
The Ex-Factor in Estate Planning

Key Estate Planning Considerations Before, During and After Divorce

2026 Harold R. Kemp Annual Family Law Symposium
October 12, 2026 | Columbus, Ohio

Three Phases & Three Different Legal Questions



- **BEFORE:** What rights, restrictions and structures already exist? Assessment of risk and exposure and analyzing the estate plan created by *or for* the divorcing parties.
- **DURING:** What settlement options are available with creative estate planning?
- **AFTER:** Which rights change automatically – and what must be affirmatively updated?

Intake: The Estate Planning Issue-Spotter



- Request **Wills, Trusts, Healthcare Directives and Marital Agreements.**
- Inventory title, survivorship, beneficiary forms, retirement plans and insurance.
- Identify children of prior relationships, beneficiaries and **fiduciaries (trustees, executors, guardians and other agents).**
- Flag business succession planning, family trusts and inheritances.

Evaluating Trusts in Preparation for Domestic Relations Matters

Evaluating Trust Provisions in Divorce



Ohio Law offers significant protection for inherited wealth held in a properly structured third-party irrevocable trusts, but spendthrift protection, marital property classification and spousal/child support obligations are separate legal inquiries. The analysis begins with an evaluation of the trust:

- **Who created the trust?**
- **Who are the trust beneficiaries?**
- **Who is the trustee?**
- **On what basis can the trustee make distributions?**
- **Is there a spendthrift provision in the trust?**
- **Does a beneficiary have control powers?**

Who Created the Trust?



- Trusts created by a spouse are more likely to be considered part of the marital estate.
- Trusts created by a third party (such as a parent or a grandparent of a divorcing party) are less likely to be considered part of the marital estate.

Who are the Trust Beneficiaries?



- Is the beneficiary spouse the sole beneficiary? Is the beneficiary spouse among a class of permissible beneficiaries?
- If the trust is a pot trust for the collective benefit of a class of beneficiaries (with no requirement for equal distributions to all beneficiaries), the trust is generally less exposed.

Who is the Trustee?



- An independent/neutral/corporate trustee creates the appearance of a true “arms-length” fiduciary and beneficiary relationship.
- The beneficiary spouse as trustee (or a close family member of the beneficiary spouse as trustee) creates the appearance of impropriety and subjectivity in trust distributions.

On What Basis Can the Trustee Make Distributions?



- In the dispositive provisions of a trust, the difference between “shall” and “may” can be impactful.
- If a trustee is given authority to make distributions to the spouse beneficiary in its sole discretion as to timing and amount (a “**wholly discretionary** trust”), less likely that a court will consider the trust property to be reachable in divorce.
- Conversely, if a trustee must distribute income and/or portions of principal with identifiable timing components (an “**ascertainable standards** trust”), the trust property may be vulnerable.

On What Basis Can the Trustee Make Distributions?



Example of Ascertainable Standards:

*“If any portion of the trust shall become distributable to any person who is a child or issue of mine which person is then under the age of thirty (30) years, then such portion shall be retained by the Trustee in trust for the benefit of such person. **The Trustee shall distribute to or for the benefit of such person, out of the net income or principal or both of the portion held for the benefit of such person, such amount or amounts (whether the whole or a lesser amount) which shall be necessary or advisable to provide for the maintenance, support, health and education of such person, and shall from time to time add to the principal of such portion the remaining undistributed income, if any, until the complete distribution of such portion or until the death of such person prior thereto.**”*

On What Basis Can the Trustee Make Distributions?



Example of Wholly Discretionary:

*“The Trustee may distribute to or for the beneficiary, any portion or all of the net income and principal of the trust, **at such times, in such amounts, and in such manner as the Trustee determines appropriate, in the Trustee’s sole and absolute discretion.**”*

Beneficiary Access: Right of Withdrawal



Example of Withdrawal Right:

“During the beneficiary’s lifetime, the beneficiary shall have the continuing right, exercisable at any time and from time to time, to withdraw any portion or all of the net income and principal then held in this trust.”

