



R. Glenn Davis
Attorney / Shareholder
Chair – Estate Planning Section

Areas of Concentration

- Estate Planning, Probate & Asset Protection
- Small Business

Education

University of Texas at Austin
Juris Doctor with *honors*

Texas A&M University
Bachelor of Arts - Economics
magna cum laude

Admissions & Qualifications

State Bar of Texas

State Bar of New Mexico

Certified in Estate Planning & Probate
Law by Texas Board of Legal
Specialization

United States District Court
Western District of Texas
District Court of New Mexico

United States Court of Appeals
Fifth Circuit

Languages

- English

Contact Information

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Glenn practices in the firm’s El Paso, Texas and Las Cruces, New Mexico offices. He advises high and mid-net-worth individuals and families in estate planning, transfer taxation, asset protection, and closely held and family business matters. He also advises individual and corporate fiduciaries regarding administration and taxation issues affecting trusts, estates, and family-owned businesses.

For high-net-worth individuals, Mr. Davis focuses on creating complex multi-generational wealth transfer plans that implement multiple techniques available to estate planning practitioners. Mr. Davis’ comprehensive custom plans go beyond mere credit shelter or bypass trusts and marital deduction planning that are the foundation for any estate plan. They also include, in appropriate circumstances, full utilization of an individual’s exemptions from the generation-skipping transfer tax with a view towards creating true dynasty trusts that extend for multiple generations, if not into perpetuity.

Specialized trusts for lifetime transfers designed either to avoid or reduce transfer taxation or to maximize available exemptions from such taxation also are a focus of Mr. Davis’ practice. These trusts include Irrevocable Life Insurance Trusts, Spousal Lifetime Access Trusts, Grantor Retained Annuity Trusts and Unitrusts, Charitable Remainder Trusts, Charitable Lead Trusts, and Children’s Trusts.

Mr. Davis also regularly prepares customized Family Limited Partnerships and Family Limited Liability Companies to provide a more effective means of managing the family business and investments, creditor protection and, potentially, valuation discounts for estate tax purposes.

Because of the firm’s proximity to Mexico, many of Mr. Davis’ clients also have special issues because they are not either United States citizens or residents, or both.

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Incapacity caused by dementia or Alzheimer’s disease also is of special concern to Mr. Davis. Accordingly, Mr. Davis designs special provisions for living trusts to minimize the need for legal proceedings in the face of these diseases, thus easing the transition to successor trustees when help is needed. He also creates Third-Party Special Needs Trusts, which can be very important for mid-net-worth married clients and parents of children who are disabled or otherwise eligible for government benefits like Medicaid.

As part of the probate process, Mr. Davis also prepares United States Estate Tax Returns and advises the family’s accountants regarding such returns. He also assists trustees of split-interest trusts to prepare necessary information returns regarding the trust’s activities to the IRS.

Mr. Davis offers a unique perspective and expertise to his clients given that he was primarily a litigator in the firm’s employment and commercial litigation sections for eleven years. During that time, he was lead counsel for several publicly traded companies or their subsidiaries, including Raytheon Technical Services Company; Waste Connections, Inc.; Iron Mountain, Inc.; Lear Corporation; and Union Pacific Railroad Company. In 2005, for example, Mr. Davis successfully defended Raytheon in an international discrimination lawsuit by obtaining, first, a partial summary judgment, and then, at trial, a directed verdict against the plaintiff that was affirmed by the United States Court of Appeals for the Fifth Circuit.

During law school at the University of Texas, Mr. Davis interned with Justice Lloyd Doggett of the Supreme Court of Texas – the highest civil court in the state. He graduated with honors and was inducted into the Order of the Coif; an honor extended only to the top ten percent of graduates. Mr. Davis moved to El Paso initially to serve as a law clerk to United States District Judge Harry Lee Hudspeth.

