

LAW SPECIALTIES

CUSTOM CONTENT • November 3, 2025





Shielding Crypto Wealth: Estate Tax and Litigation Strategies for Digital Assets

Digital assets have provided a brand new asset class for investors, minting new millionaires in the process. Cryptocurrencies, DeFi, NFTs, and other digital assets offer high-net-worth investors diversification, enhanced liquidity, and the potential for significant appreciation (along with considerable risk). Business owners and entrepreneurs who gain wealth often turn to financial planning firms. Conversely, cryptocurrency whales who suddenly gain great wealth tend to have a higher risk appetite but generally lack experience in administering newfound wealth.

Despite their advantages, digital assets pose unique challenges. The regulatory environment is still evolving, which may lead to legal uncertainties and compliance issues, including the IRS' arduous tax reporting and basis tracking rules. Furthermore, the pseudonymity that attracts many to digital assets can complicate estate planning and asset transfer upon death or incapacitation.

Strategies for Mitigating Tax Liabilities

Even when cryptocurrency investments pump, they are exposed to two significant threats: estate taxes at death, and lawsuit creditors and predators. Without advance estate tax planning, the then value of the cryptocurrency holdings at death could be subject to a 40% estate tax. If the predictions for the future value of Bitcoin are anywhere near accurate, without proper estate tax planning, the deceased investor/trader could unexpectedly owe tens of millions or more of death taxes.

Moreover, recent tax proposals may increase this burden. One strategy is using your 2024 gift tax exemption to transfer up to \$13.61 million to a Nevada irrevocable third-party dynasty trust. Once in the trust, the value of your stack is removed from your estate, avoiding death taxes for hundreds

of years. It's important to act before January 1, 2026, when the gift tax exemption will be reduced by half.

For active traders, setting up an LLC to hold cryptocurrency can be advantageous. By gifting the LLC interest to an irrevocable trust, estate taxes on the appreciated value of your crypto can be avoided. If the investment exceeds the gift tax exemption, consider selling the excess amount to the trust for a long-term promissory note. The note's face value will be included in your estate, but the appreciation will not, providing substantial tax savings.

Protecting Against Lawsuits

Lawsuits pose another significant risk. Many HODLers, individuals who own and frequently trade in

cryptocurrency, are unaware they can protect their digital assets from lawsuit creditors and litigators by using an LLC and an asset protection trust. Placing your LLC interest in the proper trust can shield assets from unforeseen personal creditors. When structured correctly, this strategy ensures that absent fraud, cryptocurrencies remain inaccessible to creditors following a lawsuit.

Conclusion

Implementing these legal strategies can help protect your wealth, ensure your digital assets remain secure, and preserve gains for future generations.



FALCON
RAPPAPORT &
BERKMAN

frblaw.com

Irvine Long Island New York City Westchester County New Jersey South Florida
949-333-8152

Stradling  50 years

The **business** of winning



The litigators at Orange County's premier business law firm know when and how to use their horns. **Learn more at stradlinglaw.com.**



U.S. Trade Secret Litigation Is On The Rise

Trade secrets are sometimes the forgotten stepchild of intellectual property protection and litigation—often associated with employment and contract regimes rather than an independent body of law. But since the passage of the Federal Defend Trade Secrets Act (DTSA) in 2016, trade secret litigation is on the rise, and developments in patent law and technology are bringing trade secret law to the forefront.

Patent litigation has declined over the past decade, while trade secret case filings have grown significantly. Court decisions and administrative remedies have left patents more vulnerable to invalidation, and much of the juice has been squeezed from the fruit of massive patent litigation campaigns by non-practicing entities—so-called “patent trolls.” These developments, coupled with uncertainty about whether patents can effectively cover emerging technologies such as artificial intelligence, have driven many businesses and lawyers to increase their reliance on trade secret law.

The creation of a federal claim for trade secret misappropriation under the DTSA has reinforced this shift by introducing more predictability into a previously fragmented legal landscape based on state laws. Within a year of its passage, trade secret case filings rose by 25%, and in the last year over 1,500 trade secret cases were filed in federal courts, a staggering 33% increase since 2022.

The stakes are often high, with verdicts in the hundreds of millions. At the same time, patent cases now face greater procedural hurdles and damages awards are routinely overturned or reduced, increasing the appeal of trade secret cases for plaintiffs’ lawyers. Many plaintiffs also prefer trade secret cases because there is often a bad-guy narrative that is more compelling to a jury than the relatively dry, technical issues of patent infringement and invalidity.

The DTSA may also allow broader international reach than patents in certain cases. In one recent case, though much of the alleged misappropriation occurred abroad, the court held that the defendant’s use of the trade secrets at U.S. trade shows was sufficient to establish jurisdiction and held that the DTSA may allow damages to be based on worldwide sales.

