



THE STATE BAR OF CALIFORNIA
TRUSTS AND ESTATES SECTION
PRESENTS

3.0 Hours CLE
(including 3.0 hours
in Legal Specialization
in Estate Planning)



Trusts and Estates Section Spring Litigation Program:
**Difficult Planning and Administration
Issues with Contaminated Property
and Learning How to Practice
Effectively in the Probate Court**

FRIDAY, JUNE 8, 2012

State Bar of California

180 Howard Street, 4th Floor

San Francisco, CA 94105

Time: 1:00 p.m. – 4:15 p.m.

Registration Opens at 12:30 p.m.

Register Online: <http://trustslaw.calbar.ca.gov>

PROGRAM SCHEDULE

FRIDAY, JUNE 8, 2012

1:00 p.m. – 2:30 p.m.

Contaminated Property: Proactive Planning Strategies to Maximize Estate Value and Avoid Draconian Results

Kevin J. Daehnke, *Daehnke Cruz Law Group, LLP*

Marshall Oldman, *Oldman, Cooley, Sallus, Gold, Birnberg & Coleman, LLP*

Business owners and real estate investors often have no concrete plans for addressing what happens at death to real property they own or lease which has been contaminated from gasoline, solvents or other chemical constituents. This failure to include environmental cleanup liabilities in business and estate succession planning can lead to potentially catastrophic consequences for the decedent's heirs, beneficiaries and surviving business partners.

Since CERCLA and other environmental liabilities inherited by individuals can remain with them for the rest of their lives, it is especially critical to conduct proactive pre-death planning that will avoid or minimize such draconian results. This program is designed to provide guidance to the practitioner on how best to identify and work with environmental liabilities in structuring and implementing business succession plans, and in passing real estate investments to heirs, beneficiaries and charitable organizations. The program will also provide guidance for advising trustees, executors and administrators who may acquire responsibility for such contaminated assets.

The program will set forth proactive trust and estate planning strategies for contaminated assets to minimize environmental cleanup liabilities for beneficiaries, and will describe techniques for setting aside monies, potentially on a tax free or tax-deferred basis, to pay for cleanup of contamination. Finally, the program will explore creative approaches to site cleanup, including use of the SB 989 ground lease model to generate ongoing revenues for an estate or business with one or more contaminated assets.

2:45 p.m. – 4:15

Probate Litigation Practice for Idiots and/or Civil Litigators

Hon. Mitchell L. Beckloff, *Judge, Los Angeles County Superior Court*

Marshall Oldman, *Oldman, Cooley, Sallus, Gold, Birnberg & Coleman, LLP*

David W. Baer, *Hartog & Baer, A Professional Corporation*

Practice in matters under the Probate Code, conducted in probate departments in larger counties, is surprisingly different from general civil litigation practice. As a result, having to defend or prosecute a probate petition can be a bewildering experience for civil litigators. Our goal in this program is to, perhaps, make it somewhat less so. The focus will be on the practical aspects of litigating probate matters: what to expect when a client walks in seeking representation in a trust and estate dispute, what to expect when soon thereafter you walk into probate court, and what to expect in subsequent appearances.

There are of course many procedural distinctions between civil and probate litigation from the start -- in preparing pleadings -- to the finish -- at trial. Beyond covering these many differences, we will offer practical and strategic guidance on their implications. Special considerations also apply to the attorney-client relationship in this area, because probate litigation can be particularly emotional. The program will offer guidance in forging effective relationships -- both to better serve the client and to better protect the attorney.

The transition from civil litigation from probate litigation can be painful. Let us ease your pain in that process.

PROGRAM SUMMARY

The Trusts and Estates Section offers two unique programs to enhance your practice in probate and trust matters. The first course focuses on little known planning strategies for dealing with the passing of contaminated real property to heirs, beneficiaries and trusts. The second course provides information presently available to practitioners on this important topic, including how to identify contamination issues, for limiting the liability of heirs, beneficiaries and trusts, on how to maximize the value of estates that contain contaminated real property, and on the unique aspects of litigation in probate court and how the principles of probate law apply to civil litigation. Rather than merely explaining what the differences are between probate and civil litigation, the course will discuss the implications of those differences – how experienced trust and estate practitioners handle these issues.

