THE ULTIMATE GUIDE TO CALIFORNIA TRUST & ESTATE LITIGATION

A RESOURCE FOR TRUSTEES AND BENEFICIARIES NAVIGATING DISPUTES IN CALIFORNIA

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INTRODUCTION

Most people who find themselves in a trust or estate dispute never saw it coming.

Maybe you were named as trustee and are now facing accusations from a beneficiary who believes you mismanaged assets. Maybe you are a beneficiary who just discovered a trust was amended weeks before your parent died, cutting you out of an inheritance you were counting on. Maybe you are not even sure yet whether what happened in your situation rises to the level of a legal dispute, but something feels wrong and you need to understand your options.

Whatever brought you here, this guide was written for you.

Trust and estate litigation is unlike most other areas of civil law. The disputes are deeply personal, often unfolding between family members who once trusted each other. The legal framework is specialized, governed in California by the Probate Code and heard in a division of the Superior Court that operates by its own rules and procedures.

The stakes are often significant, involving homes, investment accounts, businesses, and family heirlooms that represent not just monetary value but the legacy of someone who has died.

And yet most people entering these disputes have no idea what to expect. They hire an attorney, or they think about hiring one, and they realize quickly that the process ahead of them is long, expensive, and emotionally exhausting in ways they did not anticipate.

This guide will not sugarcoat any of that. What it will do is walk you through every major stage of California trust and estate litigation so that you understand where you are in the general process, what is happening around you, and what decisions you will need to make along the way.

Whether you are a trustee defending your administration of a trust or a beneficiary challenging it, the information here will help you engage more effectively with your attorney, ask better questions, and make more informed decisions.

A few things this guide is not: it is *not* a substitute for legal advice, and it does not create an attorney-client relationship. Every dispute is different, and the facts of your situation will determine which legal strategies apply and which do not.

This guide is also *not* an answer to every situation or question that arises.

What this guide *can* do is give you a solid foundation so that when you do sit down with a California trust and estate litigation attorney, you are not starting from zero.

Let's get into it.

CHAPTER 1:

UNDERSTANDING THE LANDSCAPE

The Players, the Court, and the Stakes

Before you can navigate a trust or estate dispute, you need to understand the environment you are walking into. California trust and estate litigation has its own cast of characters, its own court, and its own set of rules that differ in important ways from the civil litigation most people picture when they think of a lawsuit.

THE COURT

Trust and estate disputes in California are heard in the Probate Division of the Superior Court. Just about every county has its own probate division, and while the procedures are governed largely by the California Probate Code and the California Rules of Court, individual counties and even individual judges can have their own local rules and preferences that matter a great deal in practice. What works in Los Angeles may not be the right approach in Sacramento or El Dorado County, which is one reason why state-wide experience matters when choosing an attorney.

Probate court is not a jury court for most trust and estate disputes. The vast majority of these cases are decided by a judge, which changes the dynamic significantly compared to civil litigation. There is no jury to persuade, no group of ordinary citizens to appeal to emotionally.

The audience is a single judicial officer who has seen hundreds of these cases and is focused on the law and the evidence.

THE PLAYERS

In any trust or estate dispute, there are several key parties you will encounter.

The Trustee is the person or institution responsible for administering the trust. Trustees have fiduciary duties under California law, meaning they are legally obligated to act in the best interests of the beneficiaries, not their own. When a trustee is accused of breaching those duties, whether by mismanaging assets, failing to account for trust funds, self-dealing, or simply refusing to communicate, that is typically the core of the litigation.

The Beneficiaries are the people entitled to benefit from the trust. They may be current beneficiaries receiving income or use of assets right now, or remainder beneficiaries who are entitled to what is left when the trust terminates. Beneficiaries have legal rights, including the right to information about the trust and its administration, and those rights are enforceable in court.

The Settlor is the person who created the trust. In most active disputes, the settlor is deceased, which means they cannot clarify what they intended, explain why they made certain decisions, or defend amendments that others are now questioning. The absence of the settlor is one of the things that makes these cases hard. A great deal of trust and estate litigation is ultimately about interpreting the intent of someone who is no longer alive to speak for themselves.

Interested Persons is a broader legal category under the Probate Code that can include heirs, creditors, and others who have a financial stake in the outcome of a proceeding. Depending on the nature of the dispute, people beyond the named trustee and beneficiaries may have the right to participate.

Counsel for each party will play a central role throughout the litigation. In some cases, the trust itself pays for the trustee's legal defense, which can be a source of conflict and is something beneficiaries frequently challenge. We will address attorney fees in much more detail in Chapter 3.

A **Probate Referee** may be appointed to appraise estate assets. A **Guardian ad Litem** may be appointed to represent the interests of minor or incapacitated beneficiaries. In complex cases, a **Professional Fiduciary** or a court-appointed neutral may step in to take over administration of the trust while the dispute is resolved.

THE TYPES OF DISPUTES

Trust and estate litigation covers a wide range of conflicts. The most common ones in California fall into a few categories.

Trust contests involve challenges to the validity of the trust document itself. These cases typically allege that the settlor lacked the mental capacity to create or amend the trust, or that someone exerted undue influence over the settlor to change the trust in their favor. Undue influence cases in particular have become increasingly prominent in California courts, and the law has evolved significantly in recent years to make them easier to prove under certain circumstances, though they still remain to be very difficult cases.

Breach of fiduciary duty claims arise when a beneficiary alleges that the trustee failed to live up to their legal obligations. These cases can involve misappropriation of assets, failure to invest prudently, self-dealing transactions, favoritism among beneficiaries, failure to provide accountings, and a long list of other alleged wrongs.

Will contests follow similar patterns to trust contests but involve challenges to the validity of a will going through the probate process rather than a trust administered outside of probate.

Accountings and surcharge petitions involve demands that a trustee or estate administrator formally account for everything that has come into and gone out of the trust, and in some cases requests that the trustee or estate administrator be held personally liable for losses caused by their misconduct.

Removal petitions ask the court to remove a trustee or estate administrator and replace them with someone else. These can be filed on their own or alongside other claims.

THE STAKES

It would be easy to frame trust and estate disputes purely in financial terms, and certainly the dollar amounts involved can be significant. Disputes over trusts holding family homes in California, where real estate values are what they are, can involve millions of dollars even in cases that would seem modest by other measures.

But the stakes in these cases go beyond money in ways that are worth acknowledging. These disputes often fracture family relationships permanently. Siblings who litigated against each other over a parent's estate rarely come out of the process with a close relationship. The stress of prolonged litigation while also grieving a loss takes a real toll. And because the person at the center of it all, the one whose wishes are being debated, is gone, there is often no resolution that feels fully satisfying even when you win.

That is not a reason to avoid litigation when it is necessary and justified. Many times litigation absolutely is necessary and justified. But the stress on relationships is a reason to go in with clear eyes about what you are signing up for, and to work with an attorney who will give you an honest assessment of your case rather than just telling you what you want to hear.

CHAPTER 2:

THE DISPUTE BEGINS

Demand Letters, Preservation of Evidence, and the Decision to File

Most trust and estate disputes do not begin with a filing in probate court. They begin with a conversation that goes badly, a letter that does not get a response, an accounting that raises more questions than it answers, or a family meeting where someone finally says out loud what others have been thinking for months. The formal legal process is usually the last step in an escalation that started much earlier.

Understanding how disputes develop in their early stages, and what you should be doing during that period, can make a significant difference in how your case unfolds later.

THE DEMAND LETTER

In many cases, the first pre-litigation step is a demand letter from an attorney. A demand letter puts the other side on notice that there is a dispute, identifies the specific concerns or allegations, and typically requests some form of action, whether that is producing documents, providing an accounting, returning assets, or stepping down as trustee.

A well-written demand letter serves several purposes. It creates a written record that the issues were raised and when. It gives the other side an opportunity to respond before litigation begins, which courts generally view favorably. It can sometimes resolve a dispute without the need for court involvement at all. And it signals to the other side that you have retained counsel and are serious about pursuing the matter.

For trustees receiving a demand letter, the worst thing you can do is ignore it. Even if you believe the allegations are unfounded, failing to respond creates a paper trail that will be used against you later. Your attorney should help you craft a response that addresses the concerns raised without making admissions that could hurt you down the road.

For beneficiaries sending a demand letter, managing expectations about what it will accomplish is important. Some trustees respond constructively. Many do not. The demand letter is rarely the end of the process, but it is an important beginning.

PRESERVATION OF EVIDENCE

From the moment a dispute becomes apparent, both sides have an obligation to preserve evidence that may be relevant to the litigation. This is not optional, and courts take it seriously. Destroying, deleting, or failing to preserve relevant documents and communications after you know or reasonably should know that litigation is likely can result in sanctions, adverse inferences at trial, or worse.

For trustees, this means preserving all records related to the trust administration, including bank statements, investment account records, correspondence with beneficiaries, records of distributions, receipts for expenses paid from the trust, and any communications about the trust assets or administration. If you use email, text messages, or any other digital communication to conduct trust business, those records need to be preserved as well.

For beneficiaries, preservation obligations apply to communications you have had with the trustee, with other beneficiaries, or with the settlor that may be relevant to your claims. If you have text messages, emails, or voicemails that bear on the dispute, do not delete them.

It is also worth thinking about what evidence exists in the hands of third parties. Bank records, medical records that bear on capacity, records held by financial advisors or accountants, communications stored in email accounts or on phones, all of these may need to be obtained through formal discovery later, but knowing they exist and taking steps to preserve your ability to get them is something to think about early.

