

September 2024 Appellate Update

Testamentary Trusts

In this case, the decedent had hoped to sell his house before he died and pay his life partner 10% of the net sales proceeds. He died without selling the house. Nevertheless, the trial court ordered the decedent's successor trustee to sell the home within 90 days or pay \$350,000 to her father's life partner. The Court of Appeal found that the sale of the home was a condition precedent for decedent's gift to his life partner. Now the case returns to the trial court for further proceedings, with the opportunity to sell the home for fair market value, and divide the proceeds according to the decedent's express intention. Evans Kingsbury LLP represented the appellants in this case

Davis v. Francis

First District Court of Appeal
Case no. A168299 (unpublished)
8/27/24

Insurance Coverage

Five plaintiffs sued three insurers alleging they were entitled to payment of their litigation expenses under their excess insurance policies. The Court of Appeal held that the plaintiffs had failed to adequately allege they had exhausted the underlying insurance policies and therefore could not yet proceed against the excess carriers.

Fox Paine & Co., LLC v. Twin City Fire Insurance Co.

Case no. A168803 (First Appellate District)
9/5/24

Trusts & Estates

There is an ongoing debate regarding whether an attorney drafting estate planning documents owes a duty to the beneficiaries. In this case, an attorney prepared estate planning documents for decedent, disinheriting his children in favor of his fourth wife. After the physician died, his children sued the lawyer, alleging he had negligently prepared the estate planning documents because they were the decedent's intended beneficiaries. The court found there was no clear, certain, and undisputed evidence of decedent's intent to benefit the plaintiffs. Witnesses testified that decedent intended to leave his estate to his fourth wife. The court held that imposing a duty on the attorney to the plaintiffs would place an intolerable burden on the legal profession.

Grossman v. Wakeman

Case no. B329459 (Second Appellate District)
9/4/24