

2026: NEVADA TRUST LAW UPDATE

Alan D. Freer, Esq.
May 5, 2026



NEVADA LAW UPDATE

- Nevada Supreme Court Opinions
- Nevada Court of Appeal Opinions
- Federal Court Opinions
- Practice Pointers
- Developing Issues

NEVADA SUPREME COURT CASES

- ***New York Times Company v. Second Judicial District Court in and for County of Washoe***, 141 Nev. Adv. Op. 71, 581 P.3d 427 (2025).
- ***Matter of Richard H. Goldstein Irrevocable Trust***, 141 Nev. Adv. Op. 41, 575 P.3d 72 (2025)
- ***Carlson v. Nevada Trust Company as Trustee of GDC Investment Trust, Dated December 23, 2011***, 563 P.3d 774 (Nev. 2025) (unpublished)
- ***In re: Jordan Dana Frasier Family Trust***, 564 P.3d 44 (Nev. 2025) (unpublished)

NEW YORK TIMES CO. V. SECOND JUDICIAL DIST. CT.

141 NEV. ADV. OP. 71, 581 P.3D 427 (2025)

- **Factual Overview:** In a high-profile Trust dispute involving high profile family, probate court utilized Nevada's trust confidentiality statutes (NRS 164.041 and NRS 669A.256) to permanently seal all court records and close all proceedings to the public. Media coalition challenged the order.
- **District Court Ruling:** Sealed all records and closed proceedings, reasoning: (1) 1st Amendment right of access does not extend to trust proceedings; and (2) statutory protections and parties' heightened privacy and security concerns due to public profiles constituted compelling interest justifying sealing and closure.
- **Ruling on Appeal:** Nevada Supreme Court granted writ, emphasizing public access: "The district court erred by interpreting and applying the governing statutes, NRS 164.041 and NRS 669A.256, in a way that is much more restrictive of public access than those statutes contemplate and disregards established principles of openness of court proceedings."

NEW YORK TIMES CO. V. SECOND JUDICIAL DIST. CT.

141 NEV. ADV. OP. 71, 581 P.3D 427 (2025)

- **Key Legal Issues:** As matter of first impression:
 - NRS 164.041 and 669A.256 create only a provisional right to seal— “party seeking to keep those documents sealed must subsequently make a showing to support maintaining the records under seal”;
 - The statutes do not eliminate district court's discretion to order redaction as less-restrictive alternative: “The district court must promptly exercise its discretion to determine whether provisionally sealed records should remain sealed, be unsealed, or be redacted”;
 - Public's common law right of access to judicial records is not de minimis and cannot be overridden by generalized concerns;
 - District court must make specific, factual findings supporting any sealing order, showing that significant interest in confidentiality outweighs public access and that sealing is necessary rather than redaction;
 - Parties' identities and the very existence of a trust case should never remain hidden absent a demonstrated compelling need; and
 - Neither statute authorizes a district court to close hearings to the public—only sealing of written filings is addressed by the statutes.

TRUST ADMINISTRATION: when “simple distribution” becomes a 47-email thread.

FIDUCIARY DUTY:
Not just a phrase.
A responsibility.

- TRUST AGREEMENT
- AMENDMENTS
- BENEFICIARY COMMUNICATIONS
- TAX CONSIDERATIONS
- FIDUCIARY DUTY
- INVESTMENT REPORTS
- LEGAL ANALYSIS
- STATE LAW ISSUES
- ACCOUNTING

“SIMPLE DISTRIBUTION”
↓
RIGHT?

TRUSTEE
CAUTIOUS. THOROUGH. OVER-EMAILER.

- TO DO (JUST FOR “ONE” DISTRIBUTION):
- Review docs
 - Confirm intent
 - Check tax impact
 - Get consents
 - Notify everyone
 - Double check
 - Reply... *all?*

STILL WAITING ON REPLY...

IN TRUST WE HOPE.
IN DOCUMENTS WE VERIFY.

