



Legal Note – Future Creditors

In prior legal notes we discussed the rights of present and “future” creditors to reach assets transferred by the debtor to avoid paying the creditor. The fraudulent transfer acts (of the various states) therefore generally empower creditors (existing at the time of an asset transfer) to reach assets transferred outside the grasp of a creditor. The same remedy is available to reasonable foreseeable future creditors (such as guaranty and contract claimants) who have not yet obtained a judgment at the time of the transfer.

Although a debtor may be encumbered with substantial personal debt (and will likely face future creditors), planning is available to protect assets from potential claims. A physician, may, for example, protect exposed assets (by transfer to a protective structure) against unknown medical malpractice claims. As long as the client, patient, customer, etc., is unknown or could not be reasonable expected to make a financial claim (at the time of the transfer) the transfer will generally be effective to protect otherwise exposed assets from such a potential claimant. The availability of asset protection is therefore based on the facts and circumstances of the specific case.