Mr. Davis has been active in a number of professional organizations focusing on the estate planning practice, including as a Fellow with the American College of Trust and Estate Counsel (ACTEC), the Tax Section of the State Bar of Texas (where he served as a Vice Chair of the Estate and Gift Tax Committee), the Real Estate, Probate and Trust Sections of both the State Bar of Texas and the State Bar of New Mexico (where he served on the Section’s Board of Directors as Budget Officer), the El Paso Estate Planning Council (where he currently serves on the Board of Directors), the El Paso Probate Bar and the Southern New Mexico Estate Planning Council (where he is a past-President). He also has served on the Planning Committee for the Annual Southern New Mexico Estate Planning Institute, in Las Cruces, New Mexico. In 2016, Mr. Davis was accepted as a Fellow in the American College of Estate and Trust Counsel, an organization of the leading estate planning and probate lawyers in the country. In each year beginning in 2014, Mr. Davis also has been selected as a Texas Super Lawyer in Estate Planning and Probate, an honor extended to the top 5% of Texas lawyers. Also in April 2009, the Community Foundation of Southern New Mexico named Mr. Davis the Rio Grande Professional Advisor of the Year.

Mr. Davis is actively involved in the community. He volunteers with the New Mexico State University Foundation with whom he co-hosts an annual Women’s Estate Planning Conference in Las Cruces. He

also has served on the Community Foundation of Southern New Mexico Professional Advisory Committee. He also served for six years as a member of the Board of Trustees for El Paso's Insights Science Museum, including as Vice President. Mr. Davis also was a participant in the Leadership El Paso Class XXIX, sponsored by the Greater El Paso Chamber of Commerce and also previously served as a member and vice president of Keep El Paso Beautiful, Inc., and is an active member of Beth El Bible Evangelical Free Church.

Representative Matters

Estate Planning, Trusts & Probate

- Represented the corporate trustee in connection with obtaining private letter rulings from the IRS that substantial reformations and modifications to three pre-1985 irrevocable trusts would not subject the trusts to the generation-skipping transfer tax or to the gift tax.
- Represented one of two estate beneficiaries in litigation against the estate's personal representative over disputes relating to the amount of the personal representative's compensation and to his breaches of fiduciary duty for misrepresentations in the personal representative's accounting and for violations of the Uniform Prudent Investor Act. At mediation, recovered a sum of over six figures from the personal representative, individually, for the estate's beneficiaries.
- Drafted a spousal lifetime access trust as the recipient of a spouse's separate property interest in large New Mexico Ranch to freeze the value of the gifted property at a substantial discount for lack of control and lack of marketability. Also prepared the associated gift tax return.
- Negotiated, on behalf of one of the part owners, a buy-sell agreement for a corporation owning two multi-million dollar ranches in northern New Mexico and commercial properties in Rio Rancho, New Mexico. The agreement restricted transferability of interests in the ranch to preserve its historic heritage and to keep the ranch in the family. The agreement also was designed to protect shareholders from the creditors of other shareholders from gaining an interest in the entity. The plan included irrevocable life insurance trusts and coordinated estate planning among the various family members. Also advised the client as to additional planning opportunities for reducing exposure to the estate and generation-skipping transfer taxes separate from his siblings.
- Designed Buy-Sell Agreement funded with life insurance to provide a smooth succession plan for non-related owners of a high technology military contractor.
- Drafted multi-generational estate plan for a fifth generation central New Mexico ranching family, designed to preserve the integrity of the ranch for the benefit the family members who remained ranchers, yet also provide for family members who choose other paths.

