2025: THE YEAR IN TRUST AND ESTATE LITIGATION

California Lawyers Association | February 12, 2026

Ciarán O'Sullivan | The Law Office of Ciarán O'Sullivan | 415.391.3711

Jeff Loew | Trust Law Partners LLP | 650.397.8700

Matt Owens | Sheppard | 858.876.3558

WHAT WE WILL COVER TODAY

- Significant Cases
- Significant Legislation

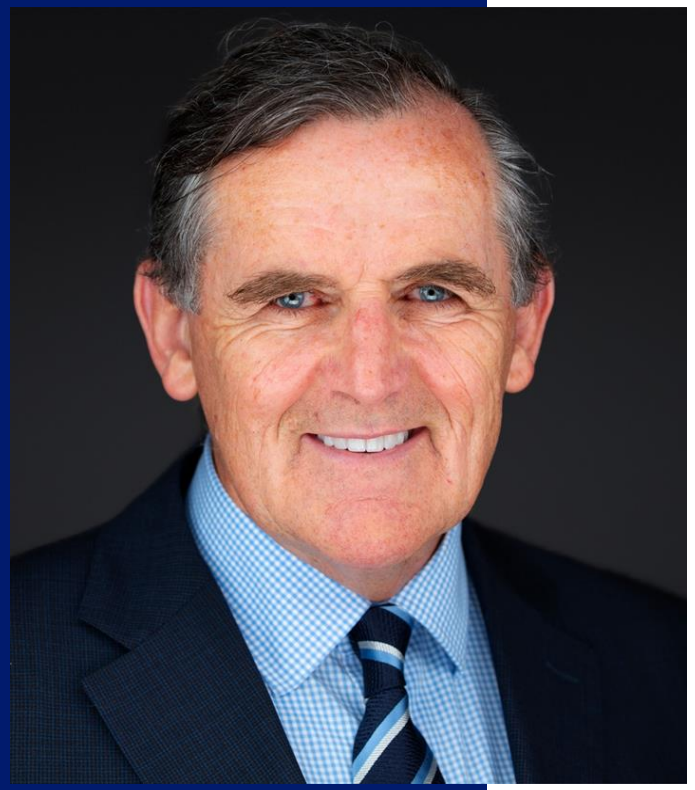
Trust Law Partners LLP

Sheppard

CIARÁN O'SULLIVAN

Ciarán has litigated mostly Trusts and Estates cases for more than 27 years, and exclusively since he opened his own practice in 2010. A former chair of BASF's Trusts and Estates litigation section, Ciarán has served on the executive committee of the California Lawyers Association's (CLA) Trusts and Estates section (TEXCOM) since 2017. He is now also the Trusts and Estates section's representative on the CLA board.

Ciarán frequently writes and presents, to audiences up and down the state, on topics related to Trusts and Estates litigation law and procedure.



Trust Law Partners LLP

Sheppard

JEFF LOEW

Jeff Loew is the managing partner of Trust Law Partners LLP, a contingency-model trust and estate litigation firm with offices in Silicon Valley, Pasadena, and Newport Beach. For more than 20 years, Jeff's primary areas of practice have included trust and estate litigation, fiduciary litigation, and financial elder abuse actions.

Jeff is certified as a Specialist in Estate Planning, Trust, and Probate Law by the State Bar of California Board of Legal Specialization. Jeff is the Chair of the Education Subcommittee for TEXCOM, the Executive Committee of the Trusts and Estates Section of the California Lawyers Association, and a fellow of ACTEC (the American College of Trust and Estate Counsel). He is licensed to practice law in California, Nevada and Texas.



Trust Law Partners LLP

Sheppard

MATT OWENS

Matt Owens is a partner in Sheppard's Business Trial Practice Group in the firm's San Diego office. Matt focuses his practice on trust, estate, and inheritance disputes.

