

# H|B|Z

**Hartog Baer Zabronsky**

TRUST AND ESTATE LAW

A Professional Corporation



## **DAVID W. BAER**

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Bringing almost four decades of experience in complex litigation, in July 2010 David W. Baer joined Hartog, Baer & Zabronsky, A.P.C. (formerly Hartog, Baer, Zabronsky & Verriere, A.P.C.) and is the firm's lead trial counsel. Mr. Baer represents charities and non-profit entities, individuals, and financial institutions in a broad array of matters, such as will and trust contests, fiduciary litigation, estate distribution disputes, spousal property claims, no contest clause claims, financial elder abuse, and estate planning malpractice. While Mr. Baer has focused almost exclusively on litigation in Probate Court since the 1990s, he has 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.

Mr. Baer is particularly skilled in negotiating and drafting complex multi-party settlements. Drawing on that strength, Mr. Baer's practice also encompasses serving as a mediator. He also has acted as a consultant and expert witness at trial.

When appropriate, Mr. Baer has the tenacity to litigate a matter to conclusion through trial or appeal, where he has a proven track record of success. He prevailed in overturning the trial court judgment in *Murphy v. Murphy* (2008) 164 Cal.App.4th 376, the first case in the nation to hold that a substituted judgment order approving a conservatee's estate plan bars any beneficiary from contesting the plan after the conservatee's death.

Mr. Baer is one of the authors of California Trust Litigation, Matthew Bender's practice guide. His chapter on contesting and defending the validity of trust instruments is the definitive resource on this topic for attorneys practicing in California.

### **PROFESSIONAL EXPERIENCE**

- Partner, Trial Counsel, Certified Mediator, Consulting and Expert Witness, Hartog, Baer, Zabronsky & Verriere, A Professional Corporation (July 2010 to present)
- Associate Partner, and Chair of Trust and Estate Litigation Group - Hanson Bridgett LLP (January 1982 to July 2010)

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## **EDUCATION**

- J.D., UC Law San Francisco (formerly UC Hastings Law), Order of the Coif (12th in class of over 500 students), Thurston Honor Society (1981)
- B.A., Honors Thesis, Reed College (1978)

## **PRACTICE GUIDES AUTHORED**

- Chapter 5, Contesting and Defending Validity of Trust or Trust Amendment Under Probate Code § 17200, Matthew Bender Practice Guide: California Trust Litigation (2015)
- Chapter 560A, Trusts: Creation, Validity, Trust Contests, California Forms of Pleading and Practice (Matthew Bender, 2015)
- Chapter 6A, Statutorily Disqualified Donees and Trustees, California Trust and Probate Litigation (CEB 2015)

## **PROFESSIONAL AFFILIATIONS**

- The American College of Trust and Estate Counsel – Fellow (2017 to present)
- State Bar of California – Member, Trusts and Estates Executive Committee (2006 to 2012), Chair, Litigation Subcommittee (2008 to 2012), Chair, California Law Revision Commission Committee (2008 to 2012)
- Alameda County Superior Court – Probate Mediation Panelist
- Bar Association of San Francisco – Member, Probate and Trust Law and Alternative Dispute Resolution Litigation Sections
- Contra Costa County Bar Association – Member, Conservatorship/Guardianship, Probate & Trust Section
- East Bay Trust and Estates Lawyers - Board of Directors
- Marin County Bar Association – Member, Probate Law Section
- San Francisco Superior Court – Probate Mediation Panelist
- California Conference of Bar Associations – Delegate

## **PUBLICATIONS**

- *Wake-Up Call*, Trust & Estates Magazine (August 2008)
- *Speak Now or Forever Hold Your Peace: A Legislative Proposal for Collateral Estoppel of Substituted Judgment Orders*, Trusts and Estates Quarterly (Summer 2006)
- *When Is the Estate Planning Attorney Subject to a Malpractice Claim by a Nonclient Beneficiary?* Trusts and Estates Quarterly (Spring 2006)
- *A Practitioner's View on the Proposal to Abolish No-Contest Clauses in California*, Trusts and Estates Quarterly (Fall 2004)

## **PRESENTATIONS**

- *Charitable Giving*, UC Hastings Law Golden Society, San Francisco (October 2019)
- *Succession: Controversies When the Crown Jewel Is the Family Business*, Cambridge Forum on Private Wealth Litigation (April 2019)
- *Anticipating and Addressing the Dilemma Posed by A "Fading" Trustee, or At Least Trying*, Estate Planning Council of Diablo Valley, Lafayette (November 2018)
- *Fallout from Doolittle: How to Bulletproof Trusts from Contests and Strategically Use Attorney's Fees Provisions and Statutes*, Sacramento Estate Planning Council, Sacramento (April 2017)