- **NOTE:** The unlimited right to withdraw trust property generally constitutes a general power of appointment over the property that can be withdrawn for gift and estate tax purposes.

Beneficiary Access: 5x5 Power



Example of 5x5 Power:

*“During the beneficiary’s lifetime, **the Trustee shall distribute to the beneficiary from the principal of the trust such amounts as the beneficiary shall request in writing**, but which, during any calendar year, do not exceed the greater of Five Thousand Dollars (\$5,000) or Five Percent (5%) of the market value of the principal of the trust on the last day of each calendar year.”*

- **NOTE:** This is a common tool used by estate planners and is often referred to as a 5x5 power of withdrawal which allows the beneficiary to withdraw the greater of \$5,000 or 5% of the value of the trust, generally within a specified period of time. The power gives a beneficiary access to trust principal in excess of the usual ascertainable standards of health, education, maintenance and support, without requiring the Trustee to exercise discretionary distribution authority. The limitations on value of \$5,000 or 5% of the value of trust property are intentional and are meant to prevent the lapse of the withdrawal right from being treated as a taxable release of a general power of appointment which has certain estate and gift tax implications.

Is there a Spendthrift Provision in the Trust?



Example Spendthrift Clause:

“Spendthrift Clause. No interest whatsoever in the principal and/or income of any trust, share or portion held hereunder shall be subject to assignment, alienation or pledge by the person for whom held, whether voluntarily or involuntarily, nor to attachment or the claims of creditors while such principal and/or income is in the possession or control of the Trustee. For purposes of this Paragraph, the exercise of any power of appointment granted herein or the exercise of any disclaimer by a beneficiary of any rights or benefits under this Trust Agreement shall not cause or result in the provisions of this Paragraph becoming applicable.”

Is there a Spendthrift Provision in the Trust?



- Spendthrift provisions are used in trusts as a creditor protection mechanism. In the divorce context, a divorcing spouse is the “creditor.”
- A Spendthrift provision, by itself, does not resolve whether a beneficiary’s trust interest constitutes marital or separate property under Ohio law – rather, under ORC §3105.171(A)(6) inheritances generally constitute separate property.
- Important distinction between protecting trusts from **property division** in divorce and protecting trusts from claims from **spousal/child support**.
- ORC §5805.01 provides that a valid Spendthrift provision generally prevents a spouse beneficiary from voluntarily transferring their interest AND prevents creditors from reaching the beneficiary’s interest or distributions before receipt.
- Practical Implication: if a third-party creates an irrevocable trust for a married person, this person’s spouse generally cannot compel the Trustee to distribute assets merely because the couple is divorcing.

Is there a Spendthrift Provision in the Trust?



- Distinction between current and former spouses:
 - ORC §5805.02(B)(1): Spendthrift provision may be unenforceable against a beneficiary's spouse or child with a support judgment order, but only where distributions may be made for the beneficiary's support or the beneficiary is entitled to mandatory distributions.
 - ORC §5805.02(C): Provides that a spendthrift provision is enforceable against the beneficiary's former spouse.
 - ORC §5805.02(D): Provides certain qualified support claimants to seek attachment of trust distributions, subject to judicial limitations.

Does the Beneficiary have Control Powers?



