

Fundamentals of Trusts And Estates

Sixth Edition

2023 Supplement

Prepared by

Professor Ira Mark Bloom

PROFESSOR EMERITUS OF LAW

ALBANY LAW SCHOOL

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Carolina Academic Press
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
E-mail: cap@cap-press.com
www.cap-press.com

Preface

This Supplement primarily updates noteworthy case and statutory developments since the manuscript for the Sixth Edition was submitted in late 2021. Specifically, this Supplement provides updates from December 1, 2021 to July 25, 2023. During this period there were neither new major Uniform laws nor was there any major federal tax legislation. Inflation-adjusted tax items, however, are included in this Supplement.

I express my appreciation to the following individuals for their help in preparing this Supplement: William Gaskill, Research, Instructions and Scholarly Communications Librarian, Albany Law School and Theresa Colbert, my legal assistant.

Ira Mark Bloom
August, 2023

Chapter 1: LAWYERS, ESTATES, AND TRUSTS

§ 1.02 AN OVERVIEW OF INTER-GENERATIONAL WEALTH TRANSFER

D. The Uniform Codes and the Restatements

Page 16. *Add in the context of Restatements before “Noveletsky” cite:*

Lonely Maiden Productions, LLC v. GoldenTree Asset Management, LP, 135 Cal. Rptr.3d 69,78 (Cal. App. 2011) (“California trust law is essentially derived from the Restatement Second of Trusts. Over a number of years, the Restatement Second of Trusts has been superseded by the Restatement Third of Trusts . . . As a result, we may look to the Restatement Third of Trusts for guidance.”) and

§ 1.03 FEDERAL WEALTH TRANSFER TAXES

Page 19. In 1st full paragraph, delete sentence about exemption amount and replace with:

For 2023, the exemption amount is \$ 12,920,000.

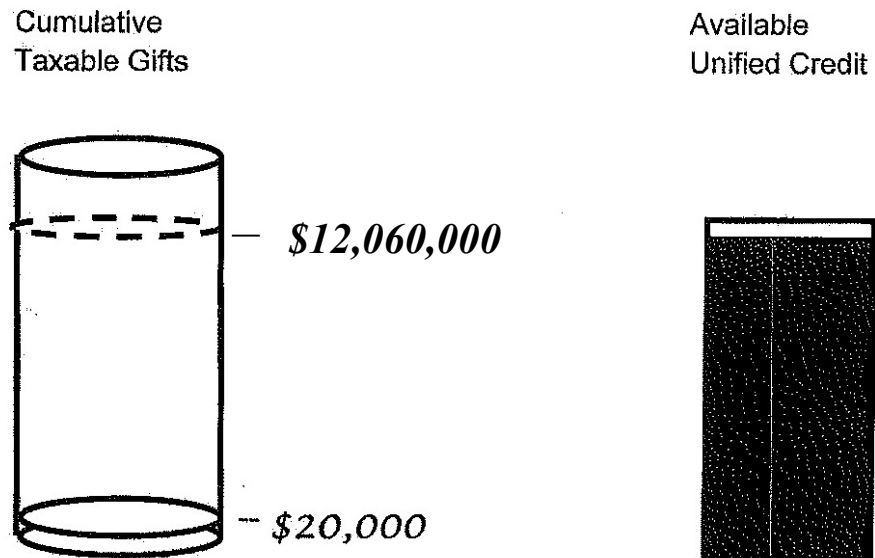
A. A Unified System

Page 20. In 2d paragraph, delete “For 2022, the exemption amount is \$12,060,000.” and replace with:

For 2023, the exemption amount is \$12,920,000.