SPEAKERS:

Marshal A. Oldman

Marshal A. Oldman graduated USC with BA 1973 and from UCLA with JD 1976, becoming a member of the California State Bar the same year. He has been Chairman of the San Fernando Valley Bar Probate Section 1978 - 1980; Member of Executive Committee of Los Angeles County Bar Association Probate Section 1983 - 1990; Chairman, Probate Section, County Bar Association 1988 - 1989; Chairman, Legislative Monitoring Committee of County Bar Probate Section 1985 - present; President of San Fernando Valley Bar Association 1989 - 1990; and Member of Board of Trustees of San Fernando Valley Bar Association 1979 - 1981; 1986 - 1991. Mr. Oldman has been a member of the Executive Committee of the Estate Planning, Trust and Probate Section of the State Bar of California from 1995 to 2006. While a member, he was Chair of the Incapacity Committee for 1998-1999, Chair of Litigation Committee for 1999-2001, Vice Chair of the Section for 2001-2002, and Chair of the Section for 2002-2003. He has consulted with staff of Assembly Judiciary Committee and testified before the Assembly Judiciary on probate legislation for Los Angeles County Bar Probate Section. Mr. Oldman has authored numerous articles for the San Fernando Valley Bar Bulletin, Probate Column for the Los Angeles Daily Journal, Journal of Western Legal History and the Daily Journal Report. He has given numerous speeches before the State Bar, Los Angeles County Bar Probate Section, San Fernando Valley Bar, Santa Monica Bar, Pasadena Bar, CEB, and other organizations. He has also served as expert witness in probate, attorney fee, legal malpractice, and federal estate tax matters. Presently, he is also a Public Member of the California Board of Accountancy, 2007 - present, being elected to serve as Secretary/Treasurer in November, 2009, as Vice President in November, 2010, and as President in November, 2011.

David W. Baer

In July of 2010 David W. Baer joined forces with John A. Hartog and the two widely recognized trust and estate practitioners formed Hartog & Baer. David is the Orinda firm's trial counsel, representing non-profit entities, individuals and financial institutions in a broad array of disputes, such as will and trust contests, estate administration matters, spousal property claims, tax litigation, financial elder abuse actions, and estate planning malpractice. While his practice now focuses exclusively on litigation in Probate Court, David draws on a wealth of experience in other substantive areas frequently at the heart of trust and estate matters including real estate, tax, corporate, and partnership law. Before forming Hartog & Baer, David was a partner at Hansen Bridgett, LLP for 20+ years. David is one of the authors of both *California Trust Litigation* and *California Trust and Probate Litigation*, respectively, Matthew Bender's and CEB's practice guides. Since 2006 he has served as a member of TEXCOM (the Executive Committee of the State Bar's Trust and Estate Section), presently chairing its Litigation and California Law Review Commission subcommittees. This year he became vice-chair of the Litigation Section of EBTEL (East Bay Trusts and Estates Attorneys). David obtained his JD from Hastings College of the Law (1981, Order of the Coif) and his BA from Reed College (1977, Honors Thesis).

ce the effectiveness of litigation and planning in trusts and estates or avoiding potentially catastrophic consequences associated es and business associates. This program addresses the dearth of opic by providing crucial up-front, proactive planning strategies for eficiaries, successors and fiduciaries, and for advising practitioners d real property assets. The second course in this program will focus ocedures applicable there differ from those applicable in general are, this presentation will offer practical guidance on the strategic e litigators use them to their clients' advantage.

Kevin Daehnke

Kevin Daehnke has been active in the environmental legal arena since 1981, when he co-founded and served as Editor-in-Chief of USC's *Journal of Law and the Environment*. Mr. Daehnke's main focus is on transactional environmental matters, in particular, those relating to Brownfield redevelopment projects, real estate purchase/sales transactions, contamination issues in the business and estate succession planning process, and mergers and acquisitions. Mr. Daehnke's 28 years as an attorney also includes significant experience as litigation counsel in major Superfund matters, and in insurance, environmental cost recovery and toxic tort lawsuits. Mr. Daehnke is an appointed member of the Brownfield Revitalization Advisory Group for the California Department of Toxic Substances Control, is a founding member of the Brownfields Committee of the California Redevelopment Association, has served on the Executive Committee, and was Chair of the Policy Committee, of the California Chapter of the National Brownfields Association, has served as Chair of the Brownfield *Roundtable* for the Los Angeles Area Chamber of Commerce, was Chair of the USC Environmental Law Advisory Board, and was on the Executive Committee of the Orange County Environmental Law Section. Mr. Daehnke has authored or contributed to numerous publications, including co-authorship of a hazardous waste manual published by the California Chamber of Commerce, and is a frequent speaker, panelist or moderator at programs relating to the revitalization of contaminated sites. He has served on various trade group and regulatory committees and panels which address Brownfield and other related environmental issues, including the siting of renewable energy facilities on landfills and other Brownfield sites. Mr. Daehnke is active in developing legislative and regulatory incentives for Brownfield projects, including legislation affecting multi-parcel projects, Brownfield loan programs and Brownfield liability reform. Mr. Daehnke's most significant legislative success is the creation, drafting and passage of Senate Bill 989, an important new tool for the development of Brownfield sites in California, and Mr. Daehnke is active in expanding the Bona Fide Ground Tenant concept of this SB 989 legislation to other states, nationwide.