Federal and State Law Both Protect Trade Secrets

Trade secrets are protected under both the DTSA and state law. A single dispute may proceed under both regimes, which have overlapping but not identical provisions. For example, some states such as California require the plaintiff to identify its trade secrets with particularity before it can take discovery from defendants, creating a hurdle where a plaintiff sees smoke, but cannot quite show a fire. Federal courts have wrestled with whether to adopt this requirement, with the Court of Appeals that includes California very recently deciding that the plaintiff-must-go-first requirement does not apply under the DTSA. These differences require a trade secret practitioner to be familiar with both state and federal regimes.

Trade Secrets and Artificial Intelligence

While the big AI copyright infringement cases have garnered most of the headlines in recent months, artificial intelligence is also becoming a focal point for trade secret law. Because of human inventorship, eligibility and description requirements, patent protection may be narrow or unavailable, and trade secret law may provide the best protection for key AI assets. Algorithms, data compilations and AI model architectures may qualify as trade secrets if they meet the legal definition, which requires both secrecy—“reasonable measures to keep such information secret”—and that the information derives independent value from its secrecy. But trade secret owners must describe these with sufficient particularity in any litigation, and so their counsel must be familiar with both substantive and procedural aspects of trade secret law, such as the use of protective orders to prevent public disclosure of these trade secrets.

Relying on trade secret law to protect AI-related innovations also presents unique risks. Competitors may misappropriate secrets through scraping, model querying, or even “prompt injection” attacks that coax proprietary information from systems. The opacity of advanced AI—the so-called “black box” problem—further complicates proof of misappropriation. And unlike patents, trade secret law cannot protect against “honest” reverse engineering or independent development. Further, business collaborations involving AI provide unique challenges to preserving trade secret protection because of the potential loss of secrecy.

Trade Secret Litigation May Expose Your Secrets

Some businesses fail to appreciate the implications of the presumption that litigation should be public—even trade secret litigation. While protective orders may prevent a business’s most sensitive information from being part of the public record, this presumption substantially increases the risk that a client’s trade secrets may become public. For this reason, clients should consider dispute resolution provisions requiring private arbitration in contracts that implicate their trade secrets but consider a carve-out to permit emergency relief from a court when necessary to “stop the bleeding” when trade secrets are taken.

Strategies and Preventive Measures

Given these challenges and the changing legal landscape, education and preparation are critical. Businesses and their advisers must stay informed regarding the evolving risks and standards associated with trade secret law. Employment contracts, nondisclosure agreements, licenses, and many other commercial contracts should be drafted with this law in mind. Internally, companies should implement and document confidentiality protocols, restrict access to sensitive information—potentially including large AI datasets—and conduct thorough exit interviews with employees, all with an eye towards protecting trade secrets. These measures not only reduce the risk of misappropriation but also help establish that the company took “reasonable measures” to protect its secrets—an essential requirement if trade secret litigation ensues.

Businesses should also resist the temptation to seek patent protection without considering trade secret protection as an alternative. While the official seal and ribbon on an issued patent look pretty, trade secret law may provide better protection for certain technologies. The secret is out ... trade secret litigation and the importance of trade secret law are on the rise.



Steve Hanle
www.stradlinglaw.com/professionals/steven-m-hanle.html



Ahmad Takouche
www.stradlinglaw.com/professionals/ahmad-takouche.html

GREAT RESULTS BEGIN WITH GREAT RELATIONSHIPS

Strategic backup for lean legal teams.



At FRB, we see the practice of law as a calling, offering counsel from intellectually curious legal artisans.

*When the workload spikes or issues fall outside your core focus,
let us step in as an extension of your team.*



FALCON
RAPPAPORT &
BERKMAN

frblaw.com

18565 Jamboree Road, Suite 125, Irvine, CA 92612

Irvine Long Island New York City Westchester County New Jersey South Florida

949-333-8152

SNELL & WILMER

Advanced Estate Planning After OBBBA

The One Big Beautiful Bill Act passed earlier this year made important changes to the estate, gift, and generation-skipping transfer tax rules that have otherwise been in constant flux for more than 20 years. During that time, transfer tax exemptions increased from \$600,000 to \$5 million, with inflation adjusters beginning after 2011. By 2012, the generous \$5 million gift and GST exemptions opened up opportunities to transfer more wealth with no transfer tax.

In 2017, the Tax Cuts and Jobs Act doubled all the transfer tax exemption amounts for tax years 2018 through 2025. The exemption amounts rose to \$13.99 million in 2025 but were scheduled to be cut in half on January 1, 2026. The OBBBA changed that, increasing the exemption amounts to \$15 million per taxpayer (with an inflation adjuster), effective January 1, 2026. This means that in 2026, a married couple can protect up to \$30 million in assets from the transfer tax system, sharply reducing their need to engage in advanced gift planning.