THE ROLE OF THE TRUST DOCUMENT ITSELF

Before anyone files anything, your attorney needs to read the trust document carefully. This sounds obvious, but it is remarkable how often people come into consultations having formed strong views about their rights without having actually read the governing trust document or had it reviewed by counsel.

The trust document will tell you who the current trustee is and what the process is for replacing them. It will tell you what the trustee is and is not permitted to do without court approval. The trust document will define who the beneficiaries are and what they are entitled to receive, which is often the heart of the dispute.

It may contain a no-contest clause, which in California can have significant consequences for beneficiaries who file certain types of challenges.

No-contest clauses deserve particular attention. California has specific statutes governing when a no-contest clause can and cannot be enforced, and the rules are more nuanced than most people expect. Filing a contest that triggers enforcement of such a clause can cost a beneficiary their entire inheritance. This is an area where getting legal advice before taking any formal action is not just advisable, it is essential.

THE DECISION TO FILE

At some point, if the dispute does not resolve informally, someone has to decide whether to file in court. This is rarely an easy decision, and it should not be made without a clear-eyed assessment of several factors.

The strength of your case is the starting point. Not every grievance that feels legitimate translates into a viable legal claim. An experienced trust and estate litigation attorney should be able to tell you honestly whether the facts you have support the legal theories you are considering, what evidence you would need to prove your case, and where the weaknesses are.

The cost of litigation is a factor that cannot be ignored. Trust and estate cases can be expensive, and while there are sometimes mechanisms for recovering fees from the trust or from the other side, those outcomes are not guaranteed. We cover attorney fees in detail in the next chapter, but the financial reality of litigation needs to be part of the conversation from the beginning.

The likelihood of recovery matters too. Even a strong case may not be worth pursuing if the trust assets at stake are modest and the cost of litigation would consume most of what could be recovered. This is a difficult calculation, but it is an honest one.

The emotional cost is real. Litigation between beneficiaries, trustees, estate administrators, and heirs is not like other business disputes. Trust and estate litigation will affect your relationships, your stress levels, and in some cases your ability to function normally in other areas of your life during what may already be a period of grief. That does not mean you should not pursue a legitimate claim, but it does mean you should go in with realistic expectations.

Timing can also be critical. California has statutes of limitations that apply to trust and estate claims, and some of them are shorter than people expect. Missing a deadline can bar your claims entirely, regardless of how strong they are. If you are thinking about whether to file, the time to consult an attorney is now- not six months from now.

WHAT HAPPENS AFTER THE DECISION IS MADE

Once you and your attorney decide to move forward, the focus shifts to preparing the petition or complaint that will initiate the formal court proceeding. Before we get to that stage, though, there is a chapter that belongs here because it affects every decision you will make throughout this process.

How much is this going to cost, and who is going to pay for it?

CHAPTER 3:

FEES, COSTS, AND WHO PAYS

Attorney's Fees in California Trust and Estate Litigation

If there is one topic that surprises people more than any other when they first consult with a trust and estate litigation attorney, it is fees. Not because attorneys are reluctant to talk about them, but because the reality of how fees work in these cases is more complicated, and in some ways more interesting, than people expect.

California has a set of rules that differ meaningfully from general civil litigation, and understanding them before you are deep into a case can affect every strategic decision you make.

HOW ATTORNEYS CHARGE IN THESE CASES

Trust and estate litigation attorneys in California typically work under one of four fee arrangements, and sometimes a combination of them.

Hourly billing is probably the most common structure. The attorney charges an agreed hourly rate for time spent on the matter, and the client pays invoices as the case progresses. Rates vary by attorney, experience, firm size, and geography.

In major California markets, experienced trust and estate litigators can command rates that feel steep, and the total cost of taking a case through trial can reach into the six figures in a contested matter.

Contingency arrangements, where the attorney takes a percentage of the recovery rather than charging hourly, are less common in trust and estate litigation than in personal injury cases but they do exist, particularly in cases.

Not every attorney offers contingency arrangements in these cases, and not every case is appropriate for one, but it is worth asking about during your initial consultation if the cost of hourly billing is a concern.

Deferred payment arrangements allow a client to move forward with representation without paying fees as they accrue, and instead, payment is deferred until the client received a distribution from the estate or trust.

This can be a critical option for beneficiaries who have a strong claim but limited liquidity, particularly when significant assets are tied up in the very trust being disputed. Like contingency arrangements, deferred payment is not something every firm offers, and the specific terms vary.

At Fox Law, we offer both contingency and deferred payment options for qualifying cases because we believe that access to experienced representation should not depend entirely on whether a client can write a check today.

Hybrid arrangements combine elements of the above, perhaps a reduced hourly rate with a smaller contingency on the recovery, or partial deferral with partial hourly billing. These are negotiated case by case and can sometimes provide a middle ground that works for both the client and the attorney.

WHAT DOES TRUST AND ESTATE LITIGATION ACTUALLY COST?

Before going any further, it is worth putting some numbers on the table. The following are estimated averages based on typical California trust and estate matters. Every case has its own facts and complexities, and some cases exceed these figures by three to five times. But as a general framework for planning purposes:

Cases that resolve early, through demand, negotiation, or early settlement before significant litigation activity, typically run in the range of $15,000 to $30,000. A fully litigated trust or will contest taken through trial typically runs $150,000 to $250,000 or more. A fully litigated breach of fiduciary duty matter taken through trial typically runs $75,000 to $150,000 or more.

These numbers are not meant to discourage anyone from pursuing a legitimate claim. They are meant to give you an honest starting point for the cost-benefit analysis your attorney should be walking you through before you decide how to proceed. A trustee who misappropriated $400,000 from a trust is still worth pursuing even at the high end of those figures. A dispute over a $60,000 asset that is headed toward trial is a different conversation entirely.

WHO CAN PAY FROM THE TRUST

This is where California trust and estate litigation gets genuinely distinctive, and where the stakes of certain strategic decisions become clear.

Under California law, a trustee who is acting in good faith and is reasonably defending the trust or their own administration of it may be entitled to pay their attorney's fees from trust assets. This means that in many cases, the trustee is litigating with the beneficiaries' money. That can feel deeply unfair to beneficiaries, and sometimes it is. But it is also a reflection of the fact that trustees have a legal obligation to defend legitimate trust interests, and they should not be personally bankrupted for doing so.

The key phrase is good faith. A trustee who has clearly misappropriated assets, engaged in self-dealing, or committed other serious misconduct is not entitled to use trust funds to defend that conduct. Courts have the authority to order a trustee to repay fees taken from the trust if the court finds the trustee acted in bad faith or the defense was not warranted. Beneficiaries can and should challenge improper use of trust funds for legal fees, and doing so early can sometimes change the economics of the dispute significantly.

For beneficiaries, the general rule is that you pay your own attorney out of your own pocket unless and until the court orders otherwise. However, there are important exceptions.

California Probate Code section 17211 allows a court to award attorney's fees against a trustee personally if the trustee's opposition to a beneficiary's accounting petition was without reasonable cause and in bad faith.

This is a meaningful provision that gives beneficiaries leverage when a trustee is being unreasonably obstructive about providing information the beneficiaries are legally entitled to.

More broadly, California courts have equitable authority to award fees from the trust to a beneficiary who has conferred a substantial benefit on the trust or its beneficiaries through the litigation. If your lawsuit results in the recovery of misappropriated assets or the correction of serious misconduct that benefited everyone, there is a basis to seek fees from the trust even if you did not prevail on every claim.

THE PRIVATE AGREEMENT EXCEPTION

Sometimes the trust document itself addresses fees, either by expanding or restricting the trustee's ability to pay fees from trust assets. Read this section of your trust document carefully with your attorney. Some trusts give the trustee broad discretion. Others are more restrictive. A few have provisions that are themselves contested as part of the litigation.

NO-CONTEST CLAUSES AND FEE EXPOSURE

We introduced no-contest clauses in the last chapter, but they deserve another mention here in the context of fees. If you are a beneficiary considering a contest and the trust contains a no-contest clause, the fee analysis has to account for the possibility that losing the contest could cost you not just your attorney's fees but your entire inheritance. California law provides some protection by requiring that a contest be brought without probable cause before a no-contest clause can be enforced against the person bringing it, but that standard requires careful analysis before you file anything.

COST-BENEFIT ANALYSIS IN REAL TERMS

Here is what the fee landscape means practically. If you are a beneficiary and you are considering litigation, your attorney should help you build a realistic picture of what the case is likely to cost at each stage, what the potential recovery looks like, and how likely various outcomes are.

A case where the trust holds two million dollars in assets and the trustee has clearly misappropriated three hundred thousand dollars looks very different from a case where the trust holds four hundred thousand dollars and the dispute is over whether the trustee's investment decisions were prudent.

If you are a trustee, you need to understand from the outset whether you have a good-faith basis for using trust funds to pay your defense, what your personal exposure looks like if you lose, and whether the economics of settlement make more sense than the economics of fighting.

Neither side should go into trust and estate litigation without having this conversation explicitly and honestly with their attorney. The cases that spiral into disproportionately expensive proceedings are often the ones where nobody sat down early and did this math.

A NOTE ON STATUTORY FEES IN PROBATE

It is worth distinguishing trust and estate litigation fees from the statutory fees that apply in the probate of a will, which follow a separate schedule set by the California Probate Code and are calculated as a percentage of the gross value of the probate estate. Those rules apply to the administration of probate estates and are separate from the fee considerations in contested trust and estate litigation.

