

Estate Litigation

Fennemore has one of the most robust estate and trust litigation practices in the Southwest and California.

Representing individuals, families, business owners, nonprofit organizations (including charitable foundations), and trust companies in a range of sophisticated trust, estate, litigation, business, and tax matters.

LEADERSHIP



ESTATE
LITIGATION

TRUSTS & ESTATES

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OVERVIEW

Our attorneys provide services in all areas of estate planning, family business succession, and estate administration. We advise our clients regarding wills, revocable living trusts, irrevocable life insurance trusts, spousal lifetime access trusts, qualified personal residence trusts, charitable lead and remainder trusts, grantor retained annuity trusts, and private foundations, among others. Our estate planners have substantial expertise in gift, estate, and generation-skipping transfer tax avoidance or minimization, including the use of dynasty trusts, family limited partnerships, and family limited liability companies.

We work closely with our clients to explain the advantages and disadvantages of diverse techniques and creative alternatives to ensure each client's wishes are accurately reflected in the estate plan documents.

Fennemore trust and estate lawyers have served as counsel in significant matters involving defense of fiduciaries' conduct, indemnification of fiduciaries, removal of fiduciaries and breach of fiduciary duties. Realizing the difficult nature of estate and trust cases, we advise fiduciaries

with respect to beneficiary communications and appropriate courses of conduct and action to avoid potential litigation.

KNOWLEDGEABLE COUNSEL

Our group consists of attorneys and related professionals, several of whom hold a master-of-laws degree in taxation or are certified public accountants. Other credentials and memberships include, presently and historically, Fellows of the [American College of Trust and Estate Counsel \(ACTEC\)](#); membership in The Group and in the American Bar Association (Taxation Section); board certified specialists (Arizona) in estate and trust law and in tax law; adjunct professors; members of for-profit boards of directors, and of professional, community, and charitable councils and boards. Our attorneys have lectured extensively on estate planning, taxation, and related topics, educating other lawyers, accountants, and professionals locally and throughout the United States.

We cultivate talent to address the full ambit of personal, business, tax, civic, and charitable areas. In addition to trust and estate client services, we offer significant experience in corporate law, partnerships, limited liability companies, real estate development, employment law, civil and business litigation, and executive compensation and employee benefit plans.

WHO WE SERVE

Our clients have local, national, and international interests and prominence. They include entrepreneurs, executives, high-profile families and their family offices, professionals, banks and trust companies, sports figures, artists, fiduciaries, public and private charities, and family-controlled or privately held businesses.

WHAT WE DO

We design and implement highly customized estate plans using cutting-edge techniques involving trusts, business entities, and family foundations. We develop and execute sophisticated tax and wealth transfer strategies; establish intra-family and charitable gifting programs; structure family offices and private trust companies for family governance and wealth management; apply thoughtful distribution planning to pension and profit-sharing plan benefits and individual retirement accounts; and draft premarital and property agreements.

BUSINESS SUCCESSION

We work closely with our corporate, employee benefits, and tax attorneys in counseling business owners on succession strategies. Our attorneys have extensive experience in drafting buy-sell agreements and voting trusts; dealing with life insurance in the sale and purchase of closely-held stock and other business interests; establishing employee stock option plans (ESOPs); structuring capital, profits, and voting interests; planning and preparing family members for the transfer of business interests to children and grandchildren; and qualifying the owner's estate for reduced or deferred payment of estate tax.

ESTATE PLANNING

Estate planning services include preparing wills, trusts, powers of attorney, and health care directives. In doing so, we utilize gift and estate tax reduction strategies, and develop plans for the effective use of life insurance. In addition to the types of trusts and entities referred to above, we also provide legal and tax advice on the use of incomplete gifting trusts (to reduce potential income tax liability), asset protection trusts, silent or quiet trusts, vacation-property trusts, specialty trusts (such as aircraft and firearm trusts), and tax-free installment sales and exchanges involving trusts and entities.

CONTROVERSIES

We represent licensed fiduciaries, banks and trust companies, trustees, personal representatives, heirs, and beneficiaries in a variety of trust and estate-related litigation, with cases involving fiduciary duty claims, claims of elder abuse and vulnerable adult statute violations, will contests, removal of trustees or personal representatives, and challenges to annual accountings. In some instances, during the administration of an estate or trust, it is necessary to engage in civil litigation to protect or recover assets, and our experienced litigation team is able to assist with all aspects of such cases.

NON-PROFITS, TAX-EXEMPTS & FOUNDATIONS

Our tax-exempt and charitable organizations practice is national in scope and includes providing counsel to and establishing charitable foundations and other tax-exempt entities and trusts. We assist our clients with forming non-profit entities; qualifying for section 501(c)(3) tax status, as applicable to public charities, supporting organizations, and family private foundations; creating split-interest trusts, such as charitable lead trusts, charitable remainder trusts, and their variants; and establishing section 501(c)(4) social welfare, political, and lobbying organizations, and other tax-exempt organizations. We advise our clients on federal and state tax matters, solicitation laws and registrations, and fiduciary and governance issues unique to non-profits.

TRUST & ESTATE ADMINISTRATION

Our services also include carrying out our clients' desires and intentions in the administration of their trusts and estates. We advise and represent trustees, executors, and other fiduciaries in handling trust distributions, probate proceedings, guardianships, and conservatorships. In other circumstances, we represent heirs and beneficiaries with regard to their rights and benefits. We also counsel fiduciaries on the tax implications involved with the administration and distribution of trusts and estates, and regularly prepare fiduciary, gift, and estate tax returns.

If a legal or tax controversy arises, we help our clients resolve disputes and audits through negotiated settlements, mediation, arbitration and, if necessary, litigation.