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**The Olmstead Decision and What it Means  
for Single-Member LLCs in Florida**

On June 24, 2010, the Florida Supreme Court, the highest court in Florida, issued a much anticipated decision in a case entitled *Olmstead v. Federal Trade Commission*. In this case the Court ruled that a charging order is *not* the exclusive remedy for a judgment creditor against a debtor's single-member Limited Liability Company ("LLC") interest. This means that in Florida, a judgment creditor can seize a debtor's single-member LLC interest and gain full control of the LLC.

It is important to understand the *Olmstead* decision does not affect or diminish asset protection for individuals using LLCs to shield personal assets owned outside the LLC from claims that may arise from property owned inside the LLC. Single-member LLCs still provide limited liability protection for the owner from a judgment against the LLC itself. For example, rental real estate held in a single-member LLC and the liability that may come from the rental real estate would be limited to the LLC assets. Personal assets owned outside the single-member LLC would not be exposed to the claims of creditors related to the rental real estate. Instead, *Olmstead* applies to claims arising outside the LLC when the single-member LLC owner tries to use the charging order to protect assets inside the single-member LLC.

So, there are some instances in which the single-member LLC is still appropriate, such as in the landlord example used above or for the business owner who wants to protect assets owned outside the LLC from lawsuits occurring inside the LLC. But, when a single-member LLC is no longer the appropriate asset protection strategy, there are solutions. For example, a single-member LLC formed in states other than Florida can offer better protection than a single-member LLC formed in Florida. Further, multi-member LLCs generally offer better asset protection than single-member LLCs. Although, some experts believe the *Olmstead* decision opened the door for creditors to attack all LLCs, including multi-member LLCs. This is because the Court reached its decision in *Olmstead* based on the charging order language in the Florida LLC statute, which applies to both single and multi-member LLCs.

Determining whether a single-member LLC is appropriate for you will depend on you and your family's goals and what you hope to accomplish with the LLC. The *Olmstead* decision made it clear the law is not settled regarding the amount of asset protection

provided by LLCs. LLCs, like all asset protection strategies, are not bullet proof but may help provide bullet resistance.

The Law Offices of Hoyt & Bryan assists families in the protection of their loved ones by focusing their practice in the areas of Estate Planning, Probate and Trust Administration, Elder Law including Medicaid and VA Planning and Special Needs Planning, Pet Planning, Business Succession Planning and Real Estate. The founders, Peggy Hoyt and Randy Bryan, are both dual board certified by the Florida Bar in Wills, Trusts and Estates as well as Elder Law. Hoyt & Bryan is the only law firm in Florida with the distinction of two attorneys with these certifications. We offer many complimentary educational workshops each week in our Learning Center at The Law Offices of Hoyt & Bryan and monthly workshops in the Auditorium of One Senior Place in Altamonte Springs. For more information please contact our office at 407-977-8080 or visit our website [HoytBryan.com](http://HoytBryan.com).