- The greater the powers of a beneficiary to exert control over a trust, the greater the likelihood that a court will consider that beneficiary's interest in a divorce proceeding. Examples of control features:
 - Beneficiary serving as trustee with the ability to make distributions to self
 - Beneficiary having the power to remove and replace trustees or other advisors
 - Beneficiary having a power of appointment allowing the beneficiary to redirect the disposition of trust assets
- **GENERAL RULE:** more control → more likely underlying assets will be included/considered

Detecting Favorable Provisions for Protection of Third-Party Trusts



- **Use of an Independent Trustee** (with appropriate succession provisions) reduces the beneficiary's control over distributions and potential arguments concerning effective ownership.
- **Use of wholly discretionary distribution standards** (where the trustee can distribute for the benefit of a beneficiary in the trustee's sole discretion – OR no distributions at all) avoiding mandatory income and/or principal distributions and/or unrestricted withdrawal rights.
 - See *Great American Insurance Co. v. Thompson Trust*, 2006-Ohio-304 (1st Dist.) illustrating the potential vulnerability of assets subject to a beneficiary's unconditional withdrawal rights.
- **Inclusion of a comprehensive spendthrift provision.**
- **Stipulated treatment of trust assets and distributions in prenuptial or postnuptial agreements**, particularly where multi-generational family wealth or expected inheritances are involved.

Relevant Behavior with Trust Assets During Marriage



- Once the trust has been analyzed for exposure, it is important to consider **what actually happened during the marriage:**
 - History of trust distributions
 - Identify patterns and consider where the couple used trust funds to support lifestyle
- **IMPORTANT CONSIDERATION:** domestic relations courts are courts of equity, destined to reach a fair and equitable result and trusts are designed to be administered pursuant to their terms, without regard for fairness or equity.

Interpretation of Trusts in Domestic Relations Cases

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Trust Interpretation in Domestic Relations Cases – Spousal Support



- O.R.C. §3105.18 provides that a Court may award “reasonable” spousal support in determining nature, amount, duration, terms and determines factors for consideration
- Courts have used the following O.R.C. §3105.18 factors to include trust distributions/income as “income” attributable to a spouse for purposes of determining spousal support:
 - (a) The income of the parties from **all sources...**
 - (g) The **standard of living** of the parties established during the marriage
 - (i) The relative assets and liabilities of the parties [**considering Separate Property** for spousal support even if not considered in property division]
 - (n) **Any other factor that the Court expressly finds to be relevant and equitable**

Trust Interpretation in Domestic Relations Cases – Trusts as Separate Property



- Spouse with a beneficial interest in a Trust must establish the Trust (and income) as Separate Property – **by a preponderance of the evidence**
 - *Hornung v. Horning*, 1999 Ohio App. LEXIS 1828 (8th Dist. April 22, 1999)
 - Trust determined to be Separate Property, where:
 - Trust established prior to marriage
 - Trust paid its own taxes
 - Neither spouse contributed to the value of the Trust
 - Trust was controlled by third party Trustee
 - *Oakes v. Oakes & Leadwise, Inc.* 2024-Ohio-6051 (2nd Dist.): case-by-case approach based upon the intent and conduct of relevant parties regarding the formation and operation of the Trust
 - *Carmen v. Carmen*, 2012-Ohio-3258 (8th Dist.): Trust upheld where Husband created an irrevocable Trust for himself/his children and Wife acknowledged in Prenuptial Agreement

Trust Interpretation in Domestic Relations Cases – Trusts as Separate Property



C.S. v. R.H., No 2025-05792, 2026 WL 3022577 (N.Y. App. Div. Oct 8, 2026)

- Husband transferred most marital wealth into two irrevocable trusts during 24 year marriage (and 15 years before the divorce) for children/grandchildren; trust assets later exceeded **\$181 million**.
- Neither spouse was a trust beneficiary, though husband retained significant control and family expenses were paid through trust-owned assets.
- Trial court included the value of the trust assets in dividing the marital estate and awarded wife a **\$35.7 million**.
- On October 8, 2026, the appellate Division vacated the award, holding valid irrevocable trusts for third-party beneficiaries are not divisible marital property absent a sham, revocation power, or retained beneficial interest.
- Case remanded for recalculation of the non-trust marital assets only.

Key takeaway: New York courts will generally respect properly structured irrevocable trusts in divorce, even where the grantor-spouse retains meaningful administrative control.