TRUSTEE:
CAFFEINE
FUELS
FIDUCIARY
DUTY

RE: Proposed Distribution 47 messages

Trustee (You)	9:02 AM	Please see proposed distribution for review.
Beneficiary A	9:15 AM	I have a question about the amount. Reply
Advisor	9:27 AM	Here are some things to consider. Reply
CPA	9:41 AM	A few tax notes to keep in mind. Reply
Attorney	10:03 AM	Let's confirm interpretation of Section 5.2. Reply
Trust Company	10:22 AM	Can you clarify the source of funds? Reply
Beneficiary B	10:45 AM	Following up on my question. Reply
Advisor	11:02 AM	Adding another thought... Reply
Attorney	11:38 AM	One more consideration. Reply
Trust Company	12:05 PM	Just circling back... Reply
... 37 more replies...		4:17 PM Reply All

CC: EVERYONE

QUESTION ANSWERED 3 TIMES

STILL NOT FINAL

MATTER OF RICHARD H. GOLDSTEIN IRREV. TRUST, 141 NEV. ADV. OP. 41, 575 P.3D 72 (2025)

- **Factual Overview:** Sole lifetime beneficiary of out-of-state trust petitioned NV court to assume jurisdiction and construe no-contest clause.
- **District Court Ruling:** Dismissed for lack of personal jurisdiction over the nonresident trustee.
- **Ruling on Appeal:** Affirmed by the Nevada Supreme Court.
- **Key Legal Issues:** Personal jurisdiction over nonresident trustees.
 - Court cannot exercise personal jurisdiction over non-resident corporate trustee of out-of-state trust due to lack of minimum contacts.
 - Custodial trustee is a necessary and indispensable party to the proceedings because, as the real party in interest, it is responsible for interpreting and implementing trust provisions: “In effect, the trustee represents the trust in litigation as the real party in interest”;

MATTER OF RICHARD H. GOLDSTEIN IRREV. TRUST, 141 NEV. ADV. OP. 41, 575 P.3D 72 (2025)

- **Key Legal Issues (cont'd.):**

- Statutory grant of in rem jurisdiction under NRS 164.010 did not—and constitutionally cannot—displace the minimum contacts analysis required by the Due Process Clause: “in rem jurisdiction over property and personal jurisdiction over a necessary party are two different issues to be satisfied before the court may assert jurisdiction”;
 - Trustee did not consent to Nevada's personal jurisdiction merely by maintaining a registered agent in the state, since NRS 77.440 expressly provides that maintaining a registered agent “does not by itself create the basis for personal jurisdiction”;
 - because the beneficiary failed to show that his petition arose out of the trustee's purposeful contacts with Nevada, specific personal jurisdiction was lacking and dismissal was proper.
 - “We recognize that the presence of trust property, documents, and beneficiaries in Nevada may satisfy due process requirements under certain circumstances”
- **Takeaway:** Nevada courts require minimum contacts for jurisdiction over out-of-state trustees.

Trustee neutrality, *upsetting everyone equally.*

FIDUCIARY DUTY

LOYALTY
IMPARTIALITY
PRUDENCE

You're favoring them!

That's not fair!

You're not listening to us!

You're too conservative!

You never do enough!

This is unacceptable!



CARLSON V. NEVADA TRUST CO.

563 P.3D 774 (NEV. 2025) (UNPUBLISHED)

- **Factual Overview:** Grantor was served by mail with trust petitions filed by trustees. District court held a hearing, consolidated the matters, and entered an order granting the petitions—all without Carlson's appearance. Carlson filed an NRCP 60(b) motion nearly six months later.
- **District Court Ruling:** Denied motion as untimely.
- **Ruling on Appeal:** Affirmed by the Nevada Supreme Court.
- **Key Legal Issues:**
 - NRCP 60(b) Relief: District court did not abuse discretion by holding motion untimely despite being filed within 6-month period since admitted in a declaration that she received the petitions months earlier but did not do anything with them, and her counsel contacted trust counsel several months before the filing of the 60(b) motion.
 - Service under NRS 164.033: 10-day service appropriate (as opposed to 30-day citation) since grantor was merely interested person and did not claim an interest in the property.
- **Takeaway:** interested person served with 10-day notice needs to exercise diligence over and above the statutory time frame in order to timely contest.