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- *Planning for Incapacity: A Financial Planners Guide*, FPA NorCal Conference, San Francisco (May 2016)
- *Capacity Standards and Their Implications*, Golden Gate University School of Law and San Francisco Estate Planning Council Symposium (October 2015)
- *Section 17200 Petitions: For Modification/Termination of Instrument*, Southern California Tax & Estate Planning Forum (April 2015)
- *Financial Elder Abuse: Undue Influence*, Behavioral Sciences and Community Dental Education University of California School of Dentistry, San Francisco (September 2014)
- *Trust Litigation 2014*, The Southern California Tax & Estate Planning Forum (May 2014)
- *The Growing Epidemic of Elder Financial Abuse*, Commonwealth Club of San Francisco (February 2014)
- *Everything You Always Wanted To Know About Litigating Capacity In Trust And Will Contests, But Forgot To Ask (Part II)*, Bar Association of San Francisco, (January 2013)
- *Everything You Always Wanted To Know About Litigating Capacity In Trust And Will Contests, But Forgot To Ask (Part I)*, Bar Association of San Francisco, (December 2012)
- *Competently Litigating Competency In Trust and Estates Matters*, State Bar of California (September and October 2012)
- *Probate Litigation for the Uninitiated*, State Bar of California (June 2012)
- *Trust Litigation 2.0*, The Southern California Tax & Estate Planning Council (June 2012)
- *Ethical Concerns of Estate Planning for the Elder*, Legal Aid for Seniors (May 2012)
- *The Difference Between Civil Litigation and Probate Litigation*, Sacramento County Bar Association (June 2011)
- *Hot Topics in California Trust Litigation*, San Francisco Bar Association (May 2011)
- *Disqualified Transferee/Care Custodian Statutes*, Marin County Bar Association (May 2011)
- *Problems Created by Gifts to Caregivers/New Rules Governing Certificates of Independent Review*, The Southern California Tax & Estate Planning Forum (October 2010)
- *How to Manage Client Expectations in Probate and Trust Litigation*, Alameda County Bar Association (September 2010)
- *When Boilerplate Leads to Disaster*, 83rd Annual Meeting of the State Bar (September 2010)
- *Whether, When and How to Litigate*, Northern California Planned Giving Counsel (June 10, 2010)
- *Probate Code Section 21350: What Does It All Mean?*, The 32nd Annual UCLA/CEB Estate Planning Institute (May 2010)
- *The Demise of the No Contest Clause in California Is Not Greatly Exaggerated*, Marin County Bar Association (October 2008)
- *Financial Elder Abuse*, Continuing Education of the Bar (July-August 2008)
- *Avoiding Pitfalls in the Probate Code*, 80th Annual Meeting of the State Bar of California (September 2007)
- *Management of Fiduciary Real Estate: Taming an Unruly Asset Class*, East Bay Estate Planning Council (September 2007)

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- *Residents' Charitable Requests: Can They Hold up in Court?*, Teaching Services of California (May 2007)
- *Claims By Nonclients Against the Estate Planning Attorney*, Trusts and Estates Section of the Bar Association of San Francisco (June 2005)

**PRESS**

- Interview on Financial Elder Abuse, KPIX 5, CBS San Francisco (October 2015)
- In an appellate first, attacks on wills barred after estate owner dies, *The National Law Journal* (July 2008)
- Contesting the No Contest Clause, *San Francisco Daily Journal* (March 2008)

**PUBLISHED APPELLATE OPINIONS**

- *Keading v. Keading* (2021) 60 Cal.App.5th 1115
- *Estate of Bartsch* (2011) 193 Cal.App.4th 885
- *Doolittle v. Exchange Bank*, (2015) 241 Cal.App.4th 529
- *Boys and Girls Club of Petaluma v. Walsh, et al.* (2008) 169 Cal.App.4th 1049
- *Murphy v. Murphy* (2008) 164 Cal.App.4th 376
- *Bonanno v. Central Contra Costa Transit* (2001) 30 Cal.4th 139
- *Lombardo, et al. v. Huysentruyt* (2001) 91 Cal.App.4th 656
- *Sutton v. Golden Gate Bridge Highway and Trans.* (1998) 68 Cal.App.4th 1149

**ADMISSIONS AND COURTS**

- State of California – all trial and appellate courts
- United States District Courts for California: Northern, Eastern and Central Districts
- United States Court of Appeals for the Ninth Circuit
- United States Tax Court

**HONORS**

- State Bar of California Board of Trustees, Wiley W. Manuel Pro Bono Award (2006, 2016)
- Northern California Super Lawyers, *San Francisco Magazine* (2006-2008, 2014-2022)