

Trusts and Estates Litigation

We have prosecuted and defended a wide-range of probate and trust disputes, including both Will and Trust contests, claims against the Estate or Trust, claims against fiduciaries, capacity issues and civil or other lawsuits filed against or brought on behalf of the decedent. Our attorneys have extensive experience in all aspects of advocacy, including numerous trials, writs and appeals. The following is a list of services we provide:

Alternative Dispute Resolution

Close attention to finding the best solution and a cost-effective approach often leads to alternative dispute resolution techniques, such as through arbitration, trial by private judges, and mediation. Our attorneys are qualified to serve as mediators and have successfully mediated numerous probate and trust disputes.

Modification of Trusts

In many cases, trusts need to be modified because of changed circumstances not contemplated by the original settlors. Although these trusts often state that they may not be modified, we have successfully filed petitions to modify trusts to conform to changes in law or fact with the approval of the court.

Contests

We have successfully contested and defended numerous wills and trusts. With the weakening of the enforcement of no-contest clauses, contests of perfectly valid testamentary instruments have become commonplace. Our attorneys have successfully defended such instruments on behalf of both individual and charitable institution beneficiaries. It has also become more common that an unscrupulous heir or third party will cause an elder to execute estate planning instruments when the elder lacks the capacity to do so, is unduly influenced, or both. We have successfully caused the court to set aside such illegally obtained testamentary instruments.

Fiduciary Compliance

Compliance with all aspects of the testamentary instruments and the Probate Code is essential to avoid personal liability for allegations of breaches of fiduciary duties. Implementation of the Prudent Investor Rule and the California Uniform Principal and Income Act are complex issues in this area. The application and enforcement of these portions of the Probate Code requires the fiduciary to use specific and sophisticated investment and accounting techniques to manage the assets under the representative's control. Our attorneys have represented numerous clients in resolving disputes relating to fiduciary relationships and have lectured extensively in this area.

Claims against Fiduciaries

Fiduciary malfeasance is a frequently litigated area. We have successfully prosecuted and defended fiduciaries with regard to allegations that executors, administrators, and/or trustees have failed to carry out their fiduciary duties. Our attorneys prevailed in the California Supreme Court case Estate of Giralдин (2012) 55 Cal.4th 1058, which established rights of beneficiaries to prosecute breaches of fiduciary duties by trustees.

Heirship Litigation

As modern families have grown more complicated, there has been a coinciding increase in litigation concerning the right of potential heirs to receive under a testamentary instrument. Our attorneys have litigated numerous cases in this area, including situations of adopted and pretermitted heirs.

Elder Abuse

We have expertise in actions related to allegations of elder abuse. Special statutes have been enacted to prevent the fraud and abuse of elders. Since these laws are designed to protect the elderly and cannot be used to deprive them of their right to make independent decisions, proficiency and discretion are compulsory.