IN RE: JORDAN DANA FRASIER FAMILY TRUST

564 P.3D 44 (NEV. 2025) (UNPUBLISHED)

- **Factual Overview:** Beneficiary sought court approval of settlement agreement that would have allowed her to divide the survivor's sub-trust and to distribute her exemption sub-trust portion to her outright and free of trust where agreement was not executed by the remainder beneficiaries.
- **District Court Ruling:** District court affirmed the settlement agreement as to the survivor's trust but denied as to the exemption sub-trust since the remainder beneficiaries were not parties to the settlement.
- **Ruling on Appeal:** The Nevada Supreme Court affirmed.
- **Key Legal Issues:** Court used the requirements set forth in the non-judicial settlement statutes (NRS 164.942) as a corollary that remainder beneficiaries must participate as indispensable parties in settlement negotiations if their interest is to be affected.
- **Takeaway:** All interested persons are required to be represented for a settlement to be binding.

IRREVOCABLE...UNTIL SOMEONE HIRES REALLY GOOD COUNSEL



NEVADA COURT OF APPEALS CASES

- ***Bernstein v. Morris***, 141 Nev.Adv.Op. 72, 584 P.3d 166 (Nev. App. 2025).
- ***Matter of Rodriguez Living Trust Dated February 9, 2001 Restated September 29, 2017***, 569 P.3d 215 (Nev. App. 2025) (unpublished).
- NOTE: Unpublished NV CT APP cases after 08/15/24 can now be cited for persuasive authority under the NRAP.

BERNSTEIN V. MORRIS

141 NEV.ADV.OP. 72, 584 P.3D 166 (2025)

- **Factual Overview:** Decedent hired attorney to exercise power of appointment (“POA”) to favor one child in irrevocable trust. Attorney drafted amendments to the trust and did not expressly reference the POA in the documents, as required. Sibling challenged the validity of the amendments in probate court and probate court held the documents invalid as improper amendment and ineffective exercise of POA. Intended beneficiary sued attorney for malpractice in district court.
- **District Court Ruling:** Dismissed for lack of standing and ripeness.
- **Ruling on Appeal:** Reversed by the Nevada Court of Appeals.
- **Key Legal Issues:**
 - Standing of beneficiary of trust to sue for malpractice: rejected strict privity approach and adopted California balancing test in *Lucas v. Hamm*, 56 Cal.2d 583 (1961).
 - Ripeness in transactional malpractice claims: occurs “once litigant incurs any additional costs in retaining an attorney regarding contested documents.”
- **Takeaway:** Intended beneficiaries may have standing in malpractice cases.

MATTER OF RODRIGUEZ LIVING TRUST

569 P.3D 215 (NEV. APP. 2025) (UNPUBLISHED)

- **Factual Overview:** Trustee of trust who was superseded as trustee by amendments filed petition to challenge amendments on basis of lack of capacity and undue influence and elder abuse against defendant new trustee.
- **District Court Ruling:** Summary judgment for trustee including finding trust amendments invalid, ordered return of assets improperly withdrawn from trust, and \$2.3MM judgment against defendant.
- **Ruling on Appeal:** Affirmed by the Nevada Court of Appeals.
- **Key Legal Issues:**
 - Trustee had standing as interested person to petition to challenge amendments;
 - Grantor did not need to be joined as necessary party as trustee held POA and represented her interests.
 - Amendments invalid due to incapacity, undue influence, fraud, and elder abuse;
 - Order to return home purchased with trust funds but titled defendant's name proper since trust instrument prohibited asset transfers without adequate consideration and did not afford discretion to make distribution to defendant.

