

PRACTICE

Family Law & Probate Litigation

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OVERVIEW

FAMILY LAW & PROBATE LITIGATION

Clients rely on our family law team to help them navigate all aspects of the divorce process, probate litigation and family law matters. Although our lawyers have extensive experience including involvement in cases that shaped the law in Massachusetts, we do not rest on past accomplishments.

After meeting with our clients and conducting a thorough analysis, we identify the unique aspects of each case and the specific goals of each client. We determine whether a swift, amicable resolution through a comprehensive agreement tailored to meet specific goals is possible, whether additional information is required or whether court intervention is necessary.

When agreement is simply not possible, our team has the experience and resources to thoroughly and zealously represent our client's interest in the courtroom. We have a vast network of professionals to assist us in the evaluation, preparation and trial of both economic and non-economic issues, including access to the firm's business, real estate, tax, estate and appellate lawyers.

Our team also has the experience and resources to handle all estate, trust and other equitable controversies, from cases involving complex issues to more straightforward matters that are better suited for a personal approach. Our seasoned litigators and trust and estate lawyers have extensive experience in the state and federal courts.

In addition, Bowditch & Dewey's interdisciplinary team approach enables clients to call upon the expertise of our real estate or business and finance attorneys when needed, and to take advantage of alternative dispute resolution methods (such as arbitration, conciliation or mediation).

How we can help

- Negotiating, drafting and litigating prenuptial and postnuptial agreements
- Determination of divorce-related issues including division of marital property and debt
- Determination of child custody, parenting time and removal

- Determination of child support and alimony
- Advice for clients involved in mediation or arbitration
- Negotiating and drafting separation agreements
- Representation at all stages of civil proceedings arising from divorce matters, including abuse prevention orders or harassment prevention orders
- Litigation of paternity actions
- Will contests
- Trust controversies, including breach of fiduciary duty claims
- Fiduciary (personal representatives and trustees) appointment disputes
- Fiduciary removal actions
- Investigations and challenges to accounts in estates and trusts
- Contested conservator and guardianship matters (both adults and minors)
- Undue influence and diminished capacity cases, including claims of financial exploitation
- Trust reformation and addressing trust ambiguities or drafting errors
- Creation of trusts via court actions
- Partitions of real property
- Complaints for instructions and actions for declaratory judgment
- Pre-litigation negotiation, fact-finding and settlement

EXPERIENCE

Divorce with contested custody

We successfully litigated a high-conflict custody dispute in which we were able to demonstrate to the judge that the shared custody arrangement recommended by the guardian ad litem was not in the children's best interests. After trial, our client was granted primary custody of his children.

Defending a client's ability to travel internationally under a shared custody agreement

Despite the opinion and testimony of the opposing expert that our client should never be permitted to travel internationally, we were able to convince the judge this was not in the best interests of the children. Our client was granted travel rights which ultimately will be unrestricted in the near future.

Protecting an executive's property and income in a contested Massachusetts divorce

Our client had an complicated executive compensation package that we needed to protect from his soon to be ex-spouse. We were able to classify all aspects of his compensation as income which resulted in a substantially reduced alimony obligation and a substantial tax advantage to our client.

Fiduciary Appointment

We prevailed on our motion to strike the objection of contestant to a will. With our help, the will contest is closed, probate will continue unfettered and our client will inherit approximately \$1 million.

Breach of Fiduciary Duty (Trustee)

We successfully sued an estate's personal representative for undue influence and breach of fiduciary duty. Our clients were the identified beneficiaries and were able to recoup approximately \$1 million to the estate.

Breach of Fiduciary Duty

Obtained favorable judgment against a fiduciary after a four-day trial based on claims of undue influence and breach of fiduciary duty, resulting in the return of \$1 million to the probate estate. Successfully defended the judgment and motion to stay in the Appeals Court, resulting in final resolution of the case.

Undisclosed Assets

Investigated and uncovered undisclosed income and assets of the opposing party, resulting in a substantial increase in alimony and property division to our client after trial.

Complaint for Contempt

Successfully defended a complaint for contempt after a two-day evidentiary hearing, resulting in a finding of non-contempt and denial of the plaintiff's request for counsel fees.

Alimony Reform Act

Commenced litigation on behalf of a former spouse who paid alimony in excess of the durational limits where the judgment entered prior to the passage of the Alimony Reform Act, resulting in the termination of the obligor's lifetime alimony obligation.

Appeal of Unconstitutional Law

In the Supreme Judicial Court, prevailed on the challenge to the constitutionality of a retroactive statute that altered dispositive provisions of an irrevocable trust.

Award of Appellate Counsel Fees

In the Appeals Court, successfully defended the trial court's fee award to a commissioner in a partition action and obtained an award of appellate counsel fees.

Interlocutory Appeals

Successfully appealed an order for a forced examination to the Single Justice of the Appeals Court on the grounds that it violated our client's constitutional rights.