Matt is a fellow of the American College of Trust and Estate Counsel (ACTEC), and a certified specialist in estate planning, trust, and probate law by the State Bar of California Board of Legal Specialization. He is *Chambers*-ranked in the Private Wealth Disputes category, is a member of the Executive Committee of the Trusts and Estates Section of the California Lawyers Association (TEXCOM) and is EIC for the *Trusts & Estates Quarterly*.



Trust Law Partners LLP

Sheppard

SIGNIFICANT CASES

Packard v. Packard (2025) 108 Cal.App.5th 1284 (4th Dist.)

- No Contest Clauses – Reformation Petitions: Petition for construction and reformation of a trust amendment was not a contest where the petition sought to reform the trust to correct an alleged mistake as to trustor's intent
- Substance, and practical effect of a petition, not its title, control whether it's a contest
- A reformation petition will almost never be a contest

Trust Law Partners LLP
Sheppard

SIGNIFICANT CASES

Goebner v. Superior Court (2025) 110 Cal.App.5th 1105 (1st Dist.)

- C.C.P § 430.40: a demurrer must be filed within 30 days after service of the complaint
- Probate Code § 1043: may appear and make a response or objection in writing at or before the hearing
- Held: a demurrer may be filed any time at or before the initial hearing in a probate case

Trust Law Partners LLP

Sheppard

SIGNIFICANT CASES

Herren v. George (2025) 109 Cal.App.5th 410 (1st. Dist.)

- Elder Abuse Restraining Orders: An elder abuse restraining order (EARO) may issue without adjudication of the elder's capacity, and an attorney's fee agreement constitutes a property right, the deprivation or impairment of which may constitute financial elder abuse
- Attorneys Beware – potential liability for representing or seeking to represent an incapacitated client
- But the Court acknowledged that incapacitated persons may need representation

Trust Law Partners LLP
Sheppard

SIGNIFICANT CASES

Herren v. George (cont'd)

- It's a case-by-case determination as to whether undue influence occurred
- When representing elders, or where cognitive impairment involved, the facts are always messy
- Query: how significant was the large retainer in this instance?

SIGNIFICANT CASES

Amundsen v. Catello (2025) 111 Cal.App.5th 817 (4th Dist.)

- Real property owned by decedent and survivor. Originally joint tenancy with right of survivorship
  - Severing deed recorded during decedent's life
- Decedent intestate, ongoing probate action to determine ownership. Personal representative appointed
- Survivor files civil action against heirs, not PR, to quiet title
  - Heirs cross claim to partition

Trust Law Partners LLP
CS
Sheppard

SIGNIFICANT CASES

Amundsen v. Catello (cont'd)

- Heirs argue present ownership under P.C. § 7000 ("title to a decedent's property passes on the decedent's death")
- Court holds that administration must conclude first, then ownership relates back to date of death; no present standing to partition
- Broader implications for beneficiaries who claim to be present owners

SIGNIFICANT CASES

Estate of Boyajian (2025) 112 Cal.App.5th 843 (4th Dist.)

- Wills – Revocation by Cancellation: Revocation of a will by cancellation must occur by physical alteration of the will, and a separate, stand-alone document does not constitute a subsequent will unless it also transfers property upon death, e.g., has the formalities of a will
- California strictly adheres to statutory bases for revocation
- If revoking in a writing, the writing must include testamentary devises

Trust Law Partners LLP
Sheppard

SIGNIFICANT CASES

Estate of Boyajian (cont'd)

- Blanket statement of "I revoke all prior wills," without a gift of something, does not cut it as a testamentary instrument
- No recognition that revoking all prior wills amounts to a decision to go intestate, and is tantamount to making gifts under intestacy
- Court of Appeal criticizes the law, and calls for legislative change

Trust Law Partners LLP
Sheppard

SIGNIFICANT CASES

Estate of Bodmann (2025) 116 Cal.App.5th 401 (1st Dist.)