MATTER OF ESTATE OF LENK

577 P.3D 194 (NEV. APP. 2025) (UNPUBLISHED)

- **Factual Overview:** Settlement agreement dissolved a trust amid family disputes and distributed assets through estate. After settlement agreement executed, appellants continued to assert claims in both the estate and trust matters.
- **District Court Ruling:** Approved settlement, issued vexatious litigant order against appellants, and awarded fees and costs against appellants.
- **Ruling on Appeal:** Affirmed by the Nevada Court of Appeals.
- **Key Legal Issues:**
 - Vexatious litigant order: must do four-factor test espoused in *Jordan v. State*, 110 P.3d 30 (2005); finding of vexatious litigant does not require finding that prior individual filings were vexatious.
 - Court may award fees and costs for frivolous filings under either NRS 18.010(2)(b) or NRS 155.165(2) and appellant must challenge both bases.
- **Takeaway:** Vexatious litigant standing can be derived from entire context of litigation and fees/costs are permissible under both NRS 18.010 and 155.165.

MATTER OF SINGER

578 P.3D 1193 (NEV. APP. 2025) (UNPUBLISHED)

- **Factual Overview:** Appellant co-trustee challenged accountings, fee requests and final distribution plan of majority co-trustees. Appellant argued that the majority trustees violated the trust's no-contest clause by filing a trust administration petition and guardianship action, that the accountings contained fraud, and that they committed elder abuse and breach of fiduciary duty.
- **District Court Ruling:** Approved accountings and dismissed claims.
- **Ruling on Appeal:** Affirmed by the Nevada Court of Appeals.
- **Key Legal Issues:**
 - Appellant's failure to appeal prior interlocutory probate orders that, per NRS 155.190, required to be appealed within 30 days from entry deprived court of jurisdiction to hear those issues.
 - No-contest clause not violated as it prohibited only allegation trust is invalid and the co-trustees merely petitioned for accounting, final distribution and attorney's fees.
- **Takeaway:** Check NRS 155.190 each time an interlocutory probate/trust order is entered; no-contest clauses strictly construed as to prohibited conduct.

TRUST ADMINISTRATION:

EASY TO EXPLAIN.



It's simple!
Just follow
the terms of
the trust.

HARD TO DO.



IMPOSSIBLE TO DO WITHOUT A 15-PAGE CHECKLIST.



EMAILS

- Beneficiary Question
- Trustee Question
- Tax Question
- Distribution ?
- Document ?
- More Info...



JUST ONE
MORE EMAIL...

**TRUSTEE:
PROFESSIONAL MULTITASKER**

TO DO

FOLLOW UP
(AGAIN)

WAITING ON OTHERS

DONE? (MAYBE)



