



Happy Holidays !



3106 US ALTERNATE 19
PALM HARBOR, FL

To our friends, clients, and those who have contacted us in the past, we wish to provide you some information on some events that are coming up in 2010.

We also wanted to inform you of the other areas of law that we practice, if you find yourself needing other legal services. We engage in Family Law, Business Law, Estate Planning/

Elder Law, Criminal Law, Bankruptcy Law, Foreclosure Defense, and other related Civil matters.

In the upcoming year, we are going to be providing or hosting some educational events that may assist those within our community. Not all of the educational events will necessarily have a legal focus, but are designed to provide education to those who attend on the subject matter discussed. We will also be conducting a seminar for small business owners to assist them in protecting their business interests. If you wish to be placed on a list to receive a calendar of events, please contact us at

(727) 789-4000, and speak with Kevin McCullough, Director of Operations.

If you wish for us to host an event for you for your specific business or personal needs, please contact Mr. McCullough via email at kevin@jherzoglaw.com and schedule a tour to ensure that the space provided will meet your needs.

We know that the economic downturn that occurred in the last year has created unwanted struggles for many of you; however starting the New Year with a general economic plan may ease that burden.

SPECIAL POINTS OF INTEREST:

- ◆ The importance of having a Will in Florida
- ◆ Judgments—how to get them and collect on them.
- ◆ West Pasco Habitat for Humanity



Collecting a Judgment in Florida

What exactly is a Judgment? Many people have asked us this very question on numerous occasions and so here is a summary of what Ken Burke, Clerk of the Circuit Court, Pinellas County, has to say about Judgments.

A judgment is defined as an order entered by the court stating the amount of money the losing party in a court action must pay. The losing party is called the judgment debtor. The winning party, or party the judgment is in favor of, is

called the judgment creditor.

As a judgment creditor what do I have to do? The first thing you need to do is obtain a judgment lien. To do this, you will need to record a Judgment Lien Certificate with the Department of State. This is not a requirement, but is recommended. The second thing you will need to do is locate the property of the judgment debtor. This is necessary in order to get the Sherriff to levy upon

(seize) the judgment property.

Can I get a lien on personal property? All of the judgment debtor's personal property located in Florida is subject to a judgment lien. You will need to file a judgment lien with the Department of State. A Judgment Lien Certificate can be downloaded from the Department of State's website at www.sunbiz.org.

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Preventative Law

In our opinion, there are three (3) things that every person should have in life: a good doctor, a good companion, and a good attorney. Oftentimes, people make potentially life-altering decisions without proper legal counseling, which could result in that person potentially spending thousands of dollars to prosecute or defend a right that person believes he or she has. Oftentimes, a simple consultation with an experienced, thoughtful attorney for a nominal fee prior to embarking into the life-altering event may have prevented the subsequent legal tragedy, which requires an inor-

dinate amount of time, energy, and money that could be better spent. Going to Court is only fun and lucrative for lawyers. Today's society is very content in taking their case "all the way to the Supreme Court," but the harsh reality is, that type of service is not always possible, and not always a good way to spend your hard-earned money. At the Law Offices of Jeffrey A. Herzog, P.A., we would be happy to consult with you to inform you what rights you have with regard to any contract that you are asked to sign, or are requesting others to sign. For example, if your employer pro-

vides you an employment agreement that contains a "non-compete" clause, which prevents you from working for competition for a year, we would inform you of the rights that you have, the rights that the employer would have, and possible consequences related to signing the agreement.

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"WHAT EVERY PERSON SHOULD HAVE IN LIFE: A GOOD DOCTOR, A GOOD COMPANION, AND A GOOD ATTORNEY"

Case Law—Interesting Facts

Criminal Law—Driving with two wheels covering double centerline and making wide right turn do not constitute erratic driving that would give rise to reasonable suspicion that driver was impaired or otherwise committing criminal act—Wide turn did not constitute traffic infraction where no other vehicle was affected by turn—Motion to suppress granted. STATE OF

FLORIDA vs. TERRILL SHAW, Defendant. County Court, 2nd Judicial Circuit in and for Gadsden County. Case NO. 07-19401-CTCA. April 23, 2008. ORDER GRANTING MOTION TO SUPPRESS

-Mortgage Foreclosure-The circuit court dismissed without prejudice a foreclosure complaint filed by an assignee where, in response to the defendant's

standing challenge, the plaintiff stated that the assignment of the note and mortgage to the plaintiff was pending, but plaintiff failed to file any document to evidence its ownership for the note or mortgage. US BANK NAT. ASSOC. V. ROSE Circuit Court, Ninth Judicial Circuit in and for Orange County. Full text at Circuit Courts-Original Section, page 1044a.

The Importance of Having A Will

One, a Living Will is a legal document in which a person expresses in advance his or her wishes concerning the use of artificial life support, to be referred to should the person be unable to communicate such wishes at the end of life. A living will usually goes into effect only when two physicians certify that a patient is unable to make medical decisions and that the pa-

tient's medical circumstances are within the guidelines specified by the state's living-will law.

Two, a Last Will is a document that details how your property (i.e., estate) should be distributed and who it is that you want to manage your estate.

