CODOSSIER
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Decedent Asset Entitlement Map and Probate Deadline Verification

Prepared by counsel for the client's review

WHERE **Illinois**

401(k) account value (approximate, no formal valuation)	About $650K
Life insurance policy face amount (approximate)	$300K
Trust corpus value (approximate, no formal valuation)	About $2.1M
Assets outside trust, pass through probate (approximate)	About $180K
401(k) plus policy combined	$950K
Sum of approximate values across identified assets	$3.23M
Children of decedent (either marriage or otherwise)	0
Decedent's trust executed	2011
Divorce of decedent and first wife	2014
Decedent marries client	2017
Decedent marries client (month per client, certificate not pulled)	2017-06
Close of spousal renunciation window (runs from admission of will)	2026-05

THE SHORT ANSWER

On the record as it stands on [date not on the record], the client is entitled to nothing from the roughly $2,100,000 trust: the 2014 divorce most likely routes it to the siblings, and renunciation reaches only the probate estate. Her statutory claims are the spouse's award, not less than $20,000, and a renunciation share of one-half of the roughly $180,000 probate estate after claims, because the decedent left no descendants. The ERISA question is resolved as to the Illinois divorce-revocation statute: it does not control the roughly $650,000 401(k), which pays by plan documents. Her only route is the federal surviving-spouse rules, which depend on whether the plan uses the spousal default and whether she ever signed a valid post-marriage consent (not yet established; plan records not yet requested). The $300,000 policy remains open on whether it is ERISA-governed, with no Illinois authority located otherwise. No earliest dated deadline exists because the death date is undated in the record. The nearest consequential point is the two-year claims bar running from death (position estate_creditor_claims_bar), plus the renunciation and contest periods that start only on admission. Blockers are the plan records, the marriage certificate, the decree, the deed search and the death date from the certificate. The first act is notice to the administrator and insurer, since payment cannot be undone.

WHERE EACH BUCKET STANDS

BUCKET 1 **Trustee control, housing, and information blind spots** TRUSTEE CONTROL — visibility by request only

The brother as successor trustee controls the trust assets and the marital home, owes the client no accounting, and may or may not know she exists; the gaps in what he has done are closed by requests and a deed search, not demands.

BUCKET 2 **Entitlement by asset: ERISA, trust, probate reach** ONLY THE PLAN ASSETS REMAIN LIVE

The trust appears closed to the client and her share appears to reach only the probate estate, subject to verification.

BUCKET 3 **Deadlines, record verification, and creditor exposure** NOTHING CALENDARED UNTIL DEATH DATE ENTERED

No window keyed to admission of the will has started, and the two-year claims bar runs from a death date that must still be entered from the certificate before anything is calendared.

WHAT TO DO, IN ORDER

01 **Put the plan administrator and the insurer on written notice of the client's surviving-spouse status.** This step leads because a benefit paid on the form on file may be unrecoverable, and recovery from the first wife afterward is uncertain; the other windows close later or have not started. Write to the 401(k) administrator and the insurer, identify the client as surviving spouse, ask for the plan document, the dated beneficiary form, any spousal consent, any qualified domestic relations order, and the status of any claim, and ask each to hold payment pending review. A hold request may be declined. Whether the policy is employer-plan coverage or individual is open, so ask the insurer which. This turns on the positions erisa_401k_surviving_spouse_benefit and life_policy_proceeds_entitlement; None of this requires contact with the first wife.

02 **Locate the original will and lodge it with the circuit clerk of the proper county.** Filing the original is a present duty, not an elective step, under the position duty_to_file_original_will. The holder is unknown and nothing has been filed, so identify the holder, confirm the decedent's county of residence, and see that the will is lodged. Whether and when to petition to admit it is a separate choice, addressed below.

03 **Enter the death date from the certificate before calculating any deadline.** The death date is not in the record and must be taken from the certificate. The two-year bar on claims runs from death whether or not probate opens (position estate_creditor_claims_bar); no calendar date can be stated until the death date is entered. The renunciation and contest windows run from admission of the will, which has not occurred, so they have not started (positions spousal_renunciation_of_will and will_contest_undue_influence_or_capacity).