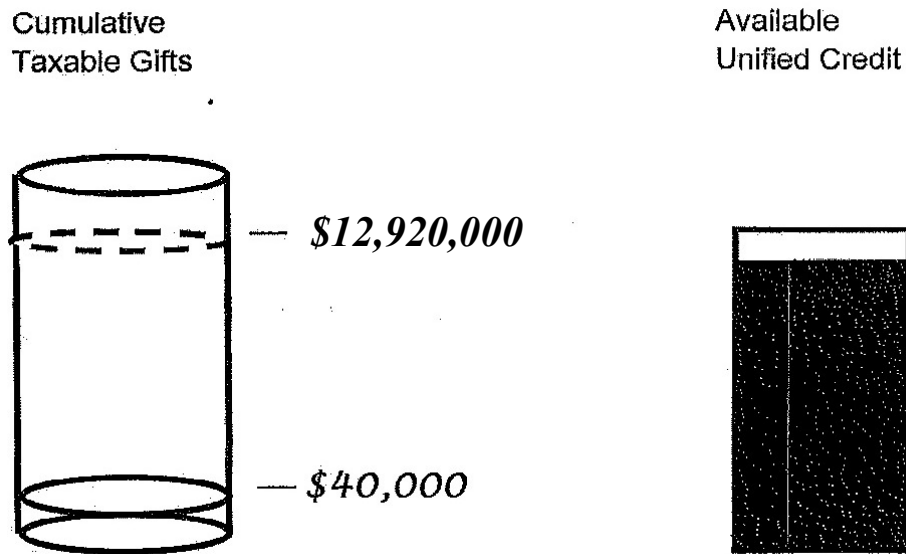
To see how the unified credit works, imagine Marc, who has incurred no prior transfer tax liability. Because his son, Ben, needed a down payment for his first house, in 2022 Marc gave Ben \$36,000, \$16,000 of which was exempt from taxation under an annual exclusion designed to reduce the gift tax consequences of lifetime transfers. The other \$20,000 was subject to gift tax. *See* IRC § 2501. Rather than actually paying any tax, however, Marc used up a small piece of his unified credit. Figure 1-2 on the next page illustrates Marc’s situation after making the gift.

Figure 1-2 Marc's First Gift in 2022



Suppose further that in early 2023, Ben's house was seriously damaged in a storm, so Marc gave him \$37,000 for repairs, \$17,000 of which was exempt from taxation under an annual exclusion designed to reduce the gift tax consequences of lifetime transfers and which was increased from \$16,000 in 2022 to \$17,000 in 2023. The other \$20,000 is subject to tax. This second gift however, was taxed at a higher rate, because it comes on top of Marc's earlier gift. To achieve that result as an accounting matter, we add in the prior gift for the purpose of figuring the tax on the new gift. Marc is not taxed twice on the first gift. The earlier gift only served to push the second gift into a higher bracket. Marc still used his unified credit and pays no tax. See Figure 1-3.

Figure 1-3 Marc's Second Gift in 2023



Other taxable gifts will be treated the same way. Suppose that Marc died at the end of 2023 having given away a combined total of \$100,000 in taxable gifts none of which were includable as part of his taxable estate. Now the value of his taxable estate will be added in just like the gifts. If the taxable estate was \$12,820,000 or less, the rest of his unified credit could cover the tax.¹ If the taxable estate pushed his lifetime-plus-death total over \$12,920,000 his estate will be able to use the rest of his available credit to offset some of the tax, but his estate will be liable for the excess over \$12,920,000, all of which will be taxed at a 40% rate.

B. The Gift Tax

Page 22. Add after " \$16,000 for 2022":

and to \$17,000 for 2023.

C. The Estate Tax

2. *The Marital Deduction*

Page 25. In the second paragraph of the boxed text, replace 2022 with 2023 and replace \$11,060,000 with \$11,920,000.

¹ Although no federal estate tax will be payable if the combined lifetime transfers and the taxable estate is \$12,920,000 or less, state death taxes may be payable in over 10 states which set the exemption or threshold level lower. For example, in Massachusetts only estates up to \$1 million are effectively exempt from estate taxation.

D. The Generation-Skipping Transfer Tax

Page 27. At end of 1st full paragraph:

Replace 2022 with 2023 and \$12,060,000 with \$12,920,000.

Chapter 2: INTESTACY

§ 2.01 OVERVIEW

B. Survivorship

Page 42. Add as new *Selected Reference* after 2d line:

Emily Gootzeit, *The Evolution of the Uniform Simultaneous Death Act and Its Shortcomings*, 16 Univ. St. Thomas J.L. & Pub. Pol’y 464 (2023).

A. Spouses and Partners

Page 54. Add to FN 12:

In re Estate of Jenkins, 290 A.3d 524 (D.C. 2023), is an interesting case involving aspects of common-law marriages.