Ultra-high-net-worth taxpayers with estates in excess of \$30 million are returning to the transfer techniques that use small amounts of available lifetime exemptions, strategically leveraging gifts to deliver multiples of value to the next generation. These techniques include the use of Intentionally Defective Grantor Trusts, Grantor Retained Annuity Trusts, and other, more specialized approaches. Leveraged gifting allows for the transfer of significant value in excess of the exemption amounts with little use of the lifetime exemptions. Consult your estate planner for more.

Timothy J. Kay is a Certified Specialist in Estate Planning, Trust and Probate Law, a partner in Snell & Wilmer's Orange County office and co-practice group leader in the firm's Private Client Services practice group. Tim's practice is concentrated in tax, trust, and estate matters with emphasis on estate planning for the high-net-worth client, trust and probate administration, and estate and gift taxation. Tim can be reached at tkay@swlaw.com.



SNELL & WILMER

This is Snell & Wilmer today. We're a firm consumed by unparalleled commitment to our clients, communities, and the extraordinary people here who make it all possible.

We're celebrating over 35 years in Orange County. With a dominant footprint in the Western United States, we're not just keeping pace; we're making waves to create the future for our clients and we are building it for the long term.

SWLAW.COM

Coming in on the Tide: The 2026 Book of Lists

The ultimate wave of data and insight is headed your way

Arriving December 29, 2025

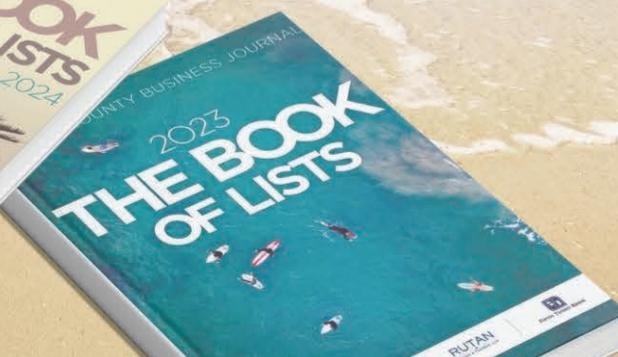
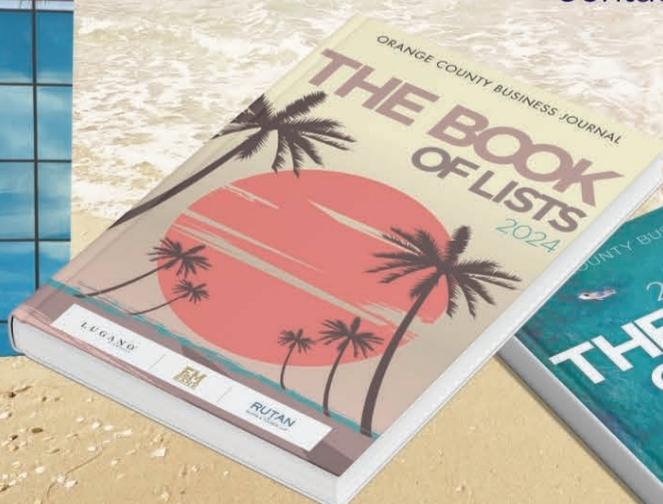
The Book of Lists is your all-access pass to a year of rankings, insights, and Orange County's top players across every major industry. It compiles every list we've published in 2025—from the region's largest employers to the fastest-growing private companies.

Make a splash and advertise in the Book of Lists!

Contact your account manager at 949.833.8373.

Not a subscriber?

Contact Circulation at 949.833.8373.



**EXPERTS IN ACCOUNTING.
EXPERTS ON THE STAND.™**

Accounting, Tax Solutions,
& Litigation Support

SUPPORTING TOP LITIGATORS

In the complex world of litigation, an experienced forensic accountant is an invaluable asset to trial attorneys, offering deep financial insights and strengthening cases with compelling evidence. At Smith Dickson, we understand that our role is multifaceted, extending beyond number-crunching to qualified expert testimony.

**STRENGTHENING EVIDENCE
WITH EXPERT ANALYSIS**

A litigator's success often depends on presenting irrefutable evidence, which is why we help transform financial data into clear, court-admissible reports that can withstand scrutiny. We break down complex transactions, making them accessible to judges and juries. Our ability to reconstruct financial records helps attorneys establish liability and damage claims with precision.

**UNCOVERING FINANCIAL
IRREGULARITIES**

Our forensic accountants apply years of auditing experience to help detect fraud, misrepresentations, and discrepancies. Whether in civil/commercial litigation, probate matters, or fraud investigations, we inspect financial records to identify inconsistencies that can strengthen a litigator's arguments, helping secure favorable outcomes.



