

SUPREME COURT OF CALIFORNIA

2024-s271483

No. S271483, Supreme Court of California

SUMMARY

Under Probate Code §§ 15401-15402, a revocable trust may be modified using any method of revocation—including the statutory method of a signed writing delivered to the trustee—unless the trust instrument specifies a method of modification and explicitly makes it exclusive, or otherwise expressly precludes the use of revocation procedures for modification. The California Supreme Court resolved a split of authority, holding that merely specifying a modification method without an exclusivity clause does not bar use of the statutory revocation method. The court disapproved **King v. Lynch**, **Balistreri v. Balistreri**, **Diaz v. Zuniga**, **Pena v. Dey**, **Conservatorship of Irvine**, and the Court of Appeal's opinion in this case to the extent they conflicted. The 2018 trust amendment was valid under this standard even though it was not notarized, as the trust did not make the notarization requirement exclusive.

CASE DETAILS

COURT	Supreme Court of California
WRITING FOR THE COURT	Liu, J.; Kruger, Acting C. J.; Corrigan, J.; Groban, J.; Jenkins, J.; Evans, J.; Poochigian, J.
JURISDICTION	California
DOCKET	S271483
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from probate court order finding trust amendment valid
STANDARD OF REVIEW	De novo review of statutory interpretation
PRECEDENTIAL VALUE	published
PARTIES	Brianna McKee Haggerty v. Nancy F. Thornton et al.

TOPICS

- probate procedure
- trusts
- statutory interpretation
- trust administration
- estate litigation

PRACTICE AREAS

- Trusts and Estates
- Probate

QUESTIONS PRESENTED

1. Whether the statutory method for modification under Probate Code section 15402 is available when the trust instrument specifies a method of modification but does not explicitly make it exclusive.

HOLDINGS

1. Under section 15402, a trust may be modified via the section 15401 procedures for revocation, including the statutory method, unless the trust instrument provides a method of modification and explicitly makes it exclusive, or otherwise expressly precludes the use of revocation procedures for modification.
2. The court's interpretation applies retroactively because judicial construction of a statute is an authoritative statement of what the statute meant before as well as after the decision, and no exception applies.

KEY QUOTATIONS

“Unless the trust instrument provides otherwise, if a trust is revocable by the settlor, the settlor may modify the trust by the procedure for revocation.” (at 1)

“The proposed law adopts a compromise position that makes available the statutory method of revoking by delivery of a written instrument to the trustee during the settlor's lifetime except where the trust instrument explicitly makes exclusive the method of revocation specified in the trust.” (at 11-12)

“We hold that under section 15402, a trust may be modified via the section 15401 procedures for revocation, including the statutory method, unless the trust instrument provides a method of modification and explicitly makes it exclusive, or otherwise expressly precludes the use of revocation procedures for modification.” (at 14)

FACTUAL BACKGROUND

Jeane M. Bertsch created a revocable trust in 2015. The trust agreement reserved the right to revoke or amend by an acknowledged instrument in writing. In 2016, Bertsch drafted a notarized amendment providing for a distribution to Haggerty. In 2018, Bertsch drafted an amendment that excluded Haggerty and named other beneficiaries; this amendment was signed but not notarized. After Bertsch's death, Haggerty filed a petition to determine the validity of the 2018 amendment, arguing it was invalid because it was not notarized as required by the trust instrument.

PROCEDURAL HISTORY

The probate court held that the 2018 amendment was valid. The Court of Appeal affirmed, holding that the statutory method for modification was available. The California Supreme Court granted review to resolve a split of authority regarding the interpretation of Probate Code section 15402.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

Remand for further proceedings consistent with this opinion.

CASES CITED

- King v. Lynch, 204 Cal.App.4th 1186 (2012)
- Diaz v. Zuniga, Diaz v. Zuniga, 91 Cal.App.5th 916 (2023)
- Balistreri v. Balistreri, 75 Cal.App.5th 511 (2022)
- Pena v. Dey, 39 Cal.App.5th 546 (2019)
- Conservatorship of Irvine, 40 Cal.App.4th 1334 (1995)
- Haggerty v. Thornton, 68 Cal.App.5th 1003 (2021)
- Huscher v. Wells Fargo Bank, 121 Cal.App.4th 956 (2004)
- Estate of Lindstrom, 191 Cal.App.3d 375 (1987)
- Heifetz v. Bank of America, 147 Cal.App.2d 776 (1957)
- Marx v. General Revenue Corp., 568 U.S. 371 (2013)
- Estate of Giralдин, 55 Cal.4th 1058 (2012)
- People v. Kim, 193 Cal.App.4th 836 (2011)
- Vazquez v. Jan-Pro Franchising Internat., Inc., 10 Cal.5th 944 (2021)
- Ferra v. Loews Hollywood Hotel, LLC, 11 Cal.5th 858 (2021)

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