

Heather M. Hoekstra

Senior Counsel

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Practice Areas

- Trusts and Estates
- Litigation

Overview

Heather Matsumoto Hoekstra litigates trust and estate disputes focusing on financial elder abuse and the interpretation of decedent's intent in their estate plan documents.

She guides clients and families through what is often the most challenging time in their lives. Litigation, especially that which occurs within a family, requires a deft approach and a sympathetic ear. With over a decade of experience in this complex and specific area of law, she approaches each client and case with respect, compassion, and creativity so that she can practically resolve inheritance disputes between beneficiaries and heirs.

Experience:

- Successfully represented co-settlors in a litigated revocation of a uniquely conflicted and poorly constructed trust instrument, which they executed for their and their three other siblings' benefit after their father's death. The three siblings abused this generosity by removing the clients as trustees, thus requiring the clients to revoke. The merits of the case hinged on the difference between the legal definitions of "termination" and "revocation." After an evidentiary hearing, the superior court found in clients' favor, thus confirming the revocation.
- Resolved dispute involving a 19-year-old client's petition for the conservatorship of her incapacitated father in a deeply contentious proceeding during which he was removed from the state to avoid state jurisdiction.
- Protected \$200,000 of a client's distribution from her parent's bypass trust estate as well as the entirety of the survivor's trust inheritance from being included as part of her Chapter 7 bankruptcy estate by settling

an adversarial proceeding brought by the bankruptcy trustee.

- Represented the son of an incapacitated parent upon his discovery of her caregiver's financial abuse, isolation, and undue influence of his surviving parent, whose estate exceeded \$8,000,000. Successfully obtained a temporary and permanent elder abuse restraining order against the caregiver and anyone acting on her behalf after his appointment as temporary and then general conservator of the person.
- Successfully represented the petitioning 18-year-old granddaughter of decedent to fill a vacancy in the office of trustee of decedent's trust where her interest in the trust was not protected by the persons with access to her trust accounts.
- Represented trustee of her late father's estate to protect the dispositive terms of his trust instrument in a dispute with her estranged step-mother.
- Successfully obtained dismissal of client's brothers' petition for elder abuse, rescission of deeds, and other causes of action on the basis of lack of standing and being barred by a long past statute of limitation.
- Successfully obtained dismissal of opposing party's petition under Probate Code section 850 on the basis that she did not have standing as an interested person as defined by Probate Code.
- Represented client trustee and administrator against the opposing party's complaint based on a Marvin claim against client as trustee of his late father's estate in a 10-day trial.
- Represented responding co-trustees in a contested trust interpretation and modification matter involving a 1922 deed of trust which endowed a small college in Eastern California with its real property from pre-trial, trial, and appellate proceedings. Obtained orders preliminarily enjoining the majority trustees and compulsorily joining the college's managing corporation by piercing its corporate veil.
- Represented foreign client in proceedings contending that her brother-in-law forged her sister's will after her sister died. The matter resulted in a criminal conviction of her brother-in-law, and a \$200,000 restitution paid to client.

Prior to joining Donahue Fitzgerald LLP, she was Counsel with Downey Brand LLP, Founder and sole-shareholder of Hoekstra Law, P.C. in Berkeley, and an attorney with the Morrill Law Firm in Walnut Creek.

Heather's hobbies include gardening, Shibori fabric dying, and laughing with family and friends.

Professional & Community Affiliations

- Board of Directors, Treasurer, East Bay Trust and Estates Lawyers, 2022
- Board of Directors, Treasurer, Chair, Litigation and Mediation Subcommittee, 2021
- Board of Directors, Treasurer, Co-Chair, Litigation and Mediation Subcommittee, 2018-2020
- San Francisco Bar Association, 2023
- Trust & Estate Section, California Lawyers Association, 2014-2023
- American Bar Association, 2020-2021
- Contra Costa County Bar Association, 2014-2020

Recognition

- Estate & Trust Litigation, *Super Lawyers*, 2022-2023
- Estate & Trust Litigation, Northern California Rising Star, *Super Lawyers*, 2020-2021

Bar Admissions

- California

Education

- **J.D.**, University of California, Berkeley School of Law
- **M.P.A.**, Columbia
- **B.A.**, University of Georgia

Books

- CEB Action Guide: Capacity and Undue Influence: Assessing, Challenging, and Defending, Co-Author, Continuing Education of the Bar, April 2018, April 2020, May 2023

Past Speaking Engagements

- Heggstad Petitions: Types, Necessities, and Tips, EBTEL Presentation to Trust Administration Subcommittee, Oct. 11, 2023
- Alzheimer's Disease and Other Dementias: What Do Planners and Litigators Need to Know? California Lawyers Association: Financial Elder Abuse Symposium, May 20, 2022
- Webinar: An Overview of Capacity and Undue Influence, Continuing Education for the Bar, June 27, 2018

- Perspective on the Often-Asked Question: My Spouse and I Want to Make an Agreement – Do We Need Separate Counsel?, Contra Costa Bar Association MCLE Spectacular, 2016
- Representing Trustees: Duties, Privileges, and Fees in Trust Litigation, EBTEL Brownbag Presentation for Litigation and Mediation Sub-Committee, 2015