If your dispute involves both a standard probate proceeding and a litigation matter, your attorney should walk you through both fee structures and how they interact.

WHAT TO ASK YOUR ATTORNEY ABOUT FEES

Before you retain anyone and certainly before you authorize any significant litigation activity, make sure you have clear answers to the following questions.

What is the fee structure and how will I be billed? What is a realistic estimate of total fees through each stage of the case? If I am the trustee, do I have a good-faith basis to pay fees from trust assets, and what are the risks if that is later challenged? If I am a beneficiary, under what circumstances might I be able to recover my fees from the trust or from the trustee personally? What happens to the fee arrangement if the case settles early?

These are not unusual questions to ask. Any experienced trust and estate litigation attorney will have answered them many times before, and the ones worth hiring will give you straight answers.

CHAPTER 4:

PETITIONS AND PLEADINGS

How California Trust and Estate Cases Get Started in the Probate Court

Once the decision to pursue formal legal action has been made, the next step is initiating the court proceeding. In California trust and estate litigation, this almost always means filing a petition in the probate division of the Superior Court in the county where the trust is being administered or where the decedent lived at the time of death. Understanding how that process works, and what the initial filings actually accomplish, will help you follow along as your case gets underway.

PETITIONS, NOT COMPLAINTS

If you have any familiarity with civil litigation, you are used to hearing about complaints and answers as the documents that start a lawsuit and respond to it. Trust and estate litigation in California probate court works a little differently. The initiating document is typically called a petition rather than a complaint, and the procedural rules that govern how it is filed, served, and heard come from the California Probate Code rather than the Code of Civil Procedure, though the two bodies of law interact in important ways throughout the litigation.

A petition sets out the basic facts of the dispute, identifies the legal basis for the relief being requested, and asks the court to do something specific. That something specific might be ordering the trustee to provide an accounting, removing the trustee and appointing a successor, invalidating a trust amendment, surcharging the trustee for losses caused by their misconduct, or any number of other forms of relief. The petition needs to be specific enough to put the other side on notice of what is being claimed and why, but it is not a trial brief. The evidence comes later.

Some disputes, particularly those involving fraud claims or certain tort theories that arise alongside trust claims, may be filed as civil complaints in the general civil division rather than as probate petitions. In complex cases involving both trust claims and related civil claims, the question of where to file and how to coordinate the proceedings is itself a strategic decision that your attorney will need to think through carefully.

WHICH COURT AND WHY IT MATTERS

As mentioned in Chapter 1, probate courts operate county by county, and local practice varies. Beyond local rules, the assignment of your case to a particular judge can matter enormously. Some probate judges are deeply experienced in trust and estate litigation and move cases efficiently. Others have broader calendars and less familiarity with the nuances of trust and estate litigation.

Experienced counsel will know the tendencies of the judges in the relevant court and can factor that into how the case is approached and how aggressively certain positions are taken.

Venue, meaning which county has jurisdiction over the matter, is usually straightforward but can occasionally be disputed. The issue often turns on where the trustee resides, where the decedent resided, or where the assets are located. These are issues your attorney should address early.

NOTICE AND SERVICE

California probate proceedings generally require that all interested persons receive formal notice of any petition filed with the court. This is not optional, and courts take notice requirements seriously. A petition that is not properly served on all required parties can be delayed or dismissed, which wastes time and money.

Who qualifies as an interested person depends on the nature of the petition and the terms of the trust. At a minimum, it typically includes all current beneficiaries, remainder beneficiaries, the trustee, and in some cases the settlor's heirs even if they are not named beneficiaries. Your attorney will prepare a notice list and handle service, but it is worth understanding that the other side, including family members you may not have been in contact with, will be formally notified that litigation has begun.

This is one of the moments when disputes that seemed contained can suddenly widen. A beneficiary who was sitting on the fence may decide to get involved once they receive formal notice. A trustee who was slow to respond to informal demands may retain aggressive counsel once a petition lands. Managing expectations about how the other side might react to being served is part of what your attorney should be helping you think through.

THE RESPONSE

Once a petition is filed and served, the responding party has an opportunity to file a written response or objection. In probate proceedings, this document goes by different names depending on the nature of the petition, but its function is the same as an answer in civil litigation: it tells the court and the other side what is disputed, what is not, and what the responding party's legal position is.

A trustee responding to a petition challenging their administration will typically deny the material allegations, assert any applicable defenses, and in some cases file their own petition seeking affirmative relief. A beneficiary responding to a trustee's petition for approval of the trustee’s actions will typically set out their specific objections and the factual basis for them.

The pleading stage is also when certain threshold legal challenges can be raised. A demurrer, which challenges whether the petition states a legally valid claim even if everything alleged is true, can be filed in response to a petition just as in civil litigation. While demurrers are less commonly decisive in probate proceedings than in other civil cases, they are sometimes used strategically to test legal theories or narrow the issues before discovery begins.

AMENDED PETITIONS

It is common in trust and estate litigation for the initial petition to be amended as the case develops and more information comes to light. A beneficiary who files an initial petition based on what they know at the outset may amend that petition after discovery reveals additional misconduct or clarifies the nature of what occurred. California courts are generally permissive about allowing amendments, particularly early in the case, though there are limits and the other side may oppose amendments they believe are prejudicial or untimely.

This is worth keeping in mind if you are a trustee. The petition filed against you on day one is not necessarily the final version of the claims you will be defending. Discovery can and does lead to expanded or refined allegations, which is one reason why a trustee's early conduct in litigation, including how they respond to discovery requests, matters so much.

COORDINATING MULTIPLE PROCEEDINGS

Trust and estate disputes sometimes involve more than one court proceeding running simultaneously. There may be a probate proceeding to administer the decedent's estate alongside a trust litigation matter. There may be a conservatorship or guardianship that is related to the trust dispute. In some cases, a parallel civil lawsuit involving related parties or claims is pending in the general civil court.

Managing multiple proceedings requires careful coordination and clear communication between everyone on your legal team. Decisions made in one proceeding can have consequences in another, and a misstep in one forum can create problems in a different one. If your matter involves more than one active proceeding, make sure your attorney is thinking about all of them together rather than in isolation.

WHERE THINGS STAND AFTER THE PLEADINGS

By the time the petition and response have been filed, both sides have made their opening statements to the court in written form. The issues are on the table, the relevant parties have been notified, and the court has a case on its docket. From here, the process moves into the phase that will determine what evidence each side actually has to work with.

That phase is discovery, and it is where cases are often won or lost.

CHAPTER 5:

YOUR DUTIES AND RIGHTS FROM DAY ONE- EVEN BEFORE DISCOVERY

What Trustees Must Do (and Avoid), and What Beneficiaries Are Entitled to Know Before Litigation and Discovery Even Begins

Before diving into the chapter on Discovery, it is worth pausing and describing what information must be exchanged even before Discovery commences.

Litigation does not pause your obligations. Whether you are a trustee defending your administration or a beneficiary pursuing a claim, the legal rights and duties that existed before the dispute began do not go away once attorneys get involved. In fact, how each side conducts themselves during active litigation is often scrutinized just as carefully as what happened before the petition was filed. This chapter covers what the law expects from each side once a dispute is underway, and what the consequences can be for falling short.

FOR TRUSTEES: YOUR FIDUCIARY DUTIES DO NOT STOP

One of the most common mistakes trustees make once litigation begins is treating their role as somehow suspended while the case plays out. It is not. A trustee who is being sued for breach of fiduciary duty is still a fiduciary. The obligations that attach to that role under California law continue in full force throughout the litigation, and in some ways become more important because everything the trustee does from this point forward will be examined.

The **duty of loyalty** requires the trustee to administer the trust solely in the interest of the beneficiaries, not in their own interest or the interest of any third party. In the context of litigation, this means the trustee cannot use their position to disadvantage beneficiaries who are suing them, cannot redirect or withhold distributions as leverage, and cannot make decisions about trust assets that are designed to benefit themselves or harm the opposing party.

The **duty of prudence** requires the trustee to manage trust assets with the care, skill, and caution of a prudent investor. Litigation does not justify neglecting the investment portfolio, allowing real property to deteriorate, or making hasty decisions about trust assets that are themselves the subject of dispute. Courts have little patience for trustees who allow trust assets to decline in value during litigation and then claim the litigation as an excuse.

The **duty to keep beneficiaries informed** does not disappear because there is active litigation. Trustees are still required under California law to provide beneficiaries with information about the trust administration upon reasonable request, and in many cases are required to provide periodic accountings regardless of whether anyone has asked. Stonewalling beneficiaries during litigation, beyond what is legitimately protected by attorney-client privilege, tends to make things worse rather than better.

The **duty of impartiality** requires the trustee to balance the interests of different beneficiaries fairly, including current beneficiaries and remainder beneficiaries who may have competing interests. A trustee who begins favoring certain beneficiaries once litigation starts, whether by accelerating distributions to allies or withholding them from adversaries, compounds the trustee's legal exposure significantly.

WHAT TRUSTEES SHOULD AVOID DURING LITIGATION

Beyond the affirmative duties above, there are specific behaviors that trustees in active litigation should avoid, some of which seem obvious and some of which are less so.

Do not move, transfer, or liquidate trust assets without authorization and a clear legitimate purpose. Any significant transaction involving trust assets during active litigation will draw scrutiny. If there is a legitimate reason to make a change to the portfolio or sell a trust asset, document the rationale thoroughly and consult with your attorney before acting.