Trust Interpretation in Domestic Relations Cases – SLATs



- SLAT complications in divorce:
 - Even if SLAT contains provisions indicating that beneficiary spouse is treated as predeceased upon separation/divorce, issues regarding inclusion of the assets in the marital estate remain
 - Even if SLAT is determined to be separate property of the beneficiary spouse, grantor spouse may remain responsible for income tax burden of SLAT
 - *Dayal v. Lakshmipathy, 2020-Ohio-5441 (6th Dist.)*: held SLAT was a gift from Husband to Wife and the assets of SLAT were Wife's separate property
 - *Kim v. Kim, 2020-Ohio-22 (9th Dist.)*: held cash value of life insurance policies in ILIT for the benefit of Wife (with children as remaindermen) were marital property

Case Studies: Settling Domestic Relations Matters with Estate Planning Vehicles

Case Study No. 1: *Trust for the Benefit of a Soon-to-be-Ex Spouse*



Overview of Concept: Trust as part of divorce settlement, where: (1) the identification of separate property is speculative, cumbersome and may involve extensive tracing, (2) the parties have funded their marital lifestyle largely through one or both parties' separate property (i.e. inherited/gifted wealth), (3) the Beneficiary Spouse has specific and ascertainable financial needs or concerns and at least partial inability to provide for same following the divorce and/or (4) the Grantor Spouse desires for the remainder of the Trust assets to vest in children upon the death of the Beneficiary Spouse. Typically, the Beneficiary Spouse is the “less-monied” spouse, and the Grantor Spouse is the “monied” spouse. The Trust provides potential resolution to avoid the risk of a distributive award of separate property to the “less-monied” spouse, especially where maintaining assets within the family bloodline is important to the “monied” spouse. Attorneys should consider:

- For the Beneficiary Spouse to maintain a comfortable standard of living:
 - The dispositive provisions of the Trust:
 - drafted to meet certain interests/needs of the Beneficiary Spouse while preserving the trust corpus
 - provide some/all income to Beneficiary Spouse for living expenses in lieu of spousal support
- A neutral Trustee is key, and a highly negotiated consideration

Case Study No. 1: *Trust for the Benefit of a Soon-to-be-Ex Spouse*



Facts:

- Husband and Wife married for 33 years. All three children of the marriage are emancipated adults.
- Parties shared a high standard of living, including a well-appointed home in an affluent suburb, luxury vehicles, and lavish vacations.
- Both parties employed throughout the marriage, but earnings from employment incommensurate to standard of living. Their standard of living has been funded from various irrevocable trusts created for Wife by her parents.
- For the last 10 years of the marriage, lifestyle was largely funded by investment earnings from Wife's revocable Trust (comprised of outright gifts from Wife's parents).
- At the time of divorce, both parties are in their late 60s.
- Other trusts have been established and funded during the marriage for adult children have containing assets sufficient for remaining education expenses.
- Husband has health concerns and worries that he may require long-term care.
- Parties agree to partially address financial support for Husband by exploring options with their domestic relations attorneys—who promptly engage estate planning counsel.

Case Study No. 1: *Trust for the Benefit of a Soon-to-be-Ex Spouse*



Legal Issues/Analysis:

- O.R.C. §3105.171(A)(6)(a), Wife can argue that a large portion of the assets are her separate property; however, she has the legal burden of proof
 - Wife will be required to successfully trace any premarital property/inheritance by a **preponderance of the evidence**. Given the long duration of the marriage, this will require obtaining abundant historical records and engagement of an expert for tracing analysis.
 - Wife's burden to establish that gifts from her family were made solely to her—by **clear and convincing evidence**. Husband will argue that some (or all) gifts were made to both parties (as a couple) and not solely to Wife. Proving these gifts may involve the testimony of third-party family members, which can be burdensome or impossible if those family members are elderly or deceased.