Page 55. Add to Selected References;

Gary E. Spitko, *Integrated Nonmarital Property Rights*, 75 SMU L. Rev. 151 (2022).

3. Children of Assisted Reproduction

Page 73. Add before “Sharon L. Klein” in Note #:

Kristine S. Knaplund, *Reimagining Postmortem Conception*, 37 Ga. St. U. L. Rev. 905 (2021). (surveys all states treatment on rights of posthumously conceived individuals) and

Page 78. Add to Selected References:

Naomi Cahn, *Functional Siblings, Donor-Conceived People and Intestacy*, 48 ACTEC L.J. 5 (2022).

Chapter 3: WILLS

§ 3.02 CREATION OF WILLS

A. What's A Will?

Page 101. Add to FN 3:

Other states are following suit to allow natural organic reduction. *See, e.g.,* New York Public Health Law § 4202 and 18 Vt, Stat. Ann. § 5224.

Page 102. Add at end of the 3d line:

See Sharon Klein and Jenna Cohn, *The Post-Mortem Right of Publicity: Defining It, Valuing It, Defending It, and Planning for It*, 48 ACTEC L.J. 63 (2022).

B. The Mental Element

1. Intention

Page 102. Add after sentence ending with “may be unclear”:

See, e.g., In re Estate of Evensen, 531 P.3d 969 (Alaska 2023).

2. Testamentary Capacity

Page 113. Add to Selected References:

Reid Kress Weisbord and David Horton, *The Future of Testamentary Capacity*, 79 Wash. & Lee L. Rev. 609 (2022).

3. Undue Influence

Page 126. Add to Selected References:

Payton Yahn, *Conspiracy Theory Belief and the Case for Abolishing Insane Delusion Doctrine*, 16 Univ. St. Thomas J.L. & Pub. Pol’y 516 (2023).

5. Tortious Interference with Expectancy

Page 133. In Note 5, add after *Accord*:

Nelsen v. Nelsen, 508 P.3d 301 (Idaho 2022) and

C. Will Execution

2. A Typical “Statute of Wills”

b. Signed

Page 138. Add after “necessary” in 2d line:

; probate denied because signature of predeceased witness could not be proved. *See In re Will of Beard*, 334 So. 3d 1154 (Miss. 2022).

e. Attestation and Self-Proving Affidavits

Page 148. Add before *Dellinger* cite in 1st full paragraph:

In re Harris, 282 A.3d 467 (Conn. App. Ct. 2022) and

3. Electronic Wills

Page 149. District of Columbia, Idaho, Missouri and Texas have also enacted the Act.

4. Holographic Wills

Page 150. Add after last sentence in paragraph 2:

In re Estate of Evensen, 531 P.3d 969 (Alaska 2023) (probate allowed because material portion of will was proved to be in the testator’s handwriting) *with Estate of Beach*, 969 N.W.2d 198 (N.Dak. 2022) (probate denied because material portion of will was not proved to be in the testator’s handwriting).

2. Structural Elements

Page 166. Add before *Cook v. Cook* in Note 24:

In re Estate of Poston, 514 P.3d 1073 (Mont. 2023) (challenge to common-law marriage violated no contest clause),

§ 3.05 REVOCATION

A. By a Writing or Physical Act

Page 195. Add after 1st sentence in 2d paragraph of Note 4:

See, e.g., In re Estate of Evensen, 531 P.3d 969 (Alaska 2023).

Page 196. Add to Selected Reference(s):

David Horton, *Revoking Wills*, 97 Notre Dame L. Rev. 563 (2022).

Chapter 4: LIFETIME ALTERNATIVES TO WILLS

§ 4.01 LIFETIME GIFTS

Page 224. South Carolina has enacted the Uniform Transfers to Minors Act.

§ 4.04 TRANSFER ON DEATH DEEDS

Page 209. After 1st sentence, add:

See generally Danaya C. Wright and Stephanie L. Emric, *Tearing Down the Wall: How Transfer-on-Death Real-Estate Deeds Challenge the Inter Vivos/Testamentary Divide*, 78 Md. L. Rev. 511 (2019).

