

Potential procedure for proceeding with ex parte Heggstad or trust modification petition in Santa Clara County as of June, 2022.

Step One: Trustee of trust engages my office to prepare such a petition.

Step Two: I send out notification letters to all trust beneficiaries that indicates that the trustee has moved the place of administration of the trust, care of my office in San Jose.

Probate Code Section 17002

(a) The principal place of administration of the trust is the usual place where the day-to-day activity of the trust is carried on by the trustee or its representative who is primarily responsible for the administration of the trust.

(b) If the principal place of administration of the trust cannot be determined under subdivision (a), it shall be determined as follows:

(1) If the trust has a single trustee, the principal place of administration of the trust is the trustee's residence or usual place of business.

(2) If the trust has more than one trustee, the principal place of administration of the trust is the residence or usual place of business of any of the cotrustees as agreed upon by them or, if not, the residence or usual place of business of any of the cotrustees.

Probate Code Section 17005

(a) The proper county for commencement of a proceeding pursuant to this division is either of the following:

(1) In the case of a living trust, the county where the principal place of administration of the trust is located.

(2) In the case of a testamentary trust, either the county where the decedent's estate is administered or where the principal place of administration of the trust is located.

Step Three: After sending out letters to the beneficiaries, the petition is prepared by my office. The petition states in it that Santa Clara County is the proper county for venue because it is the county where the principal place of administration of the trust is located, based on the change of place of administration sent out to the beneficiaries and/or interested parties.

Step Four: Assuming the petition is granted by the court, one or more certified copies of the court order are obtained and sent to the trustee, trustee's attorney, escrow company, etc. based on instructions received at the beginning.

Step Five: Another letter is then sent out to all beneficiaries moving the place of administration back to the trustee at the trustee's address.

There is no guarantee that this procedure will work or how long it may work here in Santa Clara County. I'm willing to give it a try if a client is willing to give it a try. In return, if it is not successful, I would only retain \$1000.00 of any fee plus reimburse myself for any filing fees incurred in the process. I would then refund back to the client any unused fees.