Case Study No. 1: *Trust for the Benefit of a Soon-to-be-Ex Spouse*



Legal Issues/Analysis:

- Even if Wife is successful in meeting her legal burden and proving separate property, a court could use O.R.C. §3105.171(E) to issue a **distributive award** to Husband.
 - Domestic Relations Court is a court of equity and O.R.C. §3105.171(E) references “equity between spouses” in addressing division of property.
 - Given the parties’ long marriage, court may find it inequitable that Husband retains minimal assets and Wife retains significant assets. This position is supported by the fact that parties primarily “lived” using Wife’s family wealth.
- Even if Wife proves separate property and does not issue a distributive award, a court may require Wife to pay Husband **spousal support** pursuant to O.R.C. §3105.18.
 - O.R.C. §3105.18(C)(1) considers the duration of the marriage, the “standard of living the parties established during the marriage,” and the “relative assets...of the parties,” which can include separate property.
 - O.R.C. §3105.18(C)(1) includes a catchall at (n) which considers “any other factor the court expressly finds to be relevant and equitable.”
 - Given the long duration of the marriage, the spousal support award may be an indefinite award.
- *Kunkle v. Kunkle*, 51 Ohio St.3d 64 (1990): An award of spousal support of an indefinite duration is authorized where the marriage was long term, the parties are of advanced age, or there is a homemaker-spouse with little opportunity to develop meaningful employment outside the home.

Case Study No. 1: *Trust for the Benefit of a Soon-to-be-Ex Spouse*



Result:

- Wife retains the majority (but not all) of her Separate Property.
- Husband retains specific retirement assets in his name earned during the marriage.
- Neither party is required to pay spousal support, and the Court does not retain jurisdiction over spousal support.
- Wife establishes an irrevocable Trust for the benefit of Husband naming a neutral corporate Trustee with clearly defined Trustee succession provisions. Wife funds the Trust with negotiated amount of Wife's revocable Trust assets.
 - The dispositive provisions of the Trust: (1) mandatorily distribution of a unitrust amount (with a dollar amount cap) to Husband for life, and (2) discretionary principal for health-related expenses (to be narrowly defined – i.e. not to include cosmetic or elective procedures).
 - Upon Husband's death, the Trust splits into separate equal dynastic shares for the respective benefit of the parties' three children.

Case Study No. 1: *Trust for the Benefit of a Soon-to-be-Ex Spouse*



Result (cont'd):

- Compromise addressing concerns of both Husband and Wife:
 - Wife has assurance that Trust assets will remain in her bloodline
 - Wife has assurance that Husband's use of the assets is restricted, limiting dissipation of assets
 - Husband has financial support to assist in supporting his lifestyle, ensuring his lifestyle will not fall "off a cliff" following the divorce
 - Husband has access to Trust assets as needed for future health expenses or long-term care
- **Tax analysis:** the transfer of assets to the Trust is not entirely exempt under I.R.C. §2516 as the remainder interest (for adult children) is considered a gift. Analysis requires a calculation of the present value of Husband's interest in the Trust (an exempt transfer I.R.C. §2516) to determine the actuarial value of the remainder interest. Actuarial value of remainder interest is taxable gift made by Wife.

Case Study No. 2: *Trust for a Tag-Along Business Interest (Or Assets to be Temporarily Shared that Cannot be Divided)*



Overview of Concept: Trust as part of divorce settlement where certain marital property—such as a business interest/illiquid asset cannot be easily divided between the parties and/or must remain in the name of one spouse for a period beyond termination of marriage. Strategy protects non-owner spouse upon death/default of the owner spouse and protects owner spouse by clearly allocating tax burden among the parties. Estate planning attorneys should consider:

- Use of a Trust or new Limited Liability Company designed to temporarily own a “tag-along interest”
- Corporate governance documents to be reviewed to ensure compliance with transfer restrictions
- A Trust may provide a power of appointment to allow Beneficiary Spouse to plan for eventual transfer of asset proceeds, simulating individual ownership