Add to 1st sentence of FN 5: Maine, Montana and Utah

§ 4.05 LIFETIME TRUSTS

A. Validity of Revocable Trusts

Page 236. Add before *DelFosse* cite in Note 4:

Diaz v. Zuniga, 91 Cal.App.5th 916 (Ca. App 2023) (amendment not made by required certified letter);

Add after last sentence in Note 4:

But cf. Sacks v. Dissinger, 178 N.E.3d 388 (Mass. 2022) (undue influence claim can be asserted beyond time limits for contesting validity of revocable trust because based on tort of intentional interference with expectancy which Massachusetts recognizes).

In 2d paragraph of Note 6 before “*Cundall*”, add:

e.g. In re Omega Trust, 281 A.3d. 1281 (N.H.2022) (email between settlor and settlor’s lawyer effectuated amendment) and

Chapter 5: CHANGED CIRCUMSTANCES

§ 5.01 ACTS OF THE PROPERTY HOLDER

C. Divorce

Page 270. Add after 2d sentence in Note 1:

Although Minnesota’s revocation on divorce statute, unlike UPC § 2-804, does not bar relatives of a former spouse from taking under a will, those relatives, do not take because by divorcing the class of his spouse’s heirs does not exist. *See Matter of Estate of Tomczik*, 2023 Westlaw 4340196 (Minn. 2023), *rev’g* 976 N.W.2d 143 (Minn. App. Ct. 2022).

C. Misconduct

Page 289. Add as new Note 9:

9. Should relatives of a slayer be allowed to take even though the slayer would be barred from taking? *See Matter of Estate of Cordray*, 294 A.3d 99 (Del.Ch. 2023) (yes).

Page 290. Add to Selected References:

David Horton and Reid Kress Weisbord, *Inheritance Crimes*, 96 Wash. L. Rev. 561 (2021).

Fredrick Vars, *The Slayer Rule: An Empirical Examination*, 48 ACTEC L.J. 201 (2023).

§ 5.03 CHANGES IN PROPERTY

A. Classification of gifts

Page 291. Add after 1st sentence in the 3d paragraph: *See, e.g., In Connery v. Shea*, 259 A.3d 118 (Me. 2021) (trust disposition of “all Bank stock” treated as a specific disposition).

C. Ademption

Page 297. Add before “Courts sometimes”:

But cf. In re Estate of Cone, 652 S.W.3d 822 (Tenn. Ct. App. 2022) (change of form exception did not apply when bequeathed stock in corporation which was sold to LLC).

§ 5.04 LAPSE

Page 302. Add as last sentence in 2d full paragraph:

See generally Adam Hirsch, *When Beneficiaries Predecease: An Empirical Analysis*, 72 Emory L.J. 307 (2022).

Page 304. In Note 2, add before *Estate of Kuruzovich*:

Shirley v. Dawkins, 2022 WL 2286416 (Ala. 2022) (Will that excluded relatives not mentioned in the will did not prevent application of Alabama’s anti-lapse statute when a child named as beneficiary predeceased the testator) and

Chapter 6: PROTECTING THE FAMILY

§ 6.01 DISINHERITED SPOUSES

B. Dower

Page 322. Add before “There is” in 3rd line of 2d paragraph:

But cf. Simpson v. Wethington, 641 S.W.3d 124 (Ky. 2022) (dower rights in Kentucky, which includes personal property, may be violated by fraudulent lifetime conveyance).

§ 6.02 FORGOTTEN SPOUSES AND CHILDREN

Page 364. Add after 1st sentence in Note 5:

See, e.g., Johnson v. Johnson, 2023 Ill.App.LEXIS 134 (Ill. App. 2023) (after-adopted adults allowed to take under Illinois statute).

§ 6.04 PUBLIC POLICY LIMITS

Page 372. Add before “Julian Valdes cite:

Christian Poppe, *Testamentary Restrictions on Marriage: A Reexamination of In re Estate of Feinberg in Light of Obergefell v. Hodges*, 16 Univ. St. Thomas J.L. & Pub. Pol’y 481 (2023) and

Chapter 7: PLANNING FOR INCAPACITY

§ 7.01 PROPERTY MANAGEMENT AND PRESERVATION

A. Durable Powers of Attorney

Page 395. Add as 2d sentence in Note 8:

However, under Section 201(a)(1) of the Uniform Act and in non-Uniform states, the principal must expressly authorize the agent to create a trust. *See, e.g., Barbetti v. Stempniewicz*, 189 N.E.3d 264 (Mass. 2022).