- Designed estate plan for owners of a western New Mexico ranch who wished to benefit charity, which established various charitable remainder trusts and other tax-exempt trusts, all of which eventually pour into a perpetual charitable trust at the end.
- Established an irrevocable trust for an investor in a high technology start up that has the potential for explosive growth in value. The trust's purpose was to transfer much of the client's ownership interest in the start-up into a generation-skipping trust in a transfer tax-free manner before the value is realized.
- Assisted a physician and wife to rearrange their affairs through a separate property agreement to isolate the couple's vulnerable assets from exposure to questionable malpractice claims in the future.
- Advised the owners of a multiple generation, family-owned chile, onion and pecan farming operation in the central Rio Grande Valley with a \$25 million value on asset protection and business succession planning.
- Drafted multi-generational estate planning documents for a great-grandmother with a net worth of \$7 million and her daughter, the grandmother, with a net worth of \$40 million. The plan maximized both generations' exemptions from the estate tax and the generation-skipping transfer tax to establish dynasty trusts for the family. The great grandmother's plan also took into consideration that a portion of her estate would go to Mexican citizens and residents where there is no estate tax, thus preserving exemptions for the U.S. side of the family.
- Drafted a postmortem Qualified Domestic Trust ("QDOT trust") on behalf of a widowed Mexican citizen residing in the U.S. to preserve the marital deduction in her husband's estate and defer in excess of 1 million dollars in estate taxes that would have otherwise been due in her husband's estate. (The marital deduction is not available for gifts to non-U.S. citizen spouses unless the gift is placed in a QDOT trust.)
- Designed an estate plan for \$100 million-plus net worth Mexican citizens and residents with U.S. property and children who are U.S. citizens. The plan establishes a dynasty trust exempt from estate taxes for the whole of the estate and a contingent provision applying traditional estate tax planning techniques in the event one or both clients decide to become a U.S. resident at some point in the future.
- Established a rolling two-year Grantor Retained Annuity Trust for \$70 million net worth clients to transfer significant values of U.S. stock to children with no gift tax consequences.
- Restated 17-year-old, irrevocable life insurance trust holding \$7 million life insurance policy, preserving the generation-skipping transfer exemptions applied to the trust by utilizing regulations applicable to grandfathered GST trusts.

- Established irrevocable trust to hold \$1 million gift to ensure special needs treatment and prevent disqualification from government benefits for the beneficiary who is dependent on benefits for healthcare.
- Established revocable living trust for married clients with a taxable estate, the bulk of which was in the form of individual retirement and other qualified accounts, by providing for post-death and estate tax qualified adjustments to the plan to minimize the income tax consequences associated with qualified accounts.
- Assisted an elderly client to plan for his incapacity and the competing interests of his children by transferring control of his revocable and irrevocable trusts, which held family owned pecan farming related businesses and significant liquid assets, from himself to an independent corporate trustee.
- Regularly prepares living trusts and related documents for clients to maximize estate tax and generation-skipping transfer tax exemptions and to provide creditor protection for children of clients. Living trusts also typically include special needs provisions for the surviving spouse and children that “turn on” only when needed. Clients for this type of planning typically range in net worth from \$1.5 million to \$10 million and up.
- Regularly prepares living trusts designed to provide asset management in the event of incapacity and creditor protection for surviving spouses, especially in the context of long-term care issues. These trusts make extensive use of special needs provisions that “turn on” only when needed. Clients for this type of planning typically range in net worth from \$500,000 and up.
- Successfully represented the Trust Protector of an Irrevocable Special Needs Trust in a Declaratory Judgment Action seeking to enforce the Trust Protector’s power of removal against a Trustee who refused to recognize the power. The Trustee, in the Trust Protector’s opinion, began to abuse her fiduciary position to garner control over the special needs beneficiary. The Trustee also had an inherent conflict of interest because she also was a remainder beneficiary of the trust.
- Successfully represented the beneficiaries of an older will in a will contest involving what appeared to be a forged will. The court denied the probate of the newer will that would have disinherited the clients and, instead, probated the older will.
- Served as a testifying expert witness in a malpractice claim involving the administration of a probate estate on behalf of a local attorney. The plaintiff alleged the attorney had violated the ethical rules regarding conflicts of interest and had made mistakes in the administration of the estate. The jury ruled in favor of the attorney.
- Advised the Corporate Trustee of a multi-million dollar, court-created trust for a minor with respect to discretionary distributions, annual accountings, and trustee compensation issues,

among other issues. Represented the Trustee in court hearings in which the Probate Judge questioned the Trustee's discretionary distributions, compensation, and expenses.

- Negotiated, on behalf of the successor Corporate Trustee, the release and indemnity agreement demanded by the prior individual Trustee in connection with that Trustee's resignation.
- Advised the majority Co-Trustees of an irrevocable trust holding and operating the family pecan farm in responding to a disputing Co-Trustee's demands and threatened litigation about the interpretation of the trust's management and dispositive provisions. As a result of the response, the threatened litigation never surfaced.
- Advised the public accounting firm preparing a federal Estate Tax Return regarding the proper allocation of the charitable deduction and estate taxes among competing beneficiaries of a Marital Deduction and Bypass Trust and with respect to claims of breaches of fiduciary duty and conversion against the accounting firm and the Executor.
- Regularly represents the Executor (in Texas) or the Personal Representative (in New Mexico) in the probate and administration of decedents' estates. Also advises the successor Trustees of Revocable Trusts in the administration of revocable trusts on behalf of incapacitated grantors and after the grantor's death in the distribution of the estate to beneficiaries or constituent trusts established by the trust agreement in question.

