

Electronic communications do not constitute valid trust amendments

By Blaine M. Brown, Esq.

The intersection of technology and law has created both opportunities and challenges for legal professionals. As digital communication becomes ubiquitous, questions inevitably arise about how new technologies fit within long-established legal frameworks. One recent case that addresses these questions head-on is *Trotter v. Van Dyck*, 103 Cal.App.5th 126 (2024). In this significant decision, the California Court of Appeal clarified the role of emails and electronic communications in trust amendments, holding that such informal writings do not constitute valid amendments under the Uniform Electronic Transactions Act. This ruling reaffirms the need for traditional formalities in estate planning and ensures that the integrity of trust instruments remains intact, even as the legal profession continues to adapt to technological advancements.

CASE OVERVIEW

The dispute in *Trotter* arose over an alleged amendment to a family trust. The settlors, Jerry and Mary Trotter, had established a revocable living trust, naming themselves as both “Trustee” and “Trustors.” *Ibid.* at 624. Mary became the sole Trustee of the Trust following Jerry’s death. *Ibid.* at 625. Under the terms of the Trust, Mary had the power to amend the Trust “by an instrument in writing signed” by the surviving Trustee, Mary, and delivered to the “Trustee,” herself. *Ibid.*



Following Mary’s passing, a dispute arose among the beneficiaries over a purported trust amendment communicated via email. One of the beneficiaries claimed that an email sent by Mary shortly before her death was a valid trust amendment.

The central issue before the court was whether this email — along with other informal writings — constituted a valid trust amendment under California law, specifically under the UETA. The UETA provides that electronic signatures can be legally binding in certain contexts, but the court was tasked with determining whether this applied to trust amendments, a traditionally formal process.

THE COURT’S ANALYSIS

The Court of Appeal took a careful approach, reviewing both statutory law and the underlying purposes of the UETA. The court acknowledged the increasing role that technology plays in legal and personal communications, but it ultimately held that the UETA’s electronic signature provisions did not apply to the purported Trust amendment because it was a unilateral act, not a “transaction” between parties. *Ibid.* at 129.

Mary, as the sole Trustor, had the right to amend the Trust by delivering the amendment to herself as Trustee. However, such delivery did not constitute a “transaction” as defined by the UETA, which applies only to business,

commercial, or governmental transactions between two or more persons. *Ibid.* at 628. Even if Mary had transmitted the amendment to a different trustee, it would still not qualify as a transaction because a trust amendment does not involve the required interaction between two or more parties. *Ibid.*

The Uniform Law Commission’s comments, which are relevant to interpreting the UETA, explicitly exclude unilateral actions like trust amendments from the act’s coverage. *Ibid.* at 628. Therefore, the court ruled that the UETA’s provisions regarding electronic signatures did not apply to Mary’s purported Trust amendment which included emails and a questionnaire. *Ibid.* While the UETA allows electronic signatures in many contexts, it does not override the statutory requirements for formal, written trust amendments. As a result, these documents were not properly “signed” in accordance with the Trust’s requirements relating to amendments.

Although the court could have affirmed the lower court’s judgment based on the lack of signature, the court also held that the purported Trust amendment did not sufficiently express her intent to amend the Trust by the emails themselves. *Ibid.* at 630-31. Although Mary expressed a desire to leave nothing to one of the prior beneficiaries, she was only in the beginning stages of making a formal amendment to the Trust. *Ibid.* at 629. Specifically, another email indicated that Mary’s “mind was clear ‘as to how to

move forward on the house and will[,]’, that she would write it out, ‘and then [they would] need to see that the lawyer gets a copy asap [sic] and *start redoing* the will and trust.” *Ibid.* (emphasis added).

Accordingly, the court held that the UETA did not apply to Mary’s purported unilateral Trust amendment because it was not a “transaction” between parties, and further found that her emails lacked the necessary intent to formally amend the Trust, as they merely indicated preliminary steps toward an amendment, rather than a definitive expression of her intent.

IMPLICATIONS OF THE DECISION

The opinion has significant implications for estate planning and trust administration in California, particularly in an era where digital communications are increasingly common. The ruling emphasizes

that despite the convenience of electronic communication, such methods cannot replace the formal legal requirements for amending trusts.

For legal practitioners, this serves as a critical reminder to ensure clients follow proper formalities when modifying a trust. Even if a client expresses their intent through email or other informal communications, these are insufficient unless they comply with California law and the terms of the trust document.

From a broader perspective, the court’s decision balances the growing use of technology with the need to maintain traditional legal safeguards. While the UETA enables electronic transactions in many areas, it does not extend to trust amendments, reaffirming the importance of preserving the settlor’s intent and protecting beneficiaries.

NAVIGATING THE FUTURE OF DIGITAL COMMUNICATION IN LAW

The case highlights the tension between modern technology and established legal processes. Estate planning professionals should remain cautious, relying on formal, written instruments for trust amendments to ensure changes are properly documented and enforceable. Although technological advancements will continue, this ruling makes it clear that, for now, traditional formalities remain essential in estate planning.

This decision may spark further discussion on how electronic tools can be integrated into estate planning, but for the time being, the boundaries established by the court in *Trotter* hold firm.

CONCLUSION

By rejecting the validity of email-based trust amendments, *Trotter*

reaffirms the need for clear, formal expressions of intent when it comes to disposing of assets and protecting beneficiaries. While technology will undoubtedly continue to play a growing role in legal practice, this case ensures that when it comes to trust amendments, some lines are still drawn in ink-digital or otherwise.

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