

Probate & Fiduciary Litigation

Clients entrust their most important personal and family matters – including will contests, trust contests, breach of fiduciary duty actions, and all other kinds of trust and estate disputes – to the attorneys of the Probate & Fiduciary Litigation Group of Goulston & Storrs, not only because of our reputation and experience in this area, but because of our professional, responsive approach to client-service during these often once-in-a-lifetime events.

As a result, we represent not just our own clients in probate and fiduciary litigation, but many clients who are referred to us by lawyers, financial planners, wealth managers, accountants, and other professionals from all over the country.

Our lawyers are at the forefront of developing this area of the law, shaping how it is handled in the Probate and Family Court. We have been appointed to advise the Court on the creation of the specialized Fiduciary Litigation Session for complicated estate and trust matters and on new procedures for trust reformation actions, and we have taken leadership roles in the Probate Law Section of the Massachusetts Bar Association, the Trusts and Estate Section of the Boston Bar Association, the Boston Probate and Estate Planning Forum, and the Greater Boston Fiduciary Law American Inn of Court, among other bar organizations.

Chambers USA, in its High Net Worth Guide published for the first time in 2016, noted the firm's strength in working with high net worth private clients, ranking us in the top tier of Massachusetts-based firms. We house one of the largest and most well-established trust and estate practices in New England, featuring many bar leaders, and six fellows of the American College of Trust and Estate Counsel (ACTEC), which is composed exclusively of lawyers and law professors from around the world who have been elected by their peers, based on reputation, skill and contributions to the field in the form of lecturing, writing, teaching, and bar activities. One of the members of our group has been appointed to ACTEC's Fiduciary Litigation Committee and is described in the 2017 edition of the Chambers USA High Net Worth Guide as "Boston's pre-eminent probate litigator."

Another point of distinction for our group, particularly when representing attorneys who act as fiduciaries, is that we are able to draw upon the resources of our renowned Professional Liability Group, which has represented some of the most prestigious law firms in the country. Likewise, when a dispute over trust or estate property involves real estate, as it often does, we can draw upon the resources of our renowned Real Estate Group.

Our Service Difference

We are sensitive to the raw emotions that are often involved in disputes relating to trusts and estates. Clients rely on us to reduce their stress by giving them the best possible course of action and advocacy to resolve their problems as quickly as possible, either inside or outside of the

courtroom. They also appreciate our help in dialing down the temperature among all the parties in order to get to workable solutions.

Although we are always prepared to take a matter through to trial, we recognize that probate-related disputes often involve significant privacy issues and other concerns that can add a premium to the value of reasonable settlements reached through creative and thoughtful counseling. So we make it a priority to counsel our clients about the risks, costs, and benefits of litigation, as well as the strategic alternatives for dispute resolution at the outset of each matter.

If our clients chooses to pursue litigation, we are well-equipped to give them their day in court, but during the progression of any case, we also regularly discuss with clients the potential advantages and disadvantages of settlement and Dispute Resolution at any given stage based on the developing facts and changes in the law.

Our Clients

The Goulston & Storrs Probate & Fiduciary Litigation Group regularly represents all types of individual and institutional fiduciaries, including trustees, executors, administrators, and personal representatives, as well as other law firms who act as fiduciaries. We also represent both individual and charitable beneficiaries and benefactors.

Our Experience

Many clients entrust all of their most important personal and family matters to the attorneys of the Probate & Fiduciary Litigation Group of Goulston & Storrs. As a result, our team of advocates often handles matters involving:

- Will contests and contested accounts
- Claims against fiduciaries
- Removal of fiduciaries
- Claims relating to investment and wealth management
- Trust interpretation and administration
- Trust reformation
- Petitions for Instructions/Declaratory Judgment Actions
- Petitions for Partition

Representative Matters

Defense of Trustees in an Action for Breach of Fiduciary Duty and Removal

A beneficiary sought the removal of two trustees of a Massachusetts Business Trust, alleging that the trustees had acted beyond their authority and breached their duties in carrying out a number of complicated transactions designed to place a conservation easement on family-owned land and exchange various parcels of land among several trusts. At trial, the Court found that the trustees had not breached their duties and awarded fees and costs to the trustees. The Appeals Court determined that the trustees had authority under the trust to effectuate the transactions at issue and affirmed the trial court's determination that no breach of fiduciary duty occurred.

Individual Heirs Seeking to Secure the Proceeds of a Lapsed Gift Under a Will

Successfully obtained a judgment in favor of individual heirs who were seeking to secure the proceeds of a lapsed gift under a will.

Dispute With a Trustee Over Proper Interpretation of the Distribution Provisions of a Trust Instrument

Representation of a charitable beneficiary in a dispute with a trustee over the proper interpretation of the distribution provisions of a trust instrument.

Challenge to a Testamentary Scheme That Left Hundreds of Millions of Dollars to Charity

Representation of children of a decedent, including a mentally disabled adult, in a challenge to a testamentary scheme that left hundreds of millions of dollars to charity.

Negotiating Agreement Among the Trustees and Other Family Beneficiaries Regarding the Disposition of Property

Representation of a beneficiary of several family trusts in negotiating an agreement among the trustees and other family beneficiaries regarding the disposition of property in, and distributions to be made from, such trusts.

Representation of Charity in Action to Enforce Its Rights Under a Charitable Bequest Action to Determine Proper Charitable Beneficiary

Representation of a trustee in an action to determine the proper charitable beneficiary under a trust instrument that contained precatory language regarding the use of the proceeds by the charitable beneficiary.

Will Contest Alleging Undue Influence, Lack of Testamentary Capacity and Fraud

Representation of family members in will contest alleging undue influence, lack of testamentary capacity and fraud.

Representation of Widow in Defense of a Death-Bed Property Conveyance

Representation of Proposed Interveners in Action Regarding the Oldest Charitable Trust in the Country (c. 1660)

Self-Dealing and Other Breaches of Fiduciary Duty

Representation of trustees and primary beneficiary in action against predecessor trustees for self-dealing and other breaches of fiduciary duty.

Publications

November 15, 2018

Appeals Court Ruling Highlights Risks of Pre-Printed Forms

Massachusetts Lawyers Weekly

November 14, 2018

New York's Article 77: A Useful Tool for Expediting Trust Litigation

October 1, 2018

Probate and Fiduciary Litigation Newsletter - October 1, 2018

August 27, 2018