Do not communicate with opposing beneficiaries about the substance of the litigation outside of formal legal channels. Informal conversations, text messages, emails, and family discussions about the case can create evidence problems and may result in statements that are taken out of context or used against you. All substantive communication about the dispute should go through counsel.

Do not destroy, delete, or alter any documents or records related to the trust administration. We addressed this in Chapter 2 in the context of preservation obligations, but it bears repeating here because the temptation to clean up records once litigation begins is real and the consequences of giving in to it are severe. Courts treat spoliation of evidence extremely seriously, and a trustee who is found to have destroyed relevant records during litigation can face sanctions that go well beyond the underlying claims.

Do not make distributions that are not clearly authorized by the trust document without court approval, particularly distributions to yourself or to beneficiaries who are aligned with you in the dispute. Self-dealing transactions that occur during active litigation are examined with particular skepticism.

FOR BENEFICIARIES: WHAT YOU ARE ENTITLED TO KNOW

California law gives trust beneficiaries meaningful rights to information about the trust and its administration, and those rights exist independently of whether litigation is pending. Understanding what you are entitled to can help you build your case and hold a trustee accountable for stonewalling.

Under the California Probate Code, **trustees are required to provide beneficiaries with a copy of the trust**

document upon request. This sounds basic, but surprisingly is often violated, particularly in situations where the trustee has something to hide in the terms of the document itself.

Beneficiaries are entitled to receive a formal accounting from the trustee. An accounting is a detailed financial statement of all assets that came into the trust, all disbursements made from the trust, all transactions involving trust assets, compensation paid to the trustee, and the current value of trust assets. Accountings must be provided at least annually in most circumstances, and a beneficiary can petition the court to compel one if the trustee refuses. A trustee who is resistant to providing an accounting is often a trustee who has something to hide, and courts are not naive about that.

Beneficiaries are also entitled to information about the trust's assets, liabilities, and recent transactions upon reasonable request. The standard of what is reasonable can vary depending on the nature of the trust and the beneficiary's interest, but the general principle is that a trustee cannot keep beneficiaries in the dark about the basic financial condition and activity of the trust.

WHAT BENEFICIARIES SHOULD AVOID DURING LITIGATION

Rights come with responsibilities, and beneficiaries who conduct themselves poorly during litigation can damage their own cases in ways that are hard to repair.

Do not interfere with trust assets or trust administration. A beneficiary who takes it upon themselves to remove property from a trust-owned home, access trust accounts without authorization, or otherwise insert themselves into the administration of the trust is creating legal exposure for themselves and weakening their credibility with the court.

Do not engage in campaigns to pressure the trustee through channels outside of the legal process. Harassing communications, social media posts about the dispute, or efforts to involve third parties like the trustee's employer or business associates in the conflict look bad to a court and can be used by the other side to paint you as an unreasonable actor.

Do not ignore deadlines. Statutes of limitations in trust and estate litigation can be unforgiving, and there are also procedural deadlines within litigation itself that must be met. Failing to respond to discovery requests on time, missing hearing dates, or neglecting to file required documents can result in consequences ranging from sanctions to dismissal of claims.

Be honest with your attorney about everything. This sounds obvious, but clients sometimes withhold information from their own counsel because they are embarrassed by it or worried it will affect the attorney's view of the case. Your attorney cannot protect you from problems they do not know about. Surprises that come out during discovery or at trial are almost always more damaging than the same information disclosed to your attorney at the outset, when there is still time to address it.

THE COURT'S EXPECTATIONS OF BOTH SIDES

California probate judges handle disputes involving beneficiaries and trusts in crisis on a daily basis. They have seen every variety of trustee misconduct and every variety of beneficiary overreach. They are not easily fooled by either side, and they tend to form impressions early about which party is acting in good faith and which is not.

Courts expect trustees to administer trusts transparently, communicate with beneficiaries honestly, and litigate disputes without using their control over trust assets as a weapon.

Courts expect beneficiaries to pursue legitimate claims through proper legal channels, to respect the boundaries of their role, and to engage with the process in good faith rather than using litigation as a harassment tool.

How each side conducts themselves from the very beginning of a dispute shapes the court's perception of them throughout the entire case. Judges who handle trust and estate matters regularly develop a feel for which trustees are genuinely trying to do their jobs under difficult circumstances and which ones are using their position to enrich themselves. The judges develop an equally clear sense of which beneficiaries have real grievances and which ones are motivated primarily by spite or greed.

Earning the court's trust as a good-faith litigant is not just a nice thing to do. In a bench trial before the same judge who has watched both sides operate for months or years, it can make the difference between winning and losing.

CHAPTER 6:

DISCOVERY

How Each Side Builds Its Case Through Documents, Depositions, and Subpoenas

Turning our attention back to the discovery phase of litigation, keep in mind that if the pleadings stage is where each side states their position, then the discovery phase is where each side has to back up their positions with actual evidence.

Discovery is the formal process by which the parties to a lawsuit obtain evidence from each other and from third parties, and in trust and estate litigation it is often the most consequential phase of the entire case. What gets uncovered during discovery, and what does not, frequently determines whether a case settles, how it settles, and if it goes to trial, who wins.

Discovery in California trust and estate litigation is governed by a combination of the California Code of Civil Procedure and the Probate Code, and understanding how the two interact requires experienced counsel. The rules are detailed and the deadlines are strict, and failing to navigate them properly can mean losing access to critical evidence or being sanctioned for failing to produce your own evidence when required.

THE GOALS OF DISCOVERY

Each side enters discovery with a set of objectives. For a beneficiary challenging a trustee's administration, discovery is typically aimed at obtaining the financial records of the trust, communications between the trustee and third parties, records of transactions that appear improper, and any other documentation that either confirms or refutes the allegations in the petition. For a trustee defending their administration, discovery may be aimed at understanding the basis for the beneficiary's claims, obtaining communications that show the beneficiary's motives or prior knowledge, and identifying weaknesses in the opposing case.

In trust contest cases involving allegations of undue influence or lack of capacity, discovery takes on additional dimensions. Medical records become relevant to the question of whether the settlor had the mental capacity to execute or amend the trust. Communications between the alleged influencer and the settlor, records of who was present at estate planning meetings, the attorney-client file of the drafting attorney, and testimony from people who observed the settlor in the period around the execution of the document all become critical pieces of the puzzle.

THE MAIN DISCOVERY TOOLS

California gives litigants several tools for obtaining evidence, and experienced trust and estate litigators use all of them strategically.

Document requests, formally called demands for inspection, require the opposing party to produce documents, electronically stored information, and other tangible items that are relevant to the claims and defenses in the case. In trust litigation, this typically means bank statements, investment account records, correspondence, accounting records, trust amendments, and anything else that bears on how the trust was administered or how the disputed document was created. The scope of what is relevant can be broad, and disputes about whether particular documents must be produced are common.

Interrogatories are written questions that the opposing party must answer under oath. They are useful for pinning down basic facts, identifying witnesses, and obtaining information about the other side's contentions and the basis for them. California limits the number of interrogatories a party can serve without a court order, so they need to be drafted carefully to get the most useful information within those limits.

Requests for admission ask the opposing party to admit or deny specific factual statements or legal positions. Admissions obtained through this process are binding and can simplify the issues that need to be proved at trial. They are also useful for locking in positions that the other side might otherwise try to walk back later.

Depositions can be a powerful discovery tool in most cases. A deposition is an oral examination of a witness under oath, conducted outside of court but recorded by a court reporter and sometimes videotaped. Depositions allow attorneys to question witnesses at length, follow up on answers in real time, and pin down testimony that cannot easily be changed later.

In a trust administration dispute, depositions of the trustee are almost always taken. The trustee will be questioned in detail about every aspect of the administration, every transaction, every decision, and every communication that is at issue. For trustees, preparing thoroughly for a deposition is one of the most important things you can do to protect yourself. Inconsistent or evasive answers in a deposition create problems that are very difficult to fix.

In a trust contest case, depositions may be taken of the attorney who drafted the document, the witnesses who were present at the signing, individuals who observed the settlor in the relevant period, medical professionals, financial advisors, and anyone else with relevant knowledge. The drafting attorney's deposition is frequently one of the most significant events in a trust contest case, because that attorney's observations about the settlor's capacity and the circumstances of the execution are often central to both sides' cases.

Subpoenas allow a party to obtain documents and testimony from individuals and business or other entities who are not parties to the litigation. In trust and estate cases, subpoenas are frequently used to obtain bank records, brokerage account records, medical records, records from prior attorneys, tax returns, and records from accountants or financial advisors. Third parties can object to subpoenas, and there are rules about what can and cannot be obtained, but subpoenas are an essential tool for getting evidence the opposing party cannot or will not produce voluntarily.

ELECTRONICALLY STORED INFORMATION

Modern trust and estate litigation increasingly involves electronically stored information, or ESI, including emails, text messages, social media communications, financial software records, and documents stored in cloud services. Obtaining and producing ESI comes with its own set of rules and practical challenges.

For trustees, this means that text messages sent on a personal phone about trust business, emails sent from personal accounts, and communications conducted through any platform are potentially subject to discovery. The informal nature of a text message does not make it less discoverable. Many trustees are surprised to learn that communications they considered private are fair game if they relate to the administration of the trust.

For beneficiaries, ESI discovery cuts both ways. Your own communications, including messages to siblings, emails to financial advisors, and social media posts about the dispute or about the settlor, may be sought by the other side. Being thoughtful about what you put in writing once a dispute is anticipated is not the same as destroying evidence. It is simply recognizing that the written record you create today may be read aloud in a courtroom later.

