

## FIDUCIARY LITIGATION

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### Who We Are

Barley Snyder's team of dedicated fiduciary litigators handle complex disputes related to estate planning and end of life issues in Pennsylvania and Maryland courts. Our litigators are courtroom-tested and ready to assist clients with these family disputes that often generate some of the most emotionally charged issues. Our goal is to help identify minor issues before they turn into larger problems. On the occasion that significant problems do arise, we work collaboratively with our clients to design strategies to resolve them. Our fiduciary litigators often join forces with the attorneys in our Trust & Estates Practice Group to craft solutions for high-net worth individuals. Furthermore, we regularly appear in Orphan's Courts and civil courts across the state on a wide array of fiduciary disputes.

### What We Do

Our attorneys work with clients on a variety of fiduciary disputes including:

- Will contests: We defend both executors and estates against challenges to wills and asserting challenges to wills, especially when the decedent may have signed the will in a state of diminished capacity or subject to undue influence.
- Trust litigation: We have vast experience litigating complex disputes arising from various forms of trusts.
- Guardianships: We represent individuals, families, nursing homes and health care institutions in obtaining guardians for elderly or incapacitated individuals.
- Fiduciary representation: We are well-versed in representing individuals, banks, institutions, and trust companies appointed to fiduciary roles (such as power of attorney agents, trustees or guardians) in risk management guidance and when their actions are challenged through accountings or removal actions.
- Fiduciary removal: We frequently assist in the removal of a fiduciaries that fail to adhere to their legal obligations relative to a power of attorney, estate or guardianship, in addition to pursuing accountings to ensure fiduciaries are properly adhering to their duties.
- Spousal election: We assist spouses of decedents with obtaining their elective share of estate proceeds available under Pennsylvania law when otherwise excluded or deemphasized from a will.
- Non-profit organization representation: We ensure non-profit organizations receive designated funds

under estate planning documents and work with non-profits to obtain approval of combinations with other non-profits.

- Financial account disputes: We represent of banks and beneficiaries in disputes over financial accounts, including litigation related to the Pennsylvania Multiple-Party Account Act.
- Elder Abuse and Fraud: We represent individuals and families impacted by elder abuse and fraud, including efforts to recover stolen funds, often working with local Area Agencies on Aging, Elder Abuse Units and other law enforcement offices.
- Common Law Marriage disputes: We provide representation regarding related disputes over common law marriages that may impact estate or trust beneficiaries.
- Intestate matters: We provide representation related to disputes over the assets of decedents that do not have estate planning documents in place upon death.

## **Fiduciary Litigation Outcomes**

We represented the beneficiary of a trust in a trust dispute in the Mifflin County Court of Common Pleas-Orphan's Court Division. An individual surfaced to challenge a portion of the beneficiary's inheritance, claiming that a common law marriage entitled the individual to a \$250,000 share of that inheritance. After the individual presented his evidence in support of the common law marriage at trial, Justin convinced the court to dismiss his claims and find in favor of the beneficiary.

We represented siblings, who were beneficiaries of their recently deceased father's estate, in an action when their father's second wife seized control of his residence and numerous valuable antiques which the siblings stood to inherit under his will. Through complaints in the nature of replevin and ejectment, we helped the siblings recover all of the antiques/family heirlooms and retake possession of their father's residence.

We represented the beneficiary of a trust in a complicated dispute in the Mifflin County Orphans Court. The Barley team convinced the judge to favorably resolve several complex trust interpretations, yielding their client \$2.6 million.

We handled a case involving disputes between siblings over a lifetime conveyance and will changes made approximately seven months prior to the death of the siblings' mother. The Petitioner, the decedent's daughter, alleged that her mother was the victim of undue influence by her brother resulting in the brother becoming the owner of the mother's real estate prior to her death. The mother's prior will had devised the real estate to her son but had an equalization clause which was removed in the new will. The daughter alleged that the mother's declining health prevented her from having testamentary capacity. Through the extensive use of the mother's medical records and expert testimony, the Barley team was able to show that the Petitioner had failed to prove her case by not having the necessary expert medical testimony concerning the mother's mental capacity in the months leading up to the execution of the deed and the

amended will.

We represented two beneficiaries of their late aunt's estate. The beneficiaries' aunt passed away in 2005, but the estate administration was delayed for over a decade by the executor of the estate. The beneficiaries asked the firm to investigate when their proposed distributions seemed to be far less than anticipated. When our initial demand for information on the finances of the estate was ignored, we initiated an accounting action in the Lebanon County Court of Common Pleas' Orphan's Court Division. After having the court-ordered production of the finances, we uncovered that nearly \$300,000 had been misappropriated by the executor and used to fund the executor's business for the past decade. We negotiated the immediate return of 100% of the misappropriated funds at a heightened interest rate and payment by the executor of all attorney's fees and court costs incurred in uncovering the misappropriation. The total amount recovered by our clients totaled nearly \$500,000.

We represented the beneficiary of an estate in a will contest dispute with his stepsisters in Berks County. Upon the death of their client's father, no will could be found and pursuant to Pennsylvania's intestacy laws, their client would have received the entire estate. However, the stepsisters surfaced and alleged that their stepfather had created a handwritten will that split his estate equally among his son and the stepsisters. At trial, we cross examination exposed the flaws in both the stepsisters' testimony and the purported handwritten will. The judge entered a decision rejecting the handwritten will and affirming that our clients would be the sole beneficiary of the six-figure estate.

We represented the beneficiary of the estate of his late mother. Their client's late mother's will left her assets to her son and had appointed her accountant to serve as executor and trustee of her estate proceeds. However, when the mother had unexpectedly passed away, a large portion of her funds from a real estate transaction, were held in a joint account owned by the late mother and her accountant. The accountant suggested that under the Pennsylvania Multi-Party Account Act, that the funds in the account belonged to the accountant, not the son. The Barley team quickly compiled a petition to force the accountant to turn the over the funds. In response, the accountant reversed course and agreed that she no longer was going to claim that she wanted the funds, but she now wanted to serve as trustee of the trust created to benefit the son by the late mother's will. The Barley team pushed back again and demanded that based on the accountant's actions, she should have no role in the estate. After threatening further litigation, the accountant completely backed down and turned over all of the funds and abandoned all involvement with the trust.

We resolved claims brought by an estate for the overdose death of a resident of a community corrections facility arising out of the alleged failure of the facility to implement and execute proper search protocols for residents of the facility.

## CHAIR:

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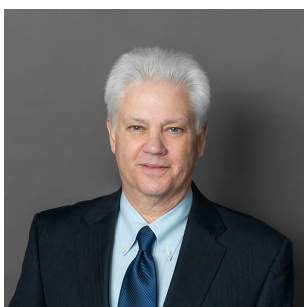


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