§ 7.02 HEALTH CARE DECISIONMAKING

Page 410. Correction for Note 1: Alaska not Arkansas has enacted the Act.

Chapter 8: TRUSTS

§ 8.01 AN OVERVIEW

B. Modern Trust Law

Page 417. Add before “In addition” in the full paragraph:

Although Comment a to Section 2 of the Restatement (Third) would recognize a trust as a juridical entity, the prevailing view is that a trust is not a juridical entity so that suit must be brought by or against the trustee not the trust. *See, e.g., Jo Redland Trust, U.A.D. 4-6-05 v. CITI Bank*, 95 Cal. App.5th 142 (Ca. App. 2023).

C. Express, Resulting and Constructive Trusts

Page 418. Add in 2d full paragraph before last sentence:

In *Indianapolis Museum of Art v. Hurley*, 206 N.E.3d 488 (Ind. Ct. App. 2023), a resulting trust was created in favor of the deceased trust creator’s estate).

Add in 4th full paragraph before “Indeed”:

See, e.g., JPMorgan Chase Bank, N.A. v. Winget, 2022 U.S. App. LEXIS 18332 (6th Cir. 2022) (constructive trust imposed in context of loan guarantee).

§ 8.02 CREATION

A. Intent

Page 428. Add at the end of Note 3:

Gestner v. Divine, 519 P.3d 439 (Idaho 2022), provides an excellent discussion of undue influence, including the court’s adoption of the Restatement (Third)’s presumption, which is set forth on Text Pages 114-115.

Page 429. Note 6. The no-contest clause in *Barger* was **unenforceable** because probable cause existed for the contest.

Add as last sentence to Note 6:

Of course, if a trust is invalidated because undue influence was exerted to create the trust, a no-contest provision in the trust necessarily has no effect. *See Slosberg v. Giller*, 858 S.E.2d 747 (Ga. 2022).

C. Trustee

Page 437. Add to 1st paragraph before “Depending on the”:

In some states, however, based on Section 16 of the Restatement (Third) of Trusts, the “delivery” requirement to a third-party trustee for real property may be satisfied without the necessity of a deed. *See, e.g., Davies v. Codney*, 522 P.3d 427 (Nev. 2022) (trust recital that real property transferred into trust sufficient without necessity for deed of real property). *Contra* New York Estates, Powers and Trusts Law § 7-1.18.

Page 438. Add to Selected References:

Richard Ausness, *Keeping it in the Family: The Pitfalls of Naming a Family Member as a Trustee*, 34 J. Am. Acad. Matrim. Law. 1 (2021).

David F. Johnson, *The More the Merrier? Issues Arising from Co-trustees Administering Trusts*, 15 Est. Plan. & Comm. Prop. L.J. 35 (2022).

D. Beneficiaries

Page 445. Add to Selected References:

Alexander A. Bove, Jr. & Melissa Langa, *The Perpetual Business Purpose Trust: The Business Planning Vehicle for the Future, Starting Now*, 47 ACTEC L.J. 3 (2021).

§ 8.03 THE NATURE OF A BENEFICIARY’S INTEREST

C. Transfers of Beneficial Interests in Trust

2. Spendthrift Provisions and Other Restraints on Alienation

Page 460. Add new Question 1A as follows:

1A. If a trust includes a spendthrift provision which precludes a beneficiary from encumbering his interest, can a beneficiary in his capacity as sole trustee mortgage trust property to obtain a personal loan? *See Plains Commerce Bank, Inc. v. Beck*, 986 N.W.2d 519 (S.D. 2023) (no).

4. Medicaid Eligibility

Page 479. Add after “See” in 2d to last line on Page:

In re Trust Under the Will of Riessen, 990 N.W.2d 683 (Iowa Ct. App. 2022) and

§ 8.04 REFORMATION, MODIFICATION, AND TERMINATION

A. Reformation and Modification Based on Ambiguity and Mistake

Page 482. Add as last sentence on page:

If, however, the settlor cannot show that he or she made a mistake or fraud was involved, trust reformation will not be allowed. *See In re Jeremy Paradise Dynasty Trust*, 2023 Del. Ch. LEXIS 28 (Del. Ch. Ct. 2023).