DISCOVERY DISPUTES

Not all discovery goes smoothly. Parties frequently object to requests they consider overbroad, unduly burdensome, or seek privileged information. The attorney-client privilege protects communications between the beneficiary and their attorney, but trustees need to take extra precaution because the attorney-client privilege belongs to the office of trustee, not the individual trustee. The work product doctrine protects materials prepared in anticipation of litigation.

When a party believes a discovery request is improper, they can object and refuse to respond to the request. The requesting party can then bring a motion to compel, asking the court to order compliance.

Discovery motions add cost and time to the proceedings. Courts have broad authority to impose sanctions on parties who engage in unjustified discovery obstruction, including ordering them to pay the opposing party's attorney fees incurred in bringing the motion.

One discovery issue that arises with some frequency in trust cases is the fiduciary exception to the attorney-client privilege. Under California law, in certain circumstances a former trustee cannot assert the attorney-client privilege with respect to communications the former trustee had with their attorney during the time they were trustee. This is a nuanced area of law, but the practical implication is that communications between a trustee and their attorney about trust administration matters may be discoverable by the beneficiaries in ways that would not apply in ordinary civil litigation.

EXPERT WITNESSES

Many trust and estate cases involve expert witnesses, and retaining the right experts early is an important part of discovery strategy. Common types of experts in these cases include forensic accountants who can analyze trust financial records and identify irregularities, medical experts who can opine on the settlor's cognitive capacity at the time a document was executed or amended, handwriting experts in cases involving disputed signatures, real estate appraisers in cases where the value of trust property is at issue, and professional fiduciaries who can testify about the standard of care that a trustee is expected to meet.

Expert witnesses must be disclosed during discovery, and opposing experts can be deposed. In cases that go to trial, the battle between competing experts is often one of the central features of the proceedings. Choosing the right expert, someone with strong credentials, clear communication skills, and the ability to hold up under cross-examination, is a decision that deserves serious attention.

USING DISCOVERY STRATEGICALLY

Discovery is not just about gathering evidence. It is also about shaping the case. A well-executed discovery strategy can reveal information that leads to a much stronger settlement position, expose weaknesses in the other side's case that make trial more attractive, uncover misconduct that was not known at the outset, or alternatively, confirm that the evidence does not support the claims and that settlement on reasonable terms is the right path forward.

The attorneys who handle trust and estate litigation most effectively are the ones who enter discovery with a clear theory of the case and use every available tool to build or test that theory, rather than simply going through the motions of exchanging documents and taking depositions without a strategic framework. Discovery is expensive, and spending that money well requires knowing what you are looking for and why.

WHEN DISCOVERY IS COMPLETE

Discovery does not last forever, though it can feel that way in a complex case. Discovery cutoff dates are set by the court and must be respected. Once discovery closes, the evidence each side has is largely the evidence they will have at trial, which is why completing discovery thoroughly and on time matters so much.

As discovery winds down, both sides have a much clearer picture of where the case stands than they did at the outset. This is typically when settlement discussions become more serious, when mediation is scheduled, and when the parties and their attorneys sit down to honestly assess whether going all the way to trial makes sense. We cover that process in the next two chapters.

CHAPTER 7:

MOTIONS AND INTERIM RELIEF

Freezing Assets, Removing a Trustee, and Other Emergency Measures

Prior to heading to trial, there are potential strategies that can be employed because not every important event in trust and estate litigation happens at trial. In fact, some of the most consequential moments in these cases occur long before trial, in the form of motions that ask the court to take action while the case is still pending. Understanding what interim relief is available, when to seek it, and what the standards are for obtaining it can make a significant difference in how a case unfolds and sometimes in whether there is anything left to fight over by the time it concludes.

WHAT INTERIM RELIEF MEANS

Interim relief refers to orders that a court issues during the pendency of litigation, before a final judgment is entered. The purpose is to preserve the status quo, protect assets, or address urgent situations that cannot wait for the case to run its full course. In trust and estate litigation, where the assets at issue may be actively managed, spent, transferred, or dissipated while the case is ongoing, interim relief can be the difference between recovering a meaningful remedy and winning a judgment against an empty trust.

California courts have broad authority to issue interim orders in trust and estate matters, and probate judges are generally familiar with the circumstances that justify them. That said, obtaining interim relief is not automatic. There are legal standards that must be met, and the bar for emergency relief is high. Going to court for interim relief without a strong factual and legal basis is a good way to spend money, lose credibility with the judge, and not get what you asked for.

TEMPORARY RESTRAINING ORDERS AND PRELIMINARY INJUNCTIONS

A temporary restraining order, commonly called a TRO, is an emergency court order that can be obtained on short notice, sometimes without the other side being present. The goal of a TRO is to prevent immediate and irreparable harm. In trust and estate litigation, a TRO might be sought to prevent a trustee from transferring, liquidating, or dissipating trust assets while the petition is pending.

To obtain a TRO, the moving party generally must show there is a likelihood of success on the merits of the underlying claim, that irreparable harm will result if the order is not granted, that the balance of hardships favors granting the order, and that the public interest would not be disserved. In practice, the showing of irreparable harm is often the most important and most difficult element. A court will not freeze trust assets simply because a beneficiary is unhappy with how they are being managed. There needs to be a credible showing that specific harmful action is imminent and that money damages after the fact would not adequately remedy the harm.

A TRO is temporary by nature and is typically followed by a hearing on a preliminary injunction, which is a longer-term order that remains in effect until the case is resolved. The preliminary injunction hearing gives both sides an opportunity to present evidence and argument, and the standards are similar to those for a TRO but require a more developed factual record.

For trustees, receiving a TRO can feel like a significant blow, and in some ways it is. But it is important to understand that a TRO is not a finding that you have done anything wrong. It is a temporary measure to preserve the status quo until the court can take a closer look. Complying with the order and working with your attorney to respond effectively at the preliminary injunction stage is far more productive than reacting to a TRO with hostility or, worse, attempting to take actions the order prohibits.

PETITIONS TO REMOVE A TRUSTEE

One of the most significant forms of interim relief available in California trust litigation is a petition to remove the trustee and appoint a successor or temporary trustee while the case is pending. Trustee removal is authorized under the California Probate Code in a variety of circumstances, and courts take these petitions seriously.

Grounds for removal include breach of the trust, conduct that shows a lack of capacity to perform trustee duties, failure to act, persistent failure to follow the terms of the trust, taking actions that are hostile to the interests of the beneficiaries, and circumstances in which the trustee's removal would best serve the interests of the beneficiaries even without specific misconduct. That last ground is broader than it might appear and gives courts meaningful flexibility when a trustee's continued service is simply untenable given the conflict that has developed.

Removal petitions are not filed lightly, and they should not be. Asking a court to remove a trustee is a serious step that requires a strong factual record and a clear legal basis. Courts are aware that removal petitions are sometimes filed as pressure tactics rather than based on genuine concern about the trust assets, and judges who see through that tend to respond accordingly. A well-founded removal petition with solid evidence behind it, on the other hand, can result in a swift change that protects the trust and fundamentally alters the dynamics of the litigation.

If a trustee is removed or resigns during litigation, the court will need to address who serves as successor trustee. The trust document may designate a successor. The parties may agree on a professional fiduciary. If neither of those options is available or acceptable, the court can appoint a trustee, which is often a professional fiduciary with no connection to either side. A court-appointed neutral trustee changes the character of the dispute significantly, removing one of the central points of conflict and often accelerating settlement discussions.

COMPELLING AN ACCOUNTING

A petition to compel an accounting is one of the most commonly sought forms of interim relief in trust litigation, and it is one that courts are generally receptive to. California law gives beneficiaries a right to a trust accounting, and a trustee who has failed to provide one within a reasonable time, or who has provided one that is incomplete or misleading, can be ordered by the court to produce a proper accounting on an expedited basis.

A court-ordered accounting does several things. It puts the full financial picture of the trust before the court and the beneficiaries. It creates a formal record that can be compared against underlying financial documents. And it forces the trustee to take a position on every transaction, distribution, and expense, which can reveal discrepancies that were not previously visible. For beneficiaries who suspect misconduct but do not yet have the documentation to prove it, compelling an accounting is often one of the first and most productive steps in the litigation.

FREEZING SPECIFIC ASSETS

In some cases, the concern is not about the trust's assets generally but about a specific asset that is at risk. A piece of real property that the trustee is attempting to sell to a related party at below-market value, an investment account being liquidated without apparent justification, or a distribution to a beneficiary that appears improper can each be the subject of a targeted motion to enjoin the specific transaction.

These targeted motions can be highly effective when the facts support them because they are narrow and concrete. Rather than asking the court to freeze everything and essentially halt the trust administration, a targeted motion asks the court to stop one specific thing that appears improper. Courts find it easier to grant relief that is precisely defined and clearly tied to specific evidence of harm.

SANCTIONS AND CONTEMPT

When a party violates a court order, the consequences can go beyond the underlying merits of the case. A trustee who is subject to a restraining order and transfers assets anyway, or who is ordered to produce documents and refuses, faces the possibility of contempt of court, monetary sanctions, adverse evidentiary rulings, or in serious cases, terminating sanctions that effectively end the litigation in the other side's favor.

Sanctions short of contempt are also available for a range of conduct including discovery abuse, frivolous motions, and bad faith litigation tactics. Courts in California probate proceedings have broad discretion to impose sanctions, and they use it. A party who develops a reputation with the court for obstruction or bad faith is operating at a significant disadvantage regardless of the underlying merits of their position.

