This Administration Feels Like Litigation: What to Do When People Start Fighting

> Jim Lamping The Law Office of James P. Lamping San Francisco – Marin County (415) 992-3100 jim@jimlamping.com

Challenges to the Documents

Probate Code Section 16061.7

Contested Administrations

The Biggest Issue in Probate Litigation





Moeller v. Superior Court (1997) 16 Cal.4th 1124

Communications With Other Beneficiaries

Don't Believe Your Client

Notice of Proposed Action

Procedural Gateways

- Probate Code 17000: Third Parties
- Existence of Trust, Creditors and Other Third Party Actions
- Probate Code 17200: Trustee or Beneficiary
- Probate Code 17200(b): Nonexclusive List of "Internal Affairs" Petitions
- Plead in the Alternative

Suspension vs. Removal

Status Hearing

Discovery

- Demand for Production
- Requests for Admissions
- Form Interrogatories
- Special Interrogatories
- Depositions (Don't Open the Envelope!)

Meet and Confer/Motion to Compel

- Calendar Deadline for Response (30 Days)
- Privilege Log
- Calendar Deadline for Motion to Compel
- Meet and Confer
- <u>Written</u> Extensions of Time
- Judicial Attitudes

Evidentiary Hearing

Appeals

And Only the Lawyers Won

Mediation: <u>Perception</u> vs. Reality

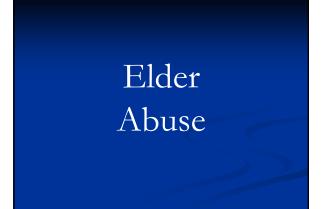


Mediation Privilege

If You Mess Up, Fess Up

Probate Code Section 850

Estate of Giraldin (2012) 55 Cal.4th 1058



The Big Picture



Jim Lamping The Law Office of James P. Lamping San Francisco – Sausalito (415) 992-3100 jim@jimlamping.com