

Borrowed Trouble

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Cost Considerations

- Taking steps to protect trust structures involves costs that clients may question
- Litigation is much more expensive
- Be upfront with clients about the costs of the precautions
- Consider memorializing this in your engagement agreements

The Attorney-Client Privilege



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Client Representatives

- A person who:
 - (1) has authority to obtain professional legal services for the client or
 - (2) to act for the client on the legal advice rendered or
 - (3) any other person who, to facilitate the rendition of professional legal services to the client, makes or receives a confidential communication while acting in the scope of employment for the client.

Tex. R. Evid. 503(a)(2)
- Written designation or limited power of attorney is best
- A familial relationship with the client is not enough

Joint Representations

- Communications made by persons who consult an attorney together as a group, with common interests seeking common representation, may jointly assert the attorney-client privilege
- Communications and work product will not be privileged as to the joint clients or in a controversy between the clients

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Title search: Borrowed Trouble: Common Conflicts and Mistakes to Avoid in Your Estate Planning Practice

Also available as part of the eCourse

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