

PRACTICE

Probate & Fiduciary Litigation

KEY CONTACTS

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OVERVIEW

Clients rely on us to handle their significant and sensitive personal and family disputes. From contested wills, trust disputes, and breach of fiduciary duty claims to petitions for guardianship and conservatorship, we provide comprehensive legal services in this complex and often emotionally charged area of law. Whether we are developing a creative resolution, or pursuing or defending litigation, our skilled representation and strategic counsel ensure our clients' rights and interests are vigorously protected.

HOW OUR PROBATE & FIDUCIARY LITIGATION ATTORNEYS CAN HELP

We recognize the difficult nature of fiduciary disputes and guide clients through each step of the legal process with compassion and understanding, keeping them apprised of all developments so they can make well-informed decisions. Our team is adept at both negotiation and trial advocacy, striving to achieve favorable outcomes through mediation and settlement whenever possible, while also being fully prepared to litigate aggressively in court if necessary. Our extensive experience and diligent efforts have led to a track record of success for our clients.

We represent clients in a wide range of fiduciary litigation matters including:

- Will contests, including the validity of wills based on fraud, duress, undue influence, coercion, lack of capacity, improper execution and testamentary intent
- Trust disputes involving the administration of trusts, breaches of fiduciary duty, and disputes over trust terms, as well as actions disputing the validity of trusts due to allegations of fraud, duress, undue influence, coercion, lack of capacity and proper trust formation
- Trust misappropriation and mismanagement, including investigations and challenges to accounts
- Estate administration issues, including concerns relating to the mismanagement or improper handling of estate assets by personal representatives and challenges to accounts
- Litigation involving powers of attorney and health care proxies, including disputes over their scope and actions disputing the validity of such documents due to allegations of fraud, undue influence, and lack of capacity

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- *Cy pres* petitions
- Litigation involving breaches of fiduciary duties
- Disputes involving appointment or removal of fiduciaries (personal representatives and trustees)
- Contested conservatorship and guardianship matters (both adults and minors)
- Undue influence and diminished capacity cases, including claims of financial exploitation and elder abuse
- Partitions of real property

EXPERIENCE

EXPERIENCE

- Represented the family of an elderly person who had a net worth of over $50M dollars and whose estate plan was changed at the last minute to benefit largely two new home health aides to the exclusion of the elderly person's family. Succeeded in negotiating a highly complex settlement restoring the vast majority of the estate to the elderly person's family, including valuable works of art and waterfront real estate.
- Represented an adult child in a hotly contested will contest over parents' multimillion-dollar estate against client's two siblings. After a 12-day trial, the last will secured by the client's siblings was overturned and the prior will in favor of the client was allowed. The siblings appealed and the prior decision was upheld at the appellate level. The siblings applied to the Supreme Judicial Court for further appellate review and their request was denied. Later represented the client in the divorce and succeeded in securing a favorable settlement for the client that allowed them to keep their inheritance and valuable real estate that their business operated out of and where the client resided.
- Represented an elderly client who established a trust over 20 years ago against an estranged adult child who sued for control over and a distribution of the trust assets despite their intention that the child not receive anything, if at all, until the client's death. After trial, succeeded in defeating the child's attempt to get more than what the trust provided for, as well as the attempts to secure other financial benefits from the client that were unintended. Also succeeded in securing an award of counsel fees on behalf of the client that must be paid by the child.
- An elderly mother thought that in exchange for her son and daughter-in-law moving in with her rent-free, they were going to pay off her mortgage; she did not think that she was going to sign over ownership of the home to them or that they were going to take steps thereafter to evict her from the home. After a four-day jury trial, the jury found that the son and daughter-in-law had breached fiduciary duties to our client and were also unjustly enriched by the transaction and events. The jury awarded damages in excess of $500,000.
- Represented clients in will contests pertaining to the validity of a will or questions of capacity of the testator.
- Represented client on Petition to Terminate Trust given that the trust was no longer financially viable and was no longer serving the material purpose for which it was created.
- Represented Court-appointed counsel for a trust in a Petition for Appointment of Successor Trustee where trust required two trustees and beneficiaries could not agree on a successor trustee.

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