THE STRATEGIC VALUE OF INTERIM RELIEF

Beyond the immediate practical effect of any particular order, interim relief motions serve an important strategic function in trust and estate litigation. How a court rules on a motion to remove a trustee, freeze assets, or compel an accounting sends a signal about how the court views the case. A ruling in your favor on interim relief is not a final judgment, but it creates momentum and can significantly affect the other side's willingness to negotiate a reasonable settlement.

Conversely, a failed motion for interim relief, particularly one that the court views as overreaching or unsupported, can damage your credibility and embolden the other side. This is why the decision to seek interim relief should always be made in close consultation with your attorney, with a clear-eyed assessment of whether the facts and law support the relief you are seeking and whether the strategic moment is right.

THE BRIDGE TO SETTLEMENT AND TRIAL

Motions and interim relief do not exist in isolation from the rest of the case. They are part of a continuous strategic process that runs from the filing of the petition through resolution. Cases where significant interim relief has been granted often move toward settlement more quickly, because the party who lost the motion has a more realistic view of where things are headed. Cases where interim relief was sought and denied may require recalibration of strategy before proceeding.

Either way, by the time the discovery phase is wrapping up and the major interim motions have been decided, both sides have a clearer picture of the landscape than they did at the beginning. That clarity is what makes the next phase of the case possible and in many cases, preferable to going all the way to trial. That next phase is mediation.

CHAPTER 8:

MEDIATION AND SETTLEMENT

Why Most Cases Settle, How the Process Works, and When to Walk Away

If you have made it through discovery, survived the motion practice, and are now approaching the question of whether to settle or go to trial, you are at one of the most important decision points in the entire litigation. The vast majority of trust and estate cases in California resolve before trial, and most of them resolve through mediation.

Understanding what mediation is, how it works in the context of trust and estate disputes, and how to approach it strategically will help you make the most of the process and recognize when settlement is the right answer and when it is not.

WHY MOST CASES SETTLE

The statistics on civil litigation settlement rates are well known, and trust and estate cases are no exception to the general pattern. The reasons cases settle are not mysterious. Trial is expensive, time-consuming, and unpredictable. Even a strong case can be lost at trial due to factors that have nothing to do with the merits, an unfavorable evidentiary ruling, a witness who underperforms, a judge who views the facts differently than anticipated. Settlement offers both sides a degree of certainty that trial cannot.

In trust and estate cases specifically, there are additional reasons why settlement is often the right outcome. These disputes involve families, and the relationships that exist between the parties, however damaged by the time litigation reaches the mediation stage, are often ones that the parties themselves would prefer to preserve if possible. A negotiated resolution can be crafted to address the specific concerns of each side in ways that a court judgment cannot. A judge can award money or order a trustee removed, but a judge cannot craft the kind of nuanced, relationship-sensitive resolution that skilled mediating parties can reach on their own.

There is also the matter of privacy. Trials are public proceedings. The financial details of the trust, the family history that underlies the dispute, the allegations of misconduct, all of it becomes part of the public record when a case goes to trial. Mediation is confidential. What is said in mediation stays in mediation, and the terms of any settlement reached can be kept private. For families who have significant assets or simply do not want their private affairs aired in a courtroom, that confidentiality is a meaningful benefit.

WHEN MEDIATION HAPPENS

Mediation can happen at any point in a trust and estate dispute, from very early in the process before significant litigation activity has occurred to the eve of trial after years of contested proceedings. In practice, mediation tends to be most productive after discovery has concluded, because at that point both sides have a realistic picture of the evidence and the risks. Early mediation before either side knows what the evidence shows can result in positions that are unrealistic or poorly informed.

Some trust documents require mediation before litigation can be initiated, and some courts in California have mandatory mediation programs for certain types of trust and estate disputes. Even where mediation is not required, most experienced trust and estate litigators will recommend it at the appropriate stage of the case because the odds of resolution are high and the cost of a failed mediation is relatively modest compared to the cost of a trial.

HOW MEDIATION WORKS

Mediation in California trust and estate cases typically involves a neutral third party, the mediator, who facilitates settlement discussions between the parties. The mediator is not a judge and does not decide anything. Their role is to help the parties communicate, identify the real interests underlying their stated positions, reality-test the strengths and weaknesses of each side's case, and find a path to resolution that both sides can accept.

Selecting the right mediator matters more than many people realize. In trust and estate cases, mediators who have substantial experience with the specific legal and emotional dynamics of these disputes are far more effective than generalist mediators who handle all types of civil cases. An experienced trust and estate mediator understands fiduciary duty law, knows how probate judges tend to rule on common issues, and has the credibility to deliver difficult messages to both sides in a way they will actually hear. Your attorney should have a view on which mediators have strong track records in the relevant county and for the specific type of dispute you are involved in.

The mediation itself sometimes begins with a joint session in which both sides and their attorneys are present and the mediator takes the opportunity to speak about the mediation process and goals in general. After the joint session, the mediator usually separates the parties into different rooms and conducts what are called caucuses, meeting privately with each side to explore their positions, their interests, and their bottom lines in a candid way that would not be possible in a joint setting.

The caucus process is where most of the real work happens. A skilled mediator will use the private sessions to help each side see their case more realistically, understand what the other side actually needs to resolve the dispute, and identify creative solutions that may not have been apparent when the parties were only communicating through attorneys and court filings.

Mediations in complex trust cases often last a full day or longer, and it is not uncommon for the most significant movement toward settlement to happen late in the day when everyone is tired and the reality of trial is feeling more concrete.

PREPARING FOR MEDIATION

Preparation for mediation is as important as preparation for any other major event in the litigation, and it is something that many clients underestimate. Going into mediation without a clear sense of your goals, your priorities, and your realistic assessment of the case is a recipe for either walking away from a deal you should have taken or accepting one that does not serve your interests.

Before mediation, your attorney will typically prepare a mediation brief, a document submitted to the mediator in advance that sets out your view of the facts, the law, the strengths of your case, and the outcome you are seeking. Often, the attorneys will exchange briefs with the other side, though the briefs can also be submitted confidentially to the mediator.

Beyond the brief, you should have a frank conversation with your attorney about what you actually want out of the mediation. What is your best-case scenario? What is the minimum resolution you could accept and still feel that the litigation was worth it? What are the things that matter most to you that might not be captured in a simple dollar figure, things like an apology, a change in trustee, specific treatment of a particular asset, or a structured payout over time? The more clearly you can articulate your real interests, as opposed to your stated legal positions, the better positioned you are to reach a resolution that actually satisfies you.

You should also have a clear-eyed conversation about the risks of not settling. Your attorney should be able to give you an honest assessment of the realistic range of outcomes at trial, including the possibility of losing, the cost of getting there, and what a loss would mean for you. Mediation is most effective when both sides go in with a realistic view of their alternatives, not an optimistic one.

THE ROLE OF EMOTIONS IN MEDIATION

Trust and estate disputes are emotionally charged in ways that most civil litigation is not. The person at the center of the dispute is dead. The parties are often grieving. The relationships at stake are often family ones. The allegations frequently involve not just legal wrongs but personal betrayals. Acknowledging that emotional reality, rather than pretending mediation is a purely rational exercise, is important for both sides.

Experienced mediators in trust and estate cases know how to work with the emotional dimensions of these disputes. Sometimes the most important thing that happens in a mediation has nothing to do with money. A trustee who acknowledges that their communication with the beneficiaries was poor, even without admitting legal liability, can change the entire dynamic of a mediation. A beneficiary who gets to say what they actually feel about how their parent's estate was handled, with someone actually listening, sometimes finds that the settlement number they need to feel whole is different from what they came in demanding.

This does not mean that mediation is therapy. It is not. But the best mediators understand that in trust and estate disputes, the path to settlement often runs through the emotional reality of the situation rather than around it.

WHEN SETTLEMENT DOES NOT MAKE SENSE

Mediation does not always result in settlement, and sometimes that is the right outcome. There are cases where the gap between the parties is simply too large to bridge, where one side is acting in bad faith and using mediation as a delay tactic, or where the principle at stake is important enough that a court ruling is genuinely preferable to a negotiated compromise.

There are also cases where the trustee has engaged in serious misconduct that needs to be addressed by a court rather than papered over in a confidential settlement. A beneficiary who settles a case involving significant elder financial abuse, for example, may obtain compensation for themselves while allowing a predator to move on to the next victim without any public accountability. Whether that concern should affect your settlement decision is something to discuss with your attorney, but it is worth raising.

The decision to walk away from mediation and proceed to trial should be made deliberately and with full knowledge of what trial entails. If you reach that point, the next chapter is for you.

CHAPTER 9:

TRIAL IN PROBATE COURT

What to Expect When Your Case Goes Before a Judge

If your case has reached the trial stage, you are in a small minority of trust and estate litigants. Most cases settle before getting here, and the ones that do not have usually been through years of discovery, motion practice, and at least one serious attempt at mediation. By the time a trust and estate case goes to trial in California, both sides have spent significant money, both sides believe they have a reasonable chance of winning, and both sides are about to find out which of them was right.

Trial is not the dramatic event that television makes it out to be, but it is consequential. Understanding what actually happens during a probate court trial, how decisions get made, and how to conduct yourself throughout the process will help you engage more effectively with your attorney and manage your expectations about what the experience will be like.

BENCH TRIAL, NOT JURY TRIAL

The first thing to understand about trust and estate trials in California is that they are almost always bench trials, meaning the case is decided by a judge rather than a jury. There are limited circumstances in which a jury trial right may attach to certain claims in a trust or estate case, particularly where fraud or other tort claims have been joined with the trust claims, but the default in probate court proceedings is a judge sitting alone as the finder of fact.