**PROVIDING EXPERT
TESTIMONY**

Accustomed to high-stakes litigation, our accountants regularly testify as expert witnesses, lending credibility to financial claims. We understand courtroom dynamics and the importance of conveying complex financial matters in a clear and convincing manner, especially while under cross-examination.

CONCLUSION

For litigators handling complex financial cases, partnering with an experienced forensic accountant is paramount. By leveraging their expertise, litigators can strengthen their arguments, protect their clients' interests, and enhance their chances of success.

**EXPERTS IN ACCOUNTING.
EXPERTS ON THE STAND.™**

Accounting, Tax Solutions, & Litigation Support



From Uncovering the Numbers to Explaining Them in Court—Smith Dickson is the Forensic Accounting Expert Orange County Litigators Trust



WWW.SMITHDICKSON.COM

949.553.1020

WWW.SMITHDICKSON.COM

949.553.1020

EVERETT DOREY LLP

A full service civil litigation firm of trial attorneys

EVERETTDOREY.com

**HIGHLY RESPECTED, HIGH STAKES
TRIAL ATTORNEYS**



Extensive civil litigation trial experience that leads to great results.

Everett Dorey attorneys are innovative thinkers and bold litigators who work tenaciously for clients and remain one step ahead of their adversaries.

SEYMOUR "SY" EVERETT, III
Managing Partner & Co-Founder

SAMANTHA DOREY
Founder & Partner

severett@everettdorey.com
949.771.9244 direct
714.679.1621 mobile

sdorey@everettdorey.com
direct 949.771.9250
mobile 949.584.1153



We Close Deals.

Mergers & Acquisitions
Corporate Finance
Securities

Boutique law firm
providing high-level
transaction expertise

Call (714) 619-9360



adamscorporatelaw.com








Addison Adams Daniel Gavilanes Matthew J. Staub Suhrud Shah Jose Ortiz Jacob Schultz



Building Stronger Deals Through Smarter Contract Management

Every successful business relationship is built not only on the character of the parties, but also on the clarity of its contracts. Clear contracts, updated when needed, help well-meaning participants avoid and resolve disputes. As organizations evolve—from growth and acquisitions to planning an eventual sale—those agreements become foundational to the company’s value and the success of any future deal. Ongoing legal oversight ensures contracts accurately reflect the business relationship, protect your interests, reduce risk, and support your business toward the next opportunity.



Addison Adams

At Adams Corporate Law, we help businesses manage large-scale and ongoing contract work—providing clear, compliant, and strategically sound agreements that support growth, minimize exposure, and strengthen value in future transactions.

The Hidden Costs of Intermittent Legal Review

Treating contract review as a one-time task can lead to costly disputes or unfavorable terms that affect profitability and deal outcomes. Common pitfalls include:

- Ambiguous language that creates loopholes or conflicting obligations.
- Changes in the business relationship that are not reflected in the agreement.
- Compliance gaps for companies operating across multiple jurisdictions.
- Unclear renewal or termination clauses that lock businesses into unbalanced terms.
- Poor risk allocation that leaves one party exposed to damages or delays.

With consistent legal oversight, these issues can be identified and resolved before they create undue financial or operational risk.

The Advantage of a Dedicated Legal Partner

For companies managing a high volume of contracts or long-term commercial relationships, partnering with a corporate law firm offers measurable benefits:

- **Consistency** – All agreements align with company standards and protect core interests.
- **Efficiency** – Faster turnaround for contract review, negotiation, and execution.
- **Proactive Updates** – Staying ahead of regulatory or industry changes.
- **Dispute Prevention** – Early detection of clauses that could lead to litigation.

Our team acts as an extension of your business—providing ongoing support that safeguards operations and enhances long-term deal value.

A Strategic Legal Partner for Growth

Legal counsel should be proactive, not reactive. Whether you’re expanding operations or preparing for a sale or acquisition, Adams Corporate Law provides the experienced guidance needed to manage contracts, ensure compliance, and protect enterprise value. **Contact us today at (714) 619-9360 or visit adamscorporatelaw.com** to learn how we can support your commercial operations through effective contract negotiation, preparation, and management.

EVERETT DOREY LLP

A full service civil litigation firm of trial attorneys

Everett Dorey Awarded 2025 Advancement of Women Award by Orange County Women Lawyers Association

Everett Dorey is committed to promoting diversity and inclusion, cultivating a workplace culture where every employee feels valued, and empowering women to excel in the legal field. Our firm is comprised of 55% women attorneys, and 57% of leadership positions are held by women. Recognized annually by the Orange County Register, Orange County Business Journal, and Orange County Coalition for Diversity in the Law, Everett Dorey will continue to address challenges faced by women in law and champion meaningful change.

