** is often a goal that never gets discussed. A legal or healthcare crisis can upend the best laid estate plan if the centerpiece is simply a Will or Revocable Trust, which provides zero asset protection.

The client should look for an attorney who acts as an advisor, not a scribe that simply reduces the wishes of the client about the disposition of assets into written form.

ASSET PROTECTION MISTAKE:



Doing nothing or not planning in advance.

Asset Protection planning is like a vaccine. **It works best when administered in advance** - before an unforeseeable claim or healthcare crisis.

Remember, knowing isn't enough. You have to **ACT!**

- **A**ssess your needs
- **C**reate what's missing
- **T**ie it in with your life!

Estate planning with integrated Asset Protection is the most **important** thing you can do to protect you and you family. It's not hard, or necessarily expensive. Like most things in life, 90% of the job is just showing up.

Ready? Let's Geaux!

» [Click here to get started](#)