This matters in several ways. Judges are lawyers. They are not going to be swayed by the kind of emotional appeals that sometimes work with juries. They have read the briefs, they understand the legal framework, and they are focused on the evidence and how it maps onto the applicable legal standards. That does not mean presentation does not matter. A judge is still a human being who forms impressions about credibility and character. But the approach to a bench trial is different from the approach to a jury trial, and your attorney's experience trying cases before probate judges specifically is a meaningful factor in how effectively your case gets presented.

Bench trials also tend to move faster than jury trials. There is no jury selection process, no need to explain legal concepts in lay terms, and judges are generally more efficient at managing the flow of evidence and testimony. A trust and estate case that might take three weeks before a jury can sometimes be tried in a week or less before a judge, though complex multi-party cases can still take considerably longer.

TRIAL PREPARATION

The work that goes into preparing a trust and estate case for trial is substantial, and it begins well before the trial date. Your attorney will be working on several fronts simultaneously in the weeks and months leading up to trial.

Trial briefs are written submissions to the court that set out each side's legal theories, the evidence they intend to present, and the legal authority supporting their position. A well-written trial brief in a trust and estate case is a serious piece of legal work that synthesizes the facts developed in discovery with the applicable provisions of the Probate Code, relevant case law, and the specific language of the trust document. Judges in bench trials read these briefs carefully, and a persuasive trial brief can shape how the judge approaches the evidence from the very beginning.

Witness lists and exhibit lists must be prepared and exchanged with the other side before trial. Every witness your attorney intends to call must be identified, and every document your attorney intends to introduce into evidence must be listed and in most cases provided to the opposing party in advance. Surprises at trial are largely a thing of the past in California civil litigation, which is by design. The rules of discovery and pretrial disclosure are intended to ensure that both sides go into trial knowing what evidence they will face.

Motions in limine are pretrial motions that ask the court to rule in advance on whether certain evidence should be admitted or excluded at trial. These motions can be critically important in trust and estate cases. A motion to exclude evidence of the settlor's prior estate plans, to limit the scope of an expert's testimony, or to prevent the other side from introducing inflammatory but legally irrelevant evidence can significantly shape the landscape of the trial before the first witness takes the stand. How the judge rules on motions in limine sometimes tells experienced litigators a great deal about how the judge is thinking about the case.

Witness preparation is one of the most important parts of getting ready for trial, and it is one that clients sometimes resist or underestimate. Being a witness at trial, even in your own case, is not a natural experience. The rules of evidence, the formality of the courtroom, the presence of opposing counsel who is specifically trying to undermine your credibility, and the pressure of knowing that everything you say is being recorded and will affect the outcome of the case create a set of conditions that most people have never experienced.

Your attorney should spend significant time preparing you to testify, not to coach you on what to say, but to help you understand how to present your honest account of events clearly and effectively under cross-examination.

THE ORDER OF TRIAL

California probate trials follow a generally predictable structure, though the specific procedures can vary by judge and by the nature of the case.

The trial typically begins with Opening Statements by both sides. Opening statements give each side an opportunity to tell the judge what the evidence will show before any evidence is offered. In a bench trial, opening statements tend to be more focused and legally precise than in jury trials. The judge already knows the legal framework from the trial briefs, so opening statements are primarily an opportunity to lay out the narrative of the case and preview the key evidence.

The petitioner, the party who initiated the proceeding, presents their case first. This means calling witnesses, questioning them on direct examination, and introducing documentary evidence. The opposing party then has the opportunity to cross-examine each witness, probing for inconsistencies, testing the basis for their opinions, and in some cases directly attacking their credibility.

In trust and estate cases, the witnesses who testify at trial are often a mix of fact witnesses and expert witnesses. **Fact witnesses** include the trustee, beneficiaries, family members, financial advisors, accountants, and anyone else with direct knowledge of relevant events. **Expert witnesses**, as discussed in the discovery chapter, might include forensic accountants, medical experts on capacity issues, professional fiduciaries testifying about the standard of care, or handwriting experts in cases involving disputed documents.

Cross-examination in trust and estate trials can be intense. A trustee who is being cross-examined about financial transactions they cannot adequately explain, or a beneficiary whose motivations are being probed by opposing counsel, can find the experience genuinely difficult. Preparing for cross-examination means not just knowing your story but understanding where your story has weaknesses and how opposing counsel is likely to exploit them.

After the petitioner rests, the responding party presents their case, with the same process of direct examination and cross-examination. In some cases, the petitioner may then present rebuttal evidence to address specific points raised by the respondent's witnesses.

Closing arguments give each side an opportunity to synthesize the evidence that has been presented and argue to the judge why the evidence supports a ruling in their favor. In a bench trial, closing arguments are often highly technical, focusing on how the specific evidence maps onto the legal elements of each claim and defense. Some judges prefer written closing briefs rather than oral argument, which is another way in which probate bench trials differ from what people picture when they imagine a courtroom proceeding.

THE JUDGE'S DECISION

After closing arguments, the judge takes the matter under submission, meaning they will consider the evidence and issue a written ruling. In a simple case, a ruling might come relatively quickly. In a complex multi-claim case, it is not unusual for a judge to take weeks or even months to issue a decision. Waiting for a ruling after a trial is one of the more stressful parts of the experience for clients, and there is genuinely nothing to do during that period except wait.

The judge's ruling will address each of the claims and defenses that were properly before the court. In a breach of fiduciary duty case, the ruling will determine whether the trustee breached their duties and if so what the damages are. In a trust contest, the ruling will determine whether the challenged document is valid or invalid. In a surcharge petition, the ruling will determine whether the trustee is personally liable for losses and in what amount.

Judges in California probate proceedings are required to issue a statement of decision if either party requests one, which sets out the factual and legal basis for the ruling. A statement of decision is important because it creates the record for any appeal and makes clear exactly what the judge found and why. Your attorney should discuss with you the advisability of requesting a statement of decision.

CREDIBILITY AND DEMEANOR

In a bench trial before a probate judge, credibility is everything. Judges who handle these cases regularly have well-developed instincts for when witnesses are being evasive, when testimony has been rehearsed beyond the point of authenticity, and when a party is more interested in winning than in telling the truth. The witnesses who come across best in trust and estate trials are almost always the ones who are straightforward, who acknowledge what they do not know, who do not overreach in their testimony, and who maintain their composure under cross-examination without becoming defensive or combative.

For trustees, this means being able to explain every significant decision you made as trustee in a way that reflects genuine care for the beneficiaries and fidelity to the terms of the trust, even if the outcomes were not perfect. For beneficiaries, it means presenting your concerns about the administration clearly and factually, without allowing the emotional weight of the situation to tip over into conduct that makes you look unreasonable or vindictive.

The judge is watching both sides throughout the trial, not just when witnesses are on the stand. How attorneys and clients conduct themselves during the other side's witnesses, how they react to adverse rulings on evidentiary objections, and how they treat court staff and opposing counsel all contribute to the overall impression that the judge forms of each party. Professionalism and composure are not just virtues in the abstract. In a bench trial, they are strategic assets.

WHEN THE TRIAL ENDS

The conclusion of trial does not necessarily mean the conclusion of the case. A ruling in your favor needs to be enforced. A ruling against you may be subject to appeal. The practical consequences of the judgment need to be implemented, whether that means distributing assets, removing a trustee, reforming a trust document, or collecting a surcharge award from a trustee who is now personally liable.

All of those post-trial issues are addressed in the next chapter.

CHAPTER 10:

AFTER THE VERDICT

Appeals, Enforcement, and Moving Forward

Winning at trial feels like the finish line. In many ways it is. But the period after a verdict in a trust and estate case can involve significant legal work, and understanding what comes next will help you avoid the mistake of thinking the case is fully resolved the moment the judge issues a ruling. Similarly, if the ruling went against you, understanding your options and their realistic prospects is essential before making any decisions about next steps.

THE PERIOD BETWEEN RULING AND JUDGMENT

In California probate proceedings, there is often a gap between the judge's ruling and the entry of a formal judgment or order. During this period, the parties may be required to prepare a proposed order or judgment for the court's signature, which can itself become a point of contention if the parties disagree about how the ruling should be reflected in the formal document.

Your attorney should be actively involved in this process to make sure the written order accurately captures what the court actually decided and does not inadvertently narrow or expand the scope of the ruling in ways that affect your rights.

If you requested a statement of decision, as discussed in the previous chapter, the process of finalizing that document adds another step before the judgment becomes final. Either party can object to a proposed statement of decision on the grounds that it fails to address a material issue or misstates the court's findings, and the court must resolve those objections before the statement becomes final.

APPEALS IN TRUST AND ESTATE CASES

California law provides the right to appeal most final orders and judgments in probate proceedings to the Court of Appeal. An appeal is not a new trial. It is a review of the record from the trial court to determine whether the judge made a legal error significant enough to warrant reversing or modifying the judgment. The Court of Appeal does not hear new evidence, does not re-evaluate witness credibility, and does not second-guess factual findings that are supported by substantial evidence in the record. What it does review is whether the trial court applied the correct legal standards, interpreted the law correctly, and followed proper procedures.

This is an important distinction that many people miss. If you lost at trial because the judge did not believe your key witness, that is generally not a basis for a successful appeal. The Court of Appeal defers to the trial judge's credibility determinations because the trial judge actually observed the witnesses. If you lost because the judge applied the wrong legal standard to an undue influence claim, or excluded evidence that should have been admitted under the applicable rules, those are the kinds of errors that appellate courts are designed to address.

