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Decision Opens Path for Creditors Challenging Fraudulent Florida Homesteads

Debtors worldwide often attempt to shield their assets from collection by transferring them to Florida homesteads due to the broad and immediate protection against enforcement afforded by Florida's constitution to homeowners. A recent ruling in favor of a Kobre & Kim client represents a major discovery victory and opens a potential new path for creditors seeking to collect against Florida homesteads.

Debtors worldwide often attempt to shield their assets from collection by transferring them to Florida homesteads due to the broad and immediate protection against enforcement afforded by Florida's constitution to homeowners. A recent ruling by the United States District Court for the Southern District of Florida in favor of a Kobre & Kim client marks an important step in addressing potential abuses of this protection.

Preventing Abuse of Florida's Homestead Exemption

In July 2024, Kobre & Kim and co-counsel filed an action in the United States District Court for the Southern District of Florida to recover nearly USD \$30 million contributed to a land trust to purchase a Florida homestead. The action alleged that the individual who transferred the funds to the trust, who was also a trust beneficiary, obtained the funds through multiple acts of fraud and egregious conduct directed at the client and others. The team argued that Florida's exception to the homestead exemption for fraud or egregious conduct allowed the client to reverse the transfer and recover the proceeds transferred to the land trust to purchase the home, even if it was purchased with proceeds from frauds not committed specifically against the client. They also sought discovery on all alleged frauds.

The trustee challenged this position and moved to stay discovery related to fraud not directly involving the client. However, in a January 2025 order, Magistrate Judge William Matthewman allowed discovery on all alleged frauds to proceed. While Judge Matthewman

did not issue a definitive ruling on the scope of the fraud or egregious conduct exemption, he found that the team had a good faith basis for its argument that the exemption applies even to frauds not committed against the client.

What it Means for Creditors

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The decision represents a major discovery victory for the client and opens a potential new path for creditors seeking to collect against Florida homesteads. It is also one of the most significant developments in Florida homestead law in the past 25 years. As possibly the first ruling to acknowledge that creditors may be able to collect against Florida homesteads purchased with proceeds from frauds not committed against them, it sets a precedent that could enhance creditors' ability to enforce claims against debtors attempting to shield assets through homestead protections.

About Kobre & Kim

Kobre & Kim is a conflict-free global law firm focused on disputes and investigations, often involving fraud and misconduct. The firm:

- Focuses on helping clients realize value from their claims, developing investigative, enforcement and asset tracing/recovery plans in the pre-dispute stage to maximize future monetization.
- Acts on behalf of creditors to monetize high-value bonds and loans, judgments, and arbitration awards.
- Often works with other law firms as special counsel to enforce high-value judgments, arbitration awards, and defaulted debt worldwide with our integrated team of former government prosecutors, Hong Kong solicitors, UK solicitors and barristers (including King's Counsel) and offshore lawyers.
- Has extensive experience handling restructuring-related disputes and issues on behalf of distressed debt and private credit investors.