04 **Pull the marriage certificate and the 2014 divorce decree.** The certificate verifies the June 2017 date, which gates the spouse's award and any one-year marriage condition in the plan. The decree shows any language on revoking the first wife's designations, any qualified domestic relations order, and the date that bears on the policy. Do these before relying on any statutory position in writing.

05 **Search the county title records for the home and order the creditor search.** A signed and delivered deed to the trustee puts the home in the trust even if unrecorded; if none exists, the home may be part of the probate estate. Also confirm that the outside accounts carry no beneficiary designations. The creditor search tells you whether the roughly $180,000 estate will be reduced before any renunciation share is computed.

06 **Write to the brother as successor trustee requesting an accounting, a statement of distributions, and his occupancy intentions.** Frame it as a request, since the client is not a beneficiary and cannot compel an accounting. Ask whether he knows of the client as surviving spouse and whether he is among the contingent siblings. Send it before any approach to the first wife. If he later seeks possession of the home, the Eviction Act process applies and self-help is not allowed.

07 **Decide when to open probate, then claim the award and calendar the renunciation period.** Once the marriage certificate confirms her status, plan to claim the surviving spouse's award in the estate, a fixed sum for nine months of support of not less than $20,000. Admission of the will starts the 7-month renunciation period and the 6-month contest period, so enter the admission date as soon as it exists. Renunciation reaches only the roughly $180,000 probate estate, so weigh it against that base after claims. The brother is the nominated executor, but he has no authority until letters issue. The duty to lodge the will is fixed; the timing of the petition to admit it is the elective choice.

08 **Give the client the map in writing with the 401(k) and policy shown as unresolved.** Tell her the trust appears closed to her on current analysis, subject to verification.

09 **Contact the first wife's side only after the document requests and inquiries return.** The client has deliberately deferred this. The administrator's and insurer's answers show whether a claim is already pending, so make first contact with that knowledge and with the brother's response in hand.

WHAT WE STILL NEED

- The first wife or her counsel has been notified of the death, has filed any plan or policy claim, or has asserted any claim — inquiry to 401(k) plan administrator and insurer, and to first wife's counsel when contacted
- The successor trustee knows of the client as surviving spouse and what occupancy terms, if any, he has set for the marital home — written communication from the successor trustee
- The first wife survived the decedent, which determines whether the contingent sibling gift applies — death records and trust instrument; the first wife's status is not stated
- Post-death actions by the successor trustee (distributions, transfers, and any trust accounting) — trust accounting and written statement from the successor trustee
- Confirmation that the outside-trust bank and brokerage accounts carry no beneficiary or payable-on-death designation — bank and brokerage account records
- Confirmation that there is no prenuptial or postnuptial agreement between client and decedent — decedent's personal papers and client confirmation
- Recorded deed or title record showing the marital home was transferred into the trust, and the transfer date — county recorder title search
- Date the pour-over will is admitted to probate, which triggers any renunciation period — probate court record; none filed as of intake
- The life insurance policy is employer-sponsored group coverage (ERISA) or individual coverage — insurer or employer benefits records
- 401(k) plan document and its spousal-rights terms (including any spousal survivor requirements) — 401(k) plan administrator
- Execution date of the pour-over will and any codicils or amendments — original will and probate or estate counsel file
- Marriage certificate verifying June 2017 marriage date — certified marriage certificate

QUESTIONS FOR THE CLIENT

? Has the absence of a prenup or postnup been confirmed with your client and the decedent's papers, and the non-trust account designations verified with the institutions?

? Has the brother taken any distributions or transfers since the death, and does he know your client exists as surviving spouse?

? Has the first wife or her counsel contacted you or asserted any claim? Is there any indication she knows he died?

? Have you obtained the 401(k) plan document and beneficiary form, and did your client ever sign a spousal consent?

? Do any debts or creditor claims exist against the estate, confirmed by a creditor search?

? What has the brother trustee done, and does he know?

? Does the first wife know, or have a claim pending?

? Is the brother in the contingent sibling class?

? Did the first wife sign a spousal consent?

POINTS RAISED THAT THIS BRIEF DOES NOT YET ANSWER

- Undue influence is only a fallback theory
- Probate windows and the date calculations

Citations and dates in this brief are confirmed by counsel before you rely on them.

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