Representative Cases

Litigation

Before specializing in estate planning, trusts and estates, Mr. Davis represented a variety of commercial clients in litigates cases. Reported cases include:

- ***Gallaspy v. Raytheon Technical Services Co., 211 Fed. Appx. 269 (5th Cir. 2006)**(affirming a directed verdict for the defendant in an international race discrimination case);
- ***Vibbert v. Par, Inc., 224 S.W.3d 317 (Tex. App.—El Paso 2006, no writ)** (affirming a summary judgment for the defendant in a fraud and conversion case);
- ***In re Applied Chemical Magnesiums Corp., 206 S.W.3d 114 (Tex. 2006)** (original proceeding) (wrote successful Petition for Mandamus relating to mandatory venue);
- ***Gallaspy v. Raytheon Technical Services Co., No. EP-04-CV-0012-FM, 2005 U.S. Dist. Lexis 16342 (August 9, 2005)** (granting summary judgment for the defendant on the plaintiff's 42 U.S.C. § 1981 race discrimination claims); and
- ***Velasquez v. Waste Connections, Inc., 169 S.W.3d 432 (Tex. App.—El Paso 2005, no writ)** (affirming summary judgment for the defendant in a national origin discrimination case).

Presentations & Publications

- Author: Revocable Trusts: New Mexico; Practical Law Trusts & Estates, State Q&A; First Published August 9, 2018 (Thomson Reuters) (available through Westlaw).
- Contributor for New Mexico: State Survey of Asset Protection Techniques, The American College of Trust and Estate Counsel, April 17, 2018 (available at: www.actec.org/assets/1/6/Survey_of_Asset_Protection_Techniques.pdf).
- Speaker: 27th Annual Institute on Estate Planning. Amarillo Area Estate Planning Council. “Dissecting LLC Company Agreements,” April 30-May 1, 2018, Amarillo, Texas.
- Author and Speaker: 2017 Intermediate Estate Planning & Probate Course. “Dissecting LLC Company Agreements,” June 6, 2017, Houston, Texas.
- Author and Speaker: 24th Annual Estate Planning Institute. Community Foundation of Southern New Mexico. “2016 Legislative Changes Affecting New Mexico Estate Planning and Probate Practice”, October 27-28, 2016, Las Cruces, New Mexico.
- Author and Speaker: 26th Annual Estate Planning & Probate Drafting Course. State Bar of Texas. “Drafting and Exercising Powers of Appointment,” October 8-9, 2015, Houston, Texas;
- Course Director and Speaker: 2nd through 8th Annual New Mexico State University Estate Planning Conference for Women, 2009 – 2015, Las Cruces, New Mexico;
- Author and Speaker: 2015 UTEP Estate Planning Conference for Women. Basic Transfer Tax Planning Considerations, January 22, 2015, El Paso, Texas;
- Author: “Federal Transfer Taxes for International Clients,” The Texas Tax Lawyer, Vol. 42, No. 1 (Fall 2014);
- Author and Speaker: 38th Annual Advanced Estate Planning & Probate Course. State Bar of Texas. “Administration of the Estate with Cross-Border Issues,” June 10-12, 2014, San Antonio, Texas;
- Author and Speaker: 21st Annual Estate Planning Institute. Community Foundation of Southern New Mexico. “The Nuts and Bolts of a New Mexico Will,” October 24-25, 2013, Las Cruces, New Mexico;
- Author and Speaker: Houston Attorneys in Tax and Probate Luncheon. “International Estate Planning,” March 5, 2013, Houston, Texas;
- Author and Speaker: 2013 UTEP Estate Planning Conference for Women. Basic Transfer Tax Planning Considerations, January 24, 2013, El Paso, Texas;
- Author and Speaker: El Paso Estate Planning Council Luncheon. “Business Succession Planning,” December 19, 2012, El Paso, Texas;
- Author and Speaker: 20th Annual Estate Planning Institute. Community Foundation of Southern New Mexico. “A Stroll Through the Uniform Probate Code,” November 1-2, 2012, Las Cruces, New Mexico;

