



WHAT YOU NEED TO KNOW WHEN EVALUATING ASSET PROTECTION ATTORNEYS

By Ike Devji, J.D.

Introduction by Anthony Williams, ChFC, RFC, CLU

At Mosaic Financial Associates, the key axioms of our practice include growing, protecting and ultimately distributing wealth. These tenets simply are not attainable without strong focus on taxation and litigation. As such, we asked Ike Devji, J.D., who specializes in Asset Protection Planning, what critical questions someone should ask when evaluating Asset Protection attorneys. Ike helps protect a client base which includes several thousand doctors and is a regular contributor to publications such as "Physicians Practice". He outlines his recommendations below.

DUE DILIGENCE QUESTIONS TO ASK AN ASSET PROTECTION LAWYER

#1: Are you a lawyer or part of a law firm that will keep our discussion privileged?

Remember that often "promoters" or LLC Mills do not possess the skill set and training required. More importantly, if you are not dealing with a law firm that allows all your communications to be attorney privileged, everything you do is discoverable with a simple subpoena, including all emails and other communications.

#2: How many clients have you served in this specific type of planning?

An East Coast law firm has nearly plagiarized the website of my associates. On it they claim to serve thousands of clients and be a top asset protection law firm. Closer examination of the site reveals that they have a dozen plus distinct practice areas and are simply representing that client base as if all of it is with Asset Protection clients.

#3: What's the average net worth of your clients?

It's important to deal with a lawyer and firm that have in-depth experience with businesses, assets and families like yours. Ignoring your liquidity needs are and using outdated estate planning tools that are not income, business and age appropriate (like using a QPRT for a 33 year old) are common amateur mistakes we see other lawyers make. Also, be aware that a number of different specialties now classify themselves as "Asset Protection" planners. This designation was formerly used only for the kind of pro-active, defensive legal planning we are focusing on in this article. The field now includes Elder Care lawyers, annuity and insurance salesman and variety of other folks that may have good products and services, but are probably not true asset protection lawyers. By asking the average net worth of their existing clients, you.

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may be able to discern if they are familiar and equipped to handle the needs of a high net worth business owner, physician, or high visibility individual like a professional athlete or entertainer.

#4: Where do you work?

Having a law firm that works nationally is a good hedge. It's important that they understand the protection available by statute in your locality and give you a plan that will stand up to attacks in any jurisdiction. It's also important that the plan is portable so it can travel with you if you move and flexible enough to allow you to do business and own assets in more than one jurisdiction (i.e. something as simple as a vacation home in another state or a life insurance policy with a high cash value that could be lost in a lawsuit).

#5: How many types of law do you practice and how long has Asset Protection been part of your practice?

See my more detailed explanation of this concern at the opening of this article. Make sure you are comfortable with their experience level. Lawyers are increasingly specialized and while many of have a good general knowledge of a variety of concepts and issues we tend, like all professionals, to be good at only one or two on a good day.

#6: How many doctors do you protect?

This is obviously a doctor-specific question, but an important one if you are a physician or the advisor of a physician doing due diligence on their behalf. In my experience with a client base that includes thousands of doctors we have learned that medical professionals of all types including MD, DDS and DC have unique needs and specific technical and legal exposures that only get more onerous as their success grows. Make sure the planner or lawyer you are dealing with understands those unique issues and is trained well enough to be another set of eyes on your behalf for a holistic check-up of your wide array planning needs.

#7: Can you provide any professional recommendations?

This can be tricky for lawyers, especially those who practice in sensitive fields where people value their privacy like Asset Protection as opposed to say, a real estate lawyer. Nevertheless, they should be able to provide at least a couple of professional references that speak specifically to their experience in this field or from related professionals outside their own firm that refer clients to them for this specific service.

#8: Have you written anything on this topic that outlines your tools and strategies?

If your planner is even marginally qualified to work in this area with you they should have extensive educational materials that describe the tools they use and what each tool does. If they can't educate you about the tools they will likely do more harm than good, as part of our job as planners in this area is to educate our clients on what works best, why and how to use it going forward. No matter how much support a firm offers they can't be with you 24/7 so they better be able to train you.

#9: Can you provide a specific written plan that outlines costs, results and requirements?

Every firm prices its services differently, and that's OK, but they should be able to show you in writing what result they are going to attempt to achieve for a specific price. (I say "attempt" because there is no such thing as certainty in the law, all we can do is follow proven best practices supported by law and experience with others. Anyone who tells you their system is undefeatable and "will" never be broken is not trustworthy)

#10: What kind of on-going support and education do you provide to your clients and at what cost?

Hiring an Asset Protection lawyer is not a one-shot magic bullet, but rather one step in a holistic multi-step process with many moving parts. If you pay someone in my business to build you a "Legal Vault" that is capable of containing your life's work, they better be there to help you put the assets in it, use it the right way, teach you to lock the door and show you how to open it when you need your assets or use of them. Merely getting a box of legal papers on its own is not going to serve you and your family well. Be wary of the fees involved to use the plan, in addition to what it costs to set up. Ask specific questions about accounting, compliance, tax status and reporting burdens. Keep in mind that many of the best Asset Protection tools and plans are explicitly tax neutral. Finally, be clear about how accessible your planner is going to be going forward and at what cost. Many hide huge fees on the back end to lure you in up front.

This list will doubtless be fluid and expanded as other issues prove outside the experience of clients and advisors. For now, consider it a starting point on your journey to financial security and to having your own "net worth insurance" policy in place.