The timeline for an appeal in California is long. Notices of appeal must be filed within strict deadlines, typically sixty days from the date the judgment is served, and missing that deadline means losing the right to appeal entirely regardless of the merits. After the notice is filed, the parties must prepare the appellate record, which involves compiling the trial court transcripts and exhibits, and then briefing the legal issues, which involves the appellant filing an opening brief, the respondent filing a responding brief, and the appellant filing a reply. From the filing of the notice of appeal to a decision from the Court of Appeal routinely takes two years or more in California, sometimes significantly longer in complex cases.

Appeals are also expensive. Preparing the appellate record, researching and writing the briefs, and in some cases presenting oral argument involves substantial attorney time. Before deciding to appeal, you need to have an honest conversation with your attorney about the realistic prospects of success, the cost of pursuing it, and what you actually gain if you win. Winning an appeal typically means the case gets sent back to the trial court for further proceedings consistent with the appellate court's ruling, which means more litigation, more cost, and more time before there is a final resolution.

That said, there are cases where an appeal is absolutely the right decision. If the trial court made a clear legal error on a significant issue, if the judgment is based on a misapplication of the law that would affect not just this case but future cases involving similar issues, or if the stakes are high enough that the cost and time of an appeal are justified, pursuing an appeal can be the right path. An experienced appellate attorney, who may or may not be the same person who handled the trial, should evaluate the record before you commit to that course.

ENFORCING THE JUDGMENT

Winning a judgment is one thing. Collecting on it is another, and this distinction is particularly relevant in trust and estate cases where a trustee has been found personally liable for a surcharge.

If the judgment requires a trustee to pay money from trust assets, enforcement is typically more straightforward because the trust assets themselves are the source of payment and are subject to court supervision.

If the judgment requires a trustee to pay personally, meaning from their own funds rather than from the trust, collection can be significantly more complicated. A trustee who does not voluntarily comply with a personal surcharge judgment may need to be pursued through the standard civil judgment enforcement mechanisms, including liens on real property, levies on bank accounts, and in some cases examination proceedings to identify assets.

Courts retain jurisdiction over trust proceedings even after judgment, which gives the probate court ongoing authority to enforce its orders and address violations. A trustee who is ordered to account, to transfer assets, or to take specific actions and who fails to comply is subject to contempt proceedings, additional sanctions, and in serious cases personal liability for the consequences of their noncompliance.

The court's continuing jurisdiction is one of the features of probate proceedings that distinguishes them from ordinary civil litigation and gives beneficiaries meaningful tools for enforcement that go beyond what is available in a standard civil case.

REMOVING AND REPLACING A TRUSTEE AFTER JUDGMENT

If the judgment includes an order removing the trustee, the mechanics of transitioning the trust administration to a successor need to be carefully managed. The outgoing trustee is required to cooperate with the transition, transfer all trust assets and records to the successor, and provide a final accounting of their administration. In practice, the degree of cooperation from a removed trustee varies widely, and courts sometimes need to be involved in supervising the transition to ensure that assets are properly transferred and records are complete.

Choosing the right successor trustee after contested litigation requires careful thought. If the trust document designates a successor, that designation controls unless there is a reason to depart from it. If no successor is designated or the designated successor is not appropriate given the circumstances, the parties may agree on a professional fiduciary, or the court may appoint one. A professional fiduciary stepping in after contentious litigation can bring a degree of neutrality and professionalism that helps stabilize the administration and allows the trust to move forward without the conflict that defined the previous chapter of its history.

TAX CONSEQUENCES OF SETTLEMENTS AND JUDGMENTS

Trust and estate litigation can have tax consequences that are easy to overlook in the heat of the proceedings but that matter significantly to the parties involved. The tax treatment of a settlement or judgment depends on the nature of the claims, the structure of the payment, and other factors that require analysis by a qualified tax professional.

In general, amounts received in compensation for breach of fiduciary duty that represent a return of assets that should have been in the trust all along are treated differently from punitive damages or amounts characterized as income. The characterization of a settlement payment can affect whether it is subject to income tax, estate tax, or gift tax, and getting the structure wrong can result in a meaningful portion of the recovery being consumed by taxes that could have been avoided with proper planning.

Before finalizing any settlement or accepting any judgment, your attorney should coordinate with a tax advisor to make sure you understand the tax implications and that the transaction is structured in a way that minimizes unnecessary tax exposure. This is an area where a relatively small investment of time and professional fees at the conclusion of the case can make a significant difference in the net outcome.

WHEN THE TRUST STILL NEEDS TO BE ADMINISTERED

Litigation, even when it runs its full course through trial and appeal, does not necessarily mean the trust is over. In many cases, after the legal disputes are resolved, there is still a trust to administer, beneficiaries to serve, and distributions to make. The trust that emerges from litigation may look different from the one that entered it. Assets may have been recovered or lost. A new trustee may be in place. The terms of the trust may have been clarified or reformed by court order. But the underlying purpose of the trust, providing for its beneficiaries according to the settlor's intent, continues.

For beneficiaries who fought hard to correct misconduct or invalidate a document they believed did not reflect their loved one's true wishes, seeing the trust administered properly going forward can be a meaningful form of vindication even when the litigation itself was painful.

For trustees who successfully defended their administration, the conclusion of litigation is an opportunity to reset the relationship with beneficiaries on a clearer and more transparent footing.

MOVING FORWARD

There is no clean ending to most trust and estate disputes. Even when the legal proceedings conclude, the relationships that were strained or broken by the litigation do not automatically repair themselves. The grief that was complicated by conflict does not resolve the moment the judgment is signed. People carry what happened with them, and that is true whether they won or lost.

What changes is that the uncertainty is over. You know where you stand. You know what the trust holds, who administers it, what you are entitled to, and what the rules are going forward. After months or years of litigation, that clarity itself has value, even when the outcome was not everything you hoped for.

The work of moving forward, rebuilding relationships where that is possible, accepting outcomes that cannot be changed, and focusing on what comes next, is work that happens outside of the courtroom. The legal system can resolve disputes and enforce rights. It cannot heal families. That part is up to the people involved.

CONCLUSION:

What Every Trustee and Beneficiary Should Do Right Now

If you have read this far, you have a clearer picture of California trust and estate litigation than the vast majority of people who find themselves in the middle of it. You understand the court, the players, the process, and the stakes. You know what discovery looks like, what interim relief can accomplish, why most cases settle in mediation, and what trial actually involves. You know that fees are real, that timing matters, and that how you conduct yourself throughout the process affects your credibility with the court in ways that can determine the outcome.

Knowledge is useful. But knowledge without action does not resolve a dispute, protect assets, enforce your rights, or defend your administration of a trust. At some point, understanding the landscape has to translate into doing something about it.

So here is what we recommend, regardless of which side of a trust or estate dispute you are on.

If you are a trustee who has received a demand letter, been served with a petition, or simply become aware that beneficiaries are questioning your administration, do not wait. The instinct to hope the situation resolves itself or to try to handle it informally without legal counsel is understandable, but it is almost always the wrong call. Early mistakes in trust litigation, things said in informal communications, records not preserved, actions taken with trust assets without proper documentation, are the kinds of mistakes that are very difficult to undo later. Get experienced counsel involved early, understand your obligations, and make sure everything you do from this point forward is defensible.

If you are a beneficiary who believes something is wrong, whether that is a trust amendment that appeared out of nowhere, a trustee who will not communicate or account for their actions, assets that seem to have gone missing, or simply a situation that does not feel right, trust that instinct enough to have it evaluated by someone who knows this area of law. Not every concern becomes a viable legal claim, but you cannot know whether yours does until someone with the right expertise looks at the facts. And if your concern is legitimate, the statute of limitations clock may already be running.

If you are somewhere in the middle, not yet in active litigation but feeling the early tremors of a dispute, this is actually the best time to get advice. Decisions made before a dispute becomes formal litigation, about what to put in writing, what records to preserve, whether to send a demand letter, whether to respond to one, and how to approach the other side, can shape everything that comes after. An attorney who helps you navigate those early decisions well can sometimes prevent a dispute from escalating at all, or at minimum position you far more effectively for what follows.

Whatever your situation, the most important thing you can do right now is get informed counsel from an attorney who focuses on California trust and estate litigation specifically. This is not an area where general practice experience is a substitute for specialized knowledge. The Probate Code is detailed, the local practice varies by county, and the strategic decisions that arise at every stage of these cases require experience with the specific dynamics of trust and estate disputes.

At Fox Law, we represent both trustees and beneficiaries in California trust and estate litigation. We understand that these cases are not just legal disputes. They involve loved ones, grief complicated by conflict, and questions about what someone you loved actually wanted for the people they left behind. We take that seriously, and we bring the same level of preparation, strategic thinking, and honest counsel to every case we handle regardless of its size.

We offer a no-cost initial consultation because we believe you should be able to have a real conversation about your situation with an experienced attorney before making any decisions about how to proceed. No obligation, no pressure, just an honest assessment of where you stand and what your options are.

Please Note: Requesting a consultation does not guarantee Fox Law will be able to take your case. We accept a limited number of matters and do not have the ability to take on every case brought to us. Submitting a request is the first step; our team will review your situation and reach out if we believe we may be able to help.

If anything in this guide has resonated with your situation, we would like to hear from you. **Contact Fox Law today to schedule your no-cost initial consultation.** The sooner you understand your options, the better positioned you will be to protect what matters.

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