Case Study No. 2: *Trust for a Tag-Along Business Interest (Or Assets to be Temporarily Shared that Cannot be Divided)*



Facts:

- Husband and wife have been married for 25 years, and the two children of the marriage are emancipated adults.
- Husband has a partial interest in a closely-held business acquired during the marriage. Husband no longer works in the business. Both parties believe the business will be sold in approximately 3 to 5 years for a significant amount.
- The parties agree to maintain and “co-own” Husband’s passive business interest and equally divide the net proceeds when the business sells.
- Transfer restrictions in the Operating Agreement do not permit Husband to transfer any part of his interest to Wife/to a new Limited Liability Company wholly owned by Wife.
- Transfer restrictions in the Operating Agreement permit Husband to transfer his interest into a Trust naming Wife as sole beneficiary. Due to his passive role in the business/privacy reasons, Husband does not desire to negotiate an amendment to the existing Operating Agreement allowing for more liberal transfer restrictions.
- Outside of the business, Husband does not have sufficient liquidity for a buyout and would be required to sacrifice the majority of his liquidity or negotiate installment payments to Wife.
- Wife is comfortable delaying the buyout as she has been privy to the details of a potential liquidity event, and desires to participate in the anticipated financial upside.
- Wife desires assurance if Husband dies/defaults in the short term and is not satisfied with the security provided by a Separation Agreement.
- The parties agree to address the division of the business asset by exploring options with their domestic relations attorneys—who promptly engage estate planning counsel.

Case Study No. 2: *Trust for a Tag-Along Business Interest (Or Assets to be Temporarily Shared that Cannot be Divided)*



Legal Analysis:

- O.R.C. §3105.171 requires the Court to equitably divide marital property. Husband's business interest is marital property, due to acquisition during the marriage.
- Dividing business interest presents challenges, including: (1) valuation of Husband's business interest and Wife's concern that the near future sale will garner significantly more value; (2) Husband's concerns that per Ohio case law, the value of business interests that are not sold at the time of the divorce are not tax-affected—as the tax consequences of sale are viewed as “too speculative” to be considered; and (3) both parties' concerns about structure of Husband's buyout of Wife's interest given the asset-mix of the marital estate.
- Transfer restrictions of Operating Agreement do not allow for a direct transfer of Husband's business interests: (1) to Wife, individually; or (2) to a Limited Liability Company wholly owned by Wife.
- Parties can include language in Separation Agreement specifying 50% of Husband's business interest to be held in “constructive trust” for Wife's benefit—but this solution may be insufficient protection for Wife.
- A constructive trust is an equitable remedy that may be used “when property has been acquired in such circumstances

Case Study No. 2: *Trust for a Tag-Along Business Interest (Or Assets to be Temporarily Shared that Cannot be Divided)*



Result:

- Husband establishes an irrevocable Trust for the benefit of Wife with a neutral/corporate Trustee – as agreed by Husband, Wife **and the company**.
- Parties stipulate a funding mechanism in Separation Agreement for 50% of Husband's interests in the company to be transferred to Trust.
- Counsel **for the company** drafts all transfer documents to ensure compliance with transfer restrictions/acknowledge acceptance of the Trust as a new member of the company.
- Dispositive provisions of the Trust:
 - Wife as sole beneficiary with a limited power of appointment to appoint the Trust property to a class of relatives (including Wife's relatives **who are not also relatives of Husband**); and
 - If the limited power of appointment is not exercised, upon Wife's death Trust splits into equal dynastic shares for the parties' two children.
- Trustee succession indicates that following the liquidity event, Wife becomes sole Trustee.
- Result is a compromise:
 - Wife realizes the increased value from sale and has protection/legal recourse upon Husband's death/default.
 - Husband defers payment for value of 50% of the business—avoiding lump-sum payment to Wife or installment payment to Wife.

