

The Trust Protection Myth: Your Revocable Trust Protects Against Lawsuits

Many people believe that once they set up a revocable living trust and change the ownership of their accounts and property from themselves as individuals to their trust, those accounts and property are protected from lawsuits. **This is *not* true.**

While trusts commonly protect a beneficiary's inheritance, few trusts protect *assets* (accounts and property) previously owned by the settlor (the "Trustmaker") from the settlor's creditors. Because the settlor can revoke the revocable living trust and often serves as the trustee, courts may determine that creditors can still access the trust's assets, as the settlor's control over them remains largely unchanged.

No Immediate Asset Protection? Why Should You Create a Revocable Living Trust?

Fully funded revocable living trusts are still excellent tools. Here's why:

1. You can protect assets passing to your spouse, children, or other loved ones by placing any desired restrictions on the inheritances to ensure that your beneficiaries can still benefit without being in danger of having their inheritance accessible by creditors, predators, or divorcing spouses.
2. Your trust can include a plan for managing your assets during your *incapacity* (when you cannot manage your own affairs), avoiding court interference, ensuring your wishes are carried out, and saving your loved ones time, money, and stress.
3. A properly funded trust allows trust assets to pass to beneficiaries without going through probate court. This, in turn, can minimize the time, stress, and cost of settling your final affairs.
4. By avoiding the public probate court process during your incapacity or at death, details about who is getting what will remain private.

Strategies to Protect Your Assets Without a Living Trust

Comprehensive estate planning can be complemented with a solid foundation of insurance, including homeowner's or renter's, personal property, umbrella, auto, business, life, disability, and the like. For business owners and real estate investors, business entities such as limited liability companies can provide additional asset protection. In addition, domestic asset protection trusts can sometimes be used, depending on your unique circumstances.

Your revocable living trust is a powerful tool for protecting your loved ones. If you have questions about asset protection planning, call us. We can review your existing plan and determine what additional steps need to be taken to ensure that you and your loved ones have a secure financial future.