



ABSOLUTE

TRUST COUNSEL

**Estate Planning and
Marital Dissolution**



What We'll Cover:

- Necessity of Estate Planning in Divorce
- What Clients Can Do Before Filing
- Automatic Temporary Restraining Orders (ATROs)
- Estate Planning During ATROs
- Estate Planning After Dissolution

Existing Estate Plan May Not Be What Client Wants

- Valid Until Final Order of Dissolution
- Written Plans: Trust, Will, Power of Attorney, Health Care Directive
- Intestacy
- Community and Separate Property

BEFORE PETITION IS FILED

- Revoke or Create Trusts
- Fund Trusts
- Revoke or Create Wills, Power of Attorney, Health Care Directives
- Change Beneficiary Designations

BEFORE PETITION IS FILED

Revoking a Trust

- Read the Document!
- Beware Intestacy
- Probate

BEFORE PETITION IS FILED

Creating and Funding Trust

- Community Property
- Separate Property

BEFORE PETITION IS FILED

Creating/Revoking Ancillary Documents

- Read the Documents!
- Typically Revoked in Superseding Document

BEFORE PETITION IS FILED

- Change Beneficiary Designations
- ERISA
- Community Property

Automatic Temporary Restraining Orders

- ATROS Family Code § 2040
- Summons
- Applies to Community and Separate Property

DURING ATROS

Revoking a Trust - Restricted

- Read the Document!
- Notice Served and Filed
- Beware Intestacy
- Beware Probate

DURING ATROS

Creating New Trust - Permitted

- Funding - Prohibited

DURING ATROS

Revoking/Creating Ancillaries - Permitted

- Wills – Express Disinheritance of Spouse
- Powers of Attorney
- Health Care Directives

DURING ATROS

Change of Beneficiaries - Restricted

- Revocation Requires Notice Served and Filed
- Designation of New Beneficiary – Prohibited
- Intestacy/Probate
- Community Property/Separate Property
- ERISA

EFFECT OF DISSOLUTION

- Trust Revoked as to Ex-Spouse, Including Trustee Provisions
- Will Revoked as to Ex-Spouse, Including Executor Provisions
- Ancillary Documents Revoked as to Ex-Spouse
- Beneficiary Designations Still in Effect

AFTER DISSOLUTION ORDER

- Client Needs Estate Plan
- Fund Trust
- Plan Must Anticipate Children's Intestacy
- Don't Forget Beneficiary Designations



Thank You!

Kirsten Howe, Esq.

2890 N. Main St., Suite 206

Walnut Creek, CA 94597

925-943-2740

AbsoluteTrustCounsel.com