- Decedent managed small business with wife
- Holographic will established trust with seven children as co-trustees/executors, one daughter was to take over business
- A son, and the daughter, worked with wife to transition, but management broke down into hostile interactions
- Court appointed daughter as special administrator of business, disqualified son because hostility impaired business

Trust Law Partners LLP
Sheppard

SIGNIFICANT CASES

Halperin v. Halperin (2026) 2026 Cal. App. LEXIS 45

- Claim for intentional interference with expected inheritance (IIEI) failed where it was alleged that a trustor was prevented from executing a trust amendment with a revised distributive scheme
- Although there was no trust amendment to set aside, the court reasoned the petitioner had standing in probate court—including under PC 17200—to seek relief against respondents
- Since Petitioner had standing to seek relief in probate court, she thus had an adequate probate remedy, barring the IIEI claim

Trust Law Partners LLP
Sheppard

SIGNIFICANT LEGISLATION

Assembly Bill No. 565 (2025-2026 Reg. Sess.) (Dixon)
Representation of Trust Beneficiaries

- Repeals and adds section 15804 of the Probate Code to allow for broad virtual representation over trust matters in California
- Until now, only a guardian *ad litem*, or other person specifically empowered by the court, could represent another individual in this way

Trust Law Partners LLP

Sheppard

SIGNIFICANT LEGISLATION

Assembly Bill No. 565 (2025-2026 Reg. Sess.) (Dixon)
Representation of Trust Beneficiaries

- New section 15804 allows an individual with a *substantially identical* interest in the trust to receive notice, represent, and bind another individual who has no ability to represent themselves

- Applies to:
  - Minors
  - Incapacitated persons
  - Unborn persons, and
  - Persons whose identity or location is unknown and not reasonably ascertainable

Trust Law Partners LLP

Sheppard

SIGNIFICANT LEGISLATION (CONT'D)

Assembly Bill No. 1521 (2025-2026 Reg. Sess.) (Committee on Judiciary) Judiciary Omnibus Bill – Changes Affecting Notice to Department of Child Support Services

- Adds a new subsection (e) to section 9202 which requires notice to the California Department of Child Support Services ("DCSS") by a personal representative or estate attorney if the decedent is subject to a court-ordered child support obligation

SIGNIFICANT LEGISLATION (CONT'D)

Senate Bill No. 66 (2025-2026 Reg. Sess.) (Umberg) Civil Discovery

- Eliminates the Sunset provision of 2023's SB 235
- Initial Disclosures in civil litigation now permanent
- Must be produced within 60 days if other side requests
- But remember, DOES NOT APPLY to actions initiated under the Probate Code

Trust Law Partners LLP

Sheppard

SIGNIFICANT LEGISLATION (CONT'D)

Senate Bill No. 85 (2025-2026 Reg. Sess.) (Umberg) Civil Actions: Service of Summons

- Amends section 413.30 of the Code of Civil Procedure
- Under existing law, the court in which the action is pending may direct that summons be served in a manner which is reasonably calculated to give actual notice to the party to be served
- This now includes service of the summons and complaint by email
- Must demonstrate why other methods are insufficient

QUESTION & ANSWER (TIME PERMITTING)

Follow-up Questions for
Ciarán O'Sullivan

The Law Office of Ciarán O'Sullivan
50 California Street, 34th Floor
San Francisco, CA 94111
Phone: (415) 391-3711
Fax: (415) 513-0449
Email: ciaran@cosullivanlaw.com
www.cosullivanlaw.com

Follow-up Questions for
Jeff Loew

Trust Law Partners LLP
1650 Borel Place, Suite 123
San Mateo, CA 94402
Phone: (650) 397-8700
Fax: (650) 397-8889
Email: jloew@trustlawpartners.com
www.trustlawpartners.com

Follow-up Questions for
Matt Owens

Sheppard, Mullin, Richter & Hampton LLP
501 W Broadway
18th Floor
San Diego, CA 92101
Phone: (858) 876-3558
Email: mowens@sheppard.com
www.sheppard.com

Thank You