FEDERAL COURTS

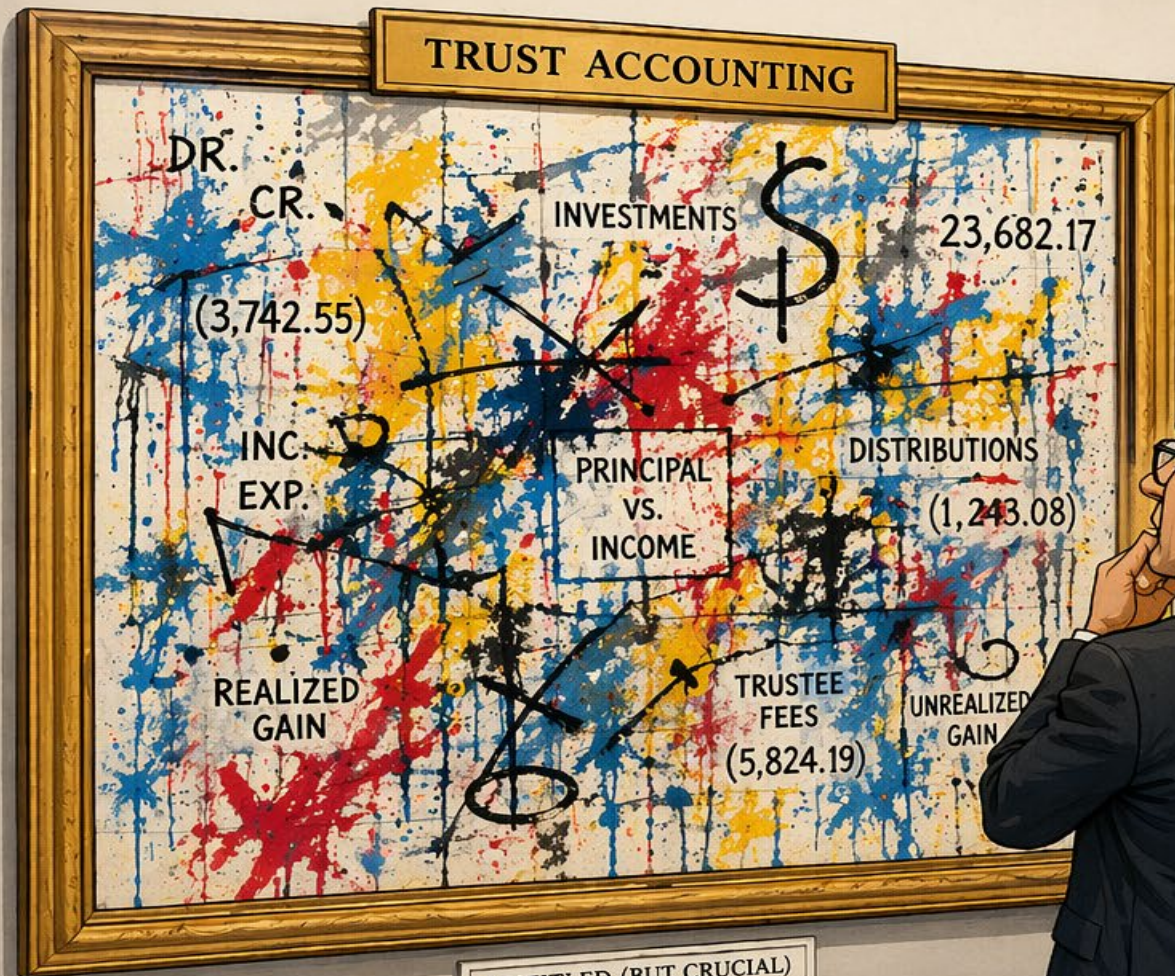
- ***U.S. v. Huckaby***, 2026 WL 587784 (E.D. Ca. 2026) (unpublished)
- ***Onemata Corporation v. Rahman***, 2025 WL 2696584 (S.D. Fla. 2025) (unpublished)

U.S. V. HUCKABY, **2026 WL 587784 (E.D. CA. 2026) (UNPUBLISHED)**

- **Factual Overview:** spouses transferred California real property into Nevada SSST. U.S. obtained judgment against husband for failure to honor IRS levies and filed action to enforce judgment against real property.
- **District Court Ruling:** California law voiding spendthrift clauses for self-settled trusts applied to real property as law of the situs and U.S. could enforce judgment against real property.
- **Key Legal Issues:**
 - While NV law applies to the construction and interpretation of the trust, but CA law (as law of situs of real property) applies to issue whether asset can be reached by his creditors.
 - Court expressly declined to decide whether the transfer of CA property into trust was invalid as it had concluded that the trust does not protect property from enforcement of a judgment lien.
- **Takeaway:** Real property held in NV SSST will be governed by law of the state where property is located.