B. Termination and Modification Prescribed by Settlor

Page 483. Add before “*See generally* Maureen”:

But see *Little v. Davis*, 974 N.W.2d 70 (Iowa 2022) (trust amendment is not allowed if one of the co-settlors has predeceased). In *In re Trust under Deed of Garrison*, 288 A.3d 866 (Pa. 2023), the settlor and beneficiaries were allowed to change original trust provision for removal of trustee.

Page 484. Add Indiana and Maryland to enacting states.

C. Judicial Modification or Termination

Page 497. Add as new Note 4:

4. UTC § 416 allows a court to modify a trust to achieve a settlor’s tax objectives as do non-UTC states such as New York. Applying UTC § 416, a trust was retroactively modified to allow compliance with federal tax requirements to retain tax exempt status. *See. Robinson Charitable See In re Marvin Trust*, 531 P.3d 1224 (Kan. 2023).

Chapter 9: PLANNING FOR THE FUTURE: SUCCESSIVE TRUST INTERESTS

§ 9.01 Fundamentals

E. Trusts and Future Interests

Page 538. Add as new last paragraph:

Persons having a future beneficial interest in a trust, as well as those having a present beneficial interest in a trust, are deemed trust beneficiaries. *See* UTC § 103(3). For example, a person having the right to property after an income beneficiary has a remainder interest and is therefor a trust beneficiary even though the interest may be eliminated by the exercise of a power of appointment. *See Beck v. Pact*, 2023 Ill.App.LEXIS 241 (Ill. Ct App. 2023).

G. The Restatement (Third) of Property’s Simplified Classification System

Page 541. Add at end of 1st full paragraph:

In May 2022, the ALI membership approved Tentative Draft No. 3 for the Restatement (Fourth) of Property, which includes Volume 4, Division One: The Estate Tax System. This Division includes the simplification of present and future interests and essentially follows the simplification made in the Restatement (Third) of Property. For example, possibilities of reverter and rights of entry are not recognized but are treated as reversions. Executory interests are not recognized as all interests in third parties are treated as remainders.

Add to last sentence after “(Third)”:

and (Fourth)

§ 9.04 The Rule Against Perpetuities

G. Perpetuities Repeal Movement

Page 628. Florida’s USRAP period has been extended from 360 years to 1,000 for trusts created on or after July 1, 2022.

Page 632. Add to Selected References:

Eric Kades, *A New Feudalism: Selfish Genes, Great Wealth, and the Rise of the Dynastic Family Trust (DFT)*, 55 Conn. L. Rev. 19 (2022).

Jeffrey Pennell and Reid Weisbord, *Trust Alteration and the Dead Hand Paradox*, 48 ACTEC L.J. 147 (2023).

Jack Whiteley, *Perpetuities in an Unequal Age*, 177 Nw. Univ. L. Rev. 1477 (2023).

Chapter 10: PROBLEMS IN ADMINISTRATION

§ 10.01 An Overview

Page 637. Add as new FN2 at end of 1st sentence in paragraph 2:

Austin Trust Co. v. Houren, 664 S.W.3d 35 (Tex. 2023), held that an executor does not owe fiduciary duties to estate creditors.

§ 10.02 Duty of Loyalty

Page 645. Add before “*In re Trust Created by Inman*” in Note 4:

Vouk v. Chapman, 521 P.3d 712 (Idaho 2022) (breach of duty of loyalty by trustee distributing trust property only to himself), *Forbes v. Forbes*, 509 P.3d 888 (Wyo. 2022) (trustee breached duty of loyalty by buying stock in a sealed bid process controlled by trustee) and at end of

Add at end of Note 5:

See also Darrow v. White, 531 P.3d 1169 (Id. 2023) (settlor can override duty to obtain court approval for sale involving conflict of interest but trustee must comply with specific trust requirements to do so).

Page 646. Add before “More controversial” in 1st line:

Recent cases hold that a provision allowing an executor or trustee to make non-pro rata distributions of property permitted fiduciary to distribute property to themselves and was not a breach of the duty of loyalty. *See Bennett v. Estate of King*, 875 S.E.2d 46 (S.C. 2022) (executor) and *In Culliss v. Culliss as Trustee of Julia A. Culliss Trust*, 514 P.3d 376 (Kan. Ct. App. 2022) (trustee).