Post Divorce Estate Planning

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OH Statute / Instrument	Trigger	Statutory Effect on Former Spouse	Key Qualification
ORC 2107.33 Wills	Divorce, dissolution, annulment; or qualifying separation agreement after actual separation	Revokes gifts, powers of appointment and executor/trustee/guardian nominations	Express Will language can override; remarriage / termination of agreement revives
ORC 5815.31 Revocable trusts	Divorce, dissolution, annulment; or qualifying separation agreement after actual separation	Former spouse deemed predeceased; revokes beneficial interests, powers of appointment and trustee/trust advisor nominations	Trust or agreement may override; remarriage / termination of agreement reverses effect
ORC 5815.32 Financial POAs	Divorce, dissolution, annulment; or qualifying separation agreement	Revokes former spouse's designation as attorney-in-fact	POA may override; remarriage / agreement termination does NOT revive
ORC 1337.30 Financial POAs	FILING of divorce, dissolution, annulment or legal-separation action	Terminates former spouse-agent's authority under POA	POA may override; good-faith / no-actual-knowledge protection
ORC 5815.33 Beneficiary Designations	Divorce, dissolution or annulment – NOT merely separation	Revokes former spouse as beneficiary of covered death benefits—life insurance, IRAs, POD accounts, annuities	Designation or decree may override; remarriage generally restores; federal preemption possible

Impact of Divorce on Existing Estate Planning Documents



The divorce decree is not a substitute for a comprehensive estate plan update, though Ohio Law provides a temporary safety net.

- **O.R.C. §2107.33:** provides that divorce, dissolution, annulment or execution of certain separation agreements automatically revokes certain provisions in a **Will** benefitting former spouse.
- **O.R.C. §5815.31:** provides that divorce, dissolution, annulment or execution of certain separation agreements, former spouse is deemed predeceased, triggering revocation certain provisions of a **revocable trust**.

Impact of Divorce on Existing Estate Planning Documents



- **ORC §5815.33**: provides that divorce, dissolution or annulment revokes certain **beneficiary designations** to former spouse: life insurance, annuities, POD accounts, IRAs, employer death benefit plans or another contractual death benefits.
 - **NOTE**: the statute covers many common accounts but **does not reach all ERISA-governed employer plans**.
- **ORC §1337.30**: provides upon filing for divorce, dissolution, annulment or legal separation, a **power of attorney** in favor of former spouse terminates.

Practical Estate Planning After Divorce



- Review and update all **beneficiary designations** – life insurance, retirement accounts, POD accounts and other contracts; making sure to check ERISA-governed accounts.
- Update **Wills** and **Revocable Trusts** – to remove and replace former spouse references, account for children as immediate beneficiaries and power-holders and accept divorce settlement proceeds.
- Update **Financial Powers of Attorney** and **Healthcare Directives** – to remove and replace former spouse references.

Questions?



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As Chair of Hahn Loeser's Cleveland Trusts and Estates Practice Group, Dana Marie DeCapite dedicates her practice to serving as a trusted legal advisor for high-net worth families through estate planning, estate/trust administration, business succession planning, asset protection planning and prenuptial/postnuptial planning. Dana represents local, national, and internationally based individuals, families, and businesses to recommend and draft custom-tailored solutions. Dana also counsels fiduciaries on the duties and obligations of trustees, executors and attorneys-in-fact, and assists in the process of business entity creation, restructure and transition.

Dana regularly works with Domestic Relations counsel to bring discordant divorce proceedings to resolution using estate planning techniques. In Dana's experience, comprehensive and collaborative planning is necessary for high net worth clients in resolving contentious domestic relations disputes related to property division, spousal support and child support. Estate planning offers an additional toolbox that Dana uses to successfully bring parties to a tax efficient, private and mutually agreeable resolution. In some cases, Dana is involved throughout the pendency of the case to interject estate planning options for private settlement, outside the scope of typical terms offered by in contested matters.