ONEMATA CORPORATION V. RAHMAN, **2025 WL 2696584 (S.D. FLA. 2025) (UNPUBLISHED)**

- **Factual Overview:** Nevada trusts created during the pendency of litigation in connection with offshore entity creation were sued in a judgment enforcement action as alter-egos of the judgment debtors. Motion to dismiss brought dismiss Nevada trusts and to determine governing law regarding fraudulent transfers.
- **District Court Ruling:** Denied dismissal of Nevada trusts.
- **Ruling on Appeal:** Not applicable.
- **Key Legal Issues:** Trust parties in enforcement proceedings.
 - Trusts and Trustee may be named parties to supplemental enforcement proceedings at the motion to dismiss stage.
 - The court applied the principle—drawn from Nevada law—that a trust is not an independent legal entity but the trustee is the real party in interest and the trustee was alleged to control the trust in the complaint.
 - Choice-of-law analysis regarding which fraudulent transfer law applies is premature at motion to dismiss stage.
- **Takeaway:** Case to watch regarding interplay between Nevada creditor protection laws in an out-of-state enforcement action.



TRUST ACCOUNTING

GALLERY OF FINANCIAL MASTERPIECES

UNTITLED (BUT CRUCIAL)
Mixed Media on Statement
by Fiduciary & Co.



It's obviously about *cash flow*.

I think it's symbolic of fiduciary tension.

No, no... clearly a comment on *fees*.

The color palette suggests passive aggression.

I just don't like it.

It's a masterpiece of complexity.

A trust accounting is like modern art—no one understands it, but everyone has opinions.

PRACTICE POINTERS

- Confidential Filings
- Personal Jurisdiction



CONFIDENTIAL FILINGS POINTERS

Step 1. Use NRS 164.041/699A.256 Correctly at Time of Filing:

- File redacted (or sealed) version of pleading with the clerk for the public docket.
- Simultaneously, deliver an unredacted, complete copy of the filing to the court and to all persons entitled to notice.

Step 2. Proactively File for Request for Confirmation of Sealing/Redaction:

- Title the proactive filing in such a way to put the public on notice that you are requesting sealing/redaction (e.g. motion to seal confidential information....")
- Provide a document-by-document analysis by category and articulate the specific interest supporting continued sealing/redaction.
 - Submit evidence (e.g. declarations, affidavits, exhibits) to document any claims of specific harm that would result from disclosure of each category.
- Perform a least-restrictive-means analysis for every document, explaining why redaction is insufficient.
- Draft proposed findings of fact that are specific, non-speculative, and tied to the record concerning the need for the sealing/redaction.

CONFIDENTIAL FILINGS POINTERS

Step 3. Party Names and Doe Designations

- If Doe designations have been used in the initial filing, perform an analysis of the factors set forth in *Burns v. Eighth Judicial District Court*, 583 P.3d 230, 142 Nev.Adv.Op. 8 (2026) (adopting *Does I Thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058 (9th Cir. 2000) focusing on factors such risk of retaliatory harm or sensitive and highly personal nature.

Step 4. Closure of Hearings

- If seeking closure of hearings, must perform analysis outlined in *Nester v. Eighth Judicial District Court*, 141 Nev.Adv.Op. 4, 562 P.3d 1071 (2025): Party must demonstrate that “(1) closure serves a compelling interest: (2) there is a substantial probability that, in the absence of closure, this compelling interest could be harmed: and (3) there are no alternatives to closure that would adequately protect the compelling interest.”

PERSONAL JURISDICTION POINTERS (JURISDICTION TEST FROM GOLDSTEIN)

1

PURPOSEFUL AVAILMENT or DIRECTION

Did the trustee deliberately reach out to Nevada (contract/role → availment) or deliberately aim intentional conduct at Nevada (tort → Calder effects test)?

*Burgauer: Tort claims → effects test.
Davis: Role acceptance → availment.*

2

NEXUS — 'ARISE OUT OF OR RELATE TO'

Do the claims arise out of or relate to the trustee's Nevada contacts? Post-Ford Motor Co.: 'relate to' doesn't require strict causation — but there must be a meaningful connection.

