

Steve Leimberg's Asset Protection Planning Email Newsletter - Archive Message #346

Date: 24-Jul-17

From: Steve Leimberg's Asset Protection Planning Newsletter

Subject: [Jeff Baskies on Ramos v. Motamed: Gym Records Blow Up Bogus Asset Protection Plan in a Novel Florida Homestead Exemption Case - Bad Facts Case Provides a Good Reminder that Effectively Changing Domicile Is Not a Game](#)

"In a novel Florida homestead case, a debtor's claim to a homestead exemption (from his creditors' claims) was denied when the evidence in trial (including his gym records) belied his claim of being a Florida resident.

It is well known and well established that debtors can (i) move to Florida, (ii) invest in a homestead residence and (iii) claim the benefits of the Florida homestead exemption, even if they do so with the intent to avoid creditors. That's not a new issue. However, the landmark aspect to this case/ruling is that it is one of the only cases (perhaps the only known one) where the debtor was denied the benefits of the homestead exemption because he didn't really move to Florida, even though he presented the other indicia of changed domicile. While there are numerous cases from other jurisdictions (usually state income tax cases) concluding a taxpayer did not change domicile to Florida (and thus was still a tax resident in the other state), this is a unique ruling as a Florida case deciding someone failed to adequately demonstrate changed domicile.

The case is a good reminder that the Florida homestead exemption is only afforded to Florida residents, and is also a good reminder that effectively changing domicile is not a game; it means more than filling out a few forms."

Jeff Baskies provides members with fascinating commentary on [Ramos v. Motamed](#).

Before we get to Jeff's commentary, members should note **Bob Keebler's** upcoming **LISI** webinar on July 25th @ 3:00pm titled "**Best Ideas in 2017 - What the Planner Needs to Know.**" There's no better time than the

present for advisors to join Bob as he reviews some of the best planning ideas in 2017.

Topics will include planning for the federal income tax, state income tax, asset protection and the estate tax. The intent of the program is to provide planners with a number of ideas which may be particularly effective in the current environment. During his webinar, Bob will cover the following:

Federal Income Tax Planning

- o Roth conversions by asset class
- o The proposed "five-year IRA rule"
- o CRTs for deferral & rate arbitrage
- o Installment sales for deferral & rate arbitrage
- o Qualified small business stock - A zero percent rate
- o Puerto Rico - The ultimate tax haven?

State Income Tax Planning

- o Incomplete non-grantor trusts to save state/federal taxes
- o Trust situs

Asset Protection Planning

- o Domestic asset protection trusts
- o ERISA plans & IRAs
- o Third party trusts
- o LLCs in "charging order states"
- o Compartmentalizing risk

Estate Tax Planning

- o Key dates for potential repeal
- o Dynasty trusts and IDGTs
- o Spousal limited access trusts
- o 9-year GRAT for 10-year repeal
- o Life insurance strategies

For more information and to register ([LISI](#) members get special pricing!), simply click this link:

[Bob Keebler: Best Ideas in 2017 - What the Planner Needs to Know](#)

For those who have a conflict with the date/time, the session will be recorded. Simply register and you will have unlimited, 24-hour access.

[Click this link](#) to read Jeff Baskies' commentary.

EXECUTIVE SUMMARY:

When Dr. Michael Motamed, a California resident, was sued for negligence following an automobile accident with a pedestrian, he bought a \$1.5 million condo in Palm Beach, Florida and claimed his interest in the property was exempt from his multi-million-dollar judgment creditor. While the debtor apparently did obtain a Florida driver's license, library card and voter registration card, and he did apply for a homestead ad valorem tax exemption, evidence at trial (including gym records indicating he worked out at his usual gym in California 300/365 days in 2015) demonstrated he didn't actually move to Florida and the facts presented at trial ultimately undid his claim for exemption.

As a result of the trial court concluding Motamed did not make his Florida condo his primary residence, the Florida Constitution's exemption from forced sale was not applied, and a judicial sale of his condominium is scheduled for August.

HOPE THIS HELPS YOU HELP OTHERS MAKE A *POSITIVE* DIFFERENCE!

Jeff Baskies

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