- Author and Speaker: 19th Annual Estate Planning Institute. Community Foundation of Southern New Mexico. “Business Succession Planning,” November 3-4, 2011, Las Cruces, New Mexico;
- Speaker: 2011 Southwest Regional Conference. American Society of Women Accountants. “Estate and Trust Accounting Under the Uniform Probate and Trust Codes,” May 20, 2011, Las Cruces, New Mexico;
- Author and Speaker: 2011 Tax Considerations in Estate Planning Course. State Bar of New Mexico. “The Federal Estate Tax – A Primer,” April 27-28, 2011, Albuquerque, New Mexico;
- Speaker: 2011 University of Texas at El Paso Estate Planning Conference for Women – “Legal and Practical Aspects of Estate Planning,” January 27, 2011, El Paso, Texas;
- Speaker: UTEP Women’s Estate Planning Conference Reunion. “Estate Planning Uncertainty: Planning in the Shadows of 2010 & 2011”, December 9, 2010, El Paso, Texas;
- Author: “Key Points as EGTRRA’s Sunset Looms,” Texas Lawyer, Vol. 26, No. 34 (November 22, 2010);
- Author and Speaker: 18th Annual Estate Planning Institute. Community Foundation of Southern New Mexico – “Planning in Uncertain Times: Bypass (or Credit Shelter) and Marital Deduction Trusts in 2011 and Beyond”, November 4-5, 2010, Las Cruces, New Mexico;
- Author and Speaker: 2010 Advanced Estate Planning and Probate Course. State Bar of Texas – “International Issues in Estate Administration,” June 22-24, 2010, San Antonio, Texas;
- Speaker: El Paso Chapter, Texas Society of CPAs – “Estate Planning for 2010 & Beyond, or Be Careful of What You Wish For”, April 27, 2010, El Paso, Texas;
- Author and Speaker: 20th Annual Estate Planning & Probate Drafting Course. State Bar of Texas – “Drafting for Non-Citizens and Non-Residents,” October 29-30, 2009, Dallas, Texas;
- Author and Speaker: 16th Annual Southern New Mexico Estate Planning Institute. Community Foundation of Southern New Mexico – “Planning with Irrevocable Life Insurance Trusts,” November 6-7, 2008, Las Cruces, New Mexico;
- Author and Speaker: 2008 Advanced Drafting: Estate Planning & Probate. State Bar of Texas – “Closing Memoranda: Documenting the Distribution of the Estate,” October 30-31, 2008, Austin, Texas;
- Author and Speaker: 2008 NMSU Estate Planning Conference for Women – “Legal and Practical Aspects of Estate Planning,” January 23, 2008, Las Cruces, New Mexico;
- Author and Speaker: 15th Annual Estate Planning Institute. Community Foundation of Southern New Mexico – “Advanced Planning Techniques with Incapacity in Mind,” November 1-2, 2007, Las Cruces, New Mexico;
- Author and Speaker: 2007 UTEP Estate Planning Conference for Women – “Legal and Practical Aspects of Estate Planning,” January 24, 2007, El Paso, Texas; and
- Co-Author: “Estate Planning for Mexican Nationals with U. S. Assets”, January 2007.

Organizations

- American College of Trust and Estate Counsel (ACTEC), Fellow
- State Bar of Texas, Tax Section, Estate and Gift Tax Committee. Vice-Chair – 2014 to 2016.
- Real Estate, Probate and Trust Section of the State Bar of Texas
- Real Property, Probate and Trust Section of the State Bar of New Mexico (Board of Directors 2011-2013)
- El Paso Estate Planning Council
- El Paso Probate Bar
- Southern New Mexico Estate Planning Council (former President)
- Annual Southern New Mexico Estate Planning Institute (Planning Committee)
- Community Foundation of Southern New Mexico Professional Advisor of the Year – 2009
- El Paso’s Insights Science Museum (Board of Trustees, former Vice President)
- Leadership El Paso Class XXIX
- Keep El Paso Beautiful, Inc. (former Vice President)
- Beth El Bible Evangelical Free Church