Goldstein: BOA's 60+ NV branches had no nexus to MO-administered trust.

3

REASONABLENESS — FAIR PLAY & JUSTICE

Would exercising jurisdiction offend traditional notions of fair play and substantial justice? Rarely dispositive alone — but automatically fails if minimum contacts are absent.

*Tricarichi v. Cooperative Rabobank,
135 Nev. 87, 440 P.3d 645 (2019).*

PERSONAL JURISDICTION POINTERS (PURPOSEFUL AVAILMENT)

✓ COUNTS AS NEVADA CONTACT

Trustee signed trust documents in Nevada

Trustee sent trust correspondence to Nevada addresses

Trustee held trust assets or investments in Nevada

Trustee attended meetings or executed documents in Nevada for trust business

Trustee accepted appointment to administer a Nevada-situs trust

Trust instrument contains express NV jurisdiction clause — Rodriguez

✗ DOES NOT COUNT

Beneficiary moved to Nevada (plaintiff's unilateral act — Walden v. Fiore)

Trustee's out-of-state acts harmed a Nevada-resident plaintiff — Burgauer

Corporate trustee maintains branches/ATMs in Nevada unrelated to the trust — Goldstein

Plaintiff-initiated contact with trustee's Nevada office — Goldstein (Mayo call)

Letter sent from FL trustee to MI attorney (with NV AG cc) — Burgauer

Withholding distributions from IL trust to NV-resident beneficiary — Burgauer

Registered agent maintained in Nevada — NRS 77.440 / Goldstein

A DISCRETIONARY TRUST IS JUST A POLITE WAY OF SAYING, “WE’LL SEE.”

WHEN WILL
WE GET
DISTRIBUTIONS?

HOW MUCH
WILL WE
RECEIVE?

CAN WE
AFFORD
COLLEGE?

**TRUSTEE
IN SOLE DISCRETION**

DISCRETION.
FLEXIBILITY.
FREEDOM.

DISTRIBUTIONS
SUBJECT TO
TRUSTEE’S
SOLE AND ABSOLUTE
DISCRETION

**AKA:
WE’LL SEE.**

FIDUCIARY DUTY

LOYALTY
PRUDENCE
IMPARTIALITY
AND DISCRETION



TRUSTS
&
ESTATES

ESTATE
PLANNING

FIDUCIARY
PRINCIPLES

BENEFICIARIES’
EXPECTATIONS



“HOT TOPICS”: ISSUES IN CURRENT LITIGATION

- Challenges to foreign trusts decanted into Nevada trusts;
- Challenges to operations of family trust companies;
- Settlor challenges to validity of self-settled spendthrift trusts.

“HOT TOPICS”:

CHALLENGES TO FOREIGN TRUSTS DECANTED INTO NEVADA TRUSTS

- Primarily involve appointment of NV trustee, NV change in situs, and decanting to alter beneficiary rights.
- Issues include:
 - In rem and personal jurisdiction;
 - Breach of fiduciary duty claims against the prior and current trustees;
 - Procedures utilized in accomplishing the decanting;
 - Power to act verses the proper exercise of discretion.

“HOT TOPICS”:

CHALLENGES TO OPERATIONS OF FAMILY TRUST COMPANIES

- Family trust company's actions as trustee of trust, which are typically effectuated by vote of directors of family trust company.
- Issues include:
 - Exercise of trustee discretion by directors of family trust company;
 - Scope of liability for directors exercising trustee discretion;
 - Scope of benefits and protections afforded under corporate law (e.g. business judgment rule; consultation with counsel);.

“HOT TOPICS”: SETTLOR MODIFICATION/TERMINATION TO SELF-SETTLED SPENDTHRIFT TRUSTS

- Settlers attempting to reclaim their assets subsequent to execution and funding of self-settled spendthrift trust.
- Issues include:
 - Fraud on formation;
 - Undue influence;
 - Unilateral mistake;
 - Equitable arguments regarding change in circumstances or family dynamics.