If you would like to learn more about these, we will be holding a seminar at our office on Decem-

ber 9, 2009 that you could attend by contacting our office.



PLAN YOUR WILL THROUGH WITH YOUR LOVED ONES WHILE YOU CAN.

Collecting a Judgment in Florida (continued)

After you complete the certificate you can pay a fee and file it with the State.

Can I obtain a Judgment Lien on Real Property? Yes, once you have been awarded the judgment, you can record a certified copy in the Official Records of the Clerk's Office of your county.

Judgment liens on personal property that are filed with the Department of State are valid for five(5) years. After 5 years you can file again and get another judgment lien. Judgment liens on real property that are re-

corded in the Official Records of the Clerk's Office are valid for ten (10) years, and you can re-record the lien for another ten (10) years.

What is a Writ of Garnishment? Garnishment involves taking the debtor's property while it is in the possession of a third party called the "garnishee". This property may include wages, bank accounts, furnishings, vehicles, or other personal property. The garnishment of a debtor's wages through the use of a Continuing Writ of Garnishment is a common means of collecting a Judgment.

Garnishment is a very technical and complicated procedure, and as such, you may wish to consult with an attorney.

To have someone 'Garnished', it is a separate process beyond obtaining a judgment. To do so, one must have the address for the person or business of whom you have the judgment on. They must be served and then summoned to court to begin and then the process continues from there. For more detailed legal explanation as it pertains to your case, schedule an appointment with us.

Habitat for Humanity—Local News

The Law Offices of Jeffrey A. Herzog, P.A. has supported the mission of West Pasco Habitat for Humanity for over two years. In 2007, Jeffrey Herzog joined the Board of Directors as its legal advisor. In 2008, Herzog was elected as President of the Board and was subsequently re-elected to serve his second term in 2009. The firm's Director of Operations, Kevin McCullough also joined the Board of Directors in 2008 and was elected to a leadership post, as he currently serves as the Secretary.

West Pasco Habitat is a locally run affiliate of the Habitat for Humanity International, a non-profit organization dedicated to the elimination of substandard living around the world-wide. Working in partnership with people in need to build and renovate, decent affordable housing. With the help of wonderful volunteers and our sponsors we can obtain the

necessary materials and labor needed to build Habitat Homes.

How does it work?

Through volunteer labor and donations of money and materials, Habitat builds and rehabilitates simple, decent houses alongside our homeowner (partner) families.

Habitat is not a giveaway program. We like to refer to this as follows: "Habitat Is A Hand Up, Not A Hand Out!" In addition to a down payment and monthly mortgage payments, homeowners invest hundreds of hours of their own labor into building their own Habitat house, and the houses of others.

Habitat houses are sold to partner families at no profit and financed with affordable loans.

The homeowners' monthly mortgage payments are used to build still more homes.

How are donations distributed and used?

Donations, whether to a local Habitat affiliate like West Pasco or to Habitat for Humanity International, are used as designated by the donor. Gifts received are designated to a specific affiliate or building project or forwarded to that affiliate or project. Undesignated gifts are used where most needed.

Non-Monetary Donations

Those that can not afford to donate money, can donate their time. There are build sites being worked on almost every day and even the week-ends. There are even people that have never swung a hammer before helping on the job-sites. Call Habitat today if you are interested in donating. **727-859-9038** for more info visit them online.

**http://
www..westpascohabitat.com**

HABITAT FOR
HUMANITY BUILDS
HOMES FOR THOSE
THAT CAN'T
NORMALLY AFFORD
TO DO SO ON THEIR
OWN.



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THE HIRING OF A
LAWYER IS AN
IMPORTANT DECISION
THAT SHOULD NOT BE
BASED SOLELY UPON
ADVERTISEMENT.
BEFORE YOU DECIDE,
ASK US TO SEND YOU
WRITTEN INFORMATION
ABOUT OUR
QUALIFICATIONS AND
EXPERIENCE.



**WE'RE ON THE
WEB!**

www.jherzoglaw.com



Preventative Law (continued)

Similarly, if you are about to enter into a business venture with a friend that requires you to deposit large amounts of money, speak with an experienced, thoughtful attorney before committing your nest egg to allow the attorney to educate you and offer ways to protect you to the maximum extent possible.

In most cases if you sign a contract, you are presumed to know what each provision means, without regard to whether you read the contract. In some, if not most, cases, the written word will prevail over the oral agreement made before signing the contract. The days of a “handshake deal,” are no longer applicable. While we all wish that person would keep their word on a “handshake deal,” if it concerns money, people may “forget” what each per-

son agreed to do.

Just like taking preventative measures with your health will not guarantee you will never get sick, taking preventative measures with your legal issues will not guarantee you will never get sued, or be required to sue someone else; however would it not be better to get into a situation fully informed of your rights? “Knowledge is power,” and “an ounce of prevention is worth a pound of cure,” while snappy clichés, they contain powerful wisdom to help guide a person through life’s legal ordeals.

Most attorneys are faced with trying to put the genie back in the bottle, and are required to react to the situation as it is presented to them rather than take a proactive stance to prevent an un-

needed or ill-advised lawsuit. Before uncapping the proverbial bottle, seek an attorney to provide strong, reliable advice on whatever situation in which you are about to find yourself.

Article written by

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