Hon. Mitchell L. Beckloff

Hon. Mitchell L. Beckloff is the Supervising Judge of the Probate Departments of the Los Angeles Superior Court. He earned his undergraduate degree at UCLA in 1983 and his law degree, magna cum laude, at Loyola law School in 1989. Judge Beckloff ranked second in a class of 371 at Loyola, where he earned nine American Jurisprudence awards and served as an editor of the Loyola of Los Angeles Law Review.

Judge Beckloff began his legal career at Pillsbury Madison & Sutro's San Francisco office. In 1992, he relocated to Los Angeles and worked at Auxiliary legal Services, where he represented Los Angeles County's Department of Children and Family Services. In 1994, he founded the law firm of Groman & Beckloff, specializing in child custody litigation and civil writs and appeals. In 1999, Judge Beckloff became a Superior Court Referee. From 2001 until 2007, he served as a Commissioner of the Los Angeles Superior Court, working in its Family law and Probate Departments. In May, 2007, he was assigned to Department 5 in the Stanley Mosk Courthouse. He was appointed as a Judge in June, 2007 and was named Supervising Judge of the Probate Departments in 2009.

Trusts and Estates Section Spring Litigation Program

REGISTRATION INFORMATION

CANCELLATIONS/REFUND POLICY: Cancellations and requests for refunds must be received in writing no later than June 1, 2012 and are subject to a \$25 service charge. Refunds will not be available after June 1, 2012.

QUESTIONS: For registration information call (415) 538-2508. Telephone registrations will not be accepted. For program content and/or Section information call (415) 538-2206.

SPECIAL ASSISTANCE: For special assistance, please call (415) 538-2206.

ON-SITE: On-site registration will be on a space available basis. Call to confirm space availability.

AUDIO CDs: Audio CDs of the program will be available with a complete set of written materials from Versa-Tape. To order, please call 1-800-468-2737.

REGISTRATION FORM One registrant per form. Photocopies may be used.

Bar Number: _____

Name: _____

Firm: _____

Firm Address: _____

City, State: _____

Zip Code: _____

Phone Number: _____ Fax Number: _____

Email Address: _____

(Required for email confirmation)

Program package includes 3.0 hours of CLE credit (including 3.0 hours in legal specialization)

PRE-REGISTRATION FEES (check the appropriate circle)

- \$195** Trusts and Estates Section Members
- \$250** Non-Section Members
(includes enrollment in the Trusts and Estates Section for 2012)

AMOUNT ENCLOSED OR TO BE CHARGED \$ _____

CREDIT CARD INFORMATION (VISA/MasterCard Only)

I authorize the State Bar of California to charge my program registration to my VISA/MasterCard account. (No other credit card will be accepted.)

Account Number: _____

(Visa or MasterCard only)

Expiration Date: _____

Cardholder's Name: _____

Cardholder's Signature: _____

Deadline: In order to pre-register, your form and check, payable to the State Bar of California, or credit card information, must be received by June 1, 2012.

Register Online: <http://trustslaw.calbar.ca.gov>

Mail To: Program Registrations, State Bar of California,
180 Howard Street, San Francisco, CA 94105.

Fax To: Program Registration at 415-538-2368. In order to fax your registration, credit card information is MANDATORY.
(Photocopies of checks will NOT be accepted.)

The State Bar of California and the Trusts and Estates Section are approved State Bar of California MCLE providers.

Register Online <http://trustslaw.calbar.ca.gov>