Page 648. Add as Problem 4:

4. If a trustee allows one beneficiary to live rent free in a property pending its sale, does the trustee violate the duty of impartiality? *See J. Kent Kinniburgh Revocable Trust v. Moncur*, 530 P.3d 579 (Wyo. 2023) (no).

§ 10.03 Managerial Issues

A. Duties and Powers

1. *In General*

Page 653. Add as new paragraph to *1. In General*:

In a UTC jurisdiction, a settlor may waive most fiduciary duties that are otherwise imposed on a trustee, *see* UTC § 105(a). For example, the duty to act prudently under UTC § 804, may be waived by a settlor. However, some duties, such as the duty to act in good faith, are mandatorily required of a trustee by the UTC. *See* UTC § 105(b). Absent a settlor's permissible waiver of a duty- for example, the duty to act prudently-a trustee has common law duties and will be liable for breaching any such duty in a non-UTC state. *See* Hillblom v. Wilmington Trust Co., 2022 Del. Ch. LEXIS 351 (Del. Ch. Ct. 2022).

B. Investments

2. The Prudent Investor

Page 679. Add to Selected References:

Ian Ayres & Edward Fox, *Alpha Duties: The Search for Excess Returns and Appropriate Fiduciary Duties*, 97 Tex. L. Rev. 445 (2019).

Jennifer Goode and Andrea Kushn, *Fiduciary ESG Investing: Navigating the New Frontier*, 57 Real Prop., Tr. & Est. J. 3 (2022).

Jane Gorham Ditelberg, *Investing in and for the Future: ESG Investing for Trust Assets Under the Prudent Investor Rule*, 47 ACTEC L.J. 23 (2021).

3. Delegation and Direction

b. Direction

Page 685. Add Kansas in 1st line on page.

Add to Selected References:

Timothy Ferges, Melisa Dibble, Adam Ansari, and Daniel Ebner, *Who's the Boss? Fiduciary Liability and Directed Trusts*, 57 Real Prop., Tr. & Est. J. 3 (2022).

C. Principal and Income Issues

Page 699. California and Missouri have also enacted the Act.

D. Other Fiduciary Duties

Page 724. Add as Note 42A after 1st sentence in Note 1:

FN 42A. *See, e.g., J. Kent Kinniburgh Revocable Trust v. Moncur*, 530 P.3d 579 (Wyo. 2023) (failure to provide information constituted breach of duty to inform and report).

Page 725. Add as last sentence to Note 2:

Nevada denies discretionary beneficiaries the right to an accounting but entitles such beneficiaries to other information. *See Nedder v. Deluca*, 521 P.3d 1190 (Nev. 2022).

Page 727. Note 8. Add at end:

Estate of Worrall by Worrall v. J. P. Morgan Bank, N.A., 645 S.W.3d 441 (Ky. 2022) contains a good discussion of breach of duty on trust termination including violation of Kentucky's adoption of UTC § 817.

§ 10.04 Remedies for Breach of Fiduciary Duties

Page 730. Add before *Tigani* cite:

Martin v. Martin, 888 S.E.2d 434 (W.Va. 2023) (no removal by requesting court clarification of trust); *J. Kent Kinniburgh Revocable Trust v. Moncur*, 530 P.3d 579 (Wyo. 2023) (no removal because breach did not show gross and willful misconduct);

Add before *McArthur* cite in 2d paragraph:

Boyle v. Anderson, 871 S.E.2d 226 (Va. 2022).

A. Remedies in General

Page 737. Add as new last paragraph in Note 7: A beneficiary has standing to sue for a trustee's breach of duty even if no monetary damages are recoverable. *See Trust Under Will of Augustus T. Ashton, Deceased Dated January 20, 1950*, 260 A.3d 81 (Pa. 2021).

Page 738. Add before *Goding v. Wilson* cite:

Zahnleuter v. Mueller, 88 Cal. App. 5th 1294 (Cal. App. 2023) (no reimbursement for trustee because the trustee did not participate in the litigation as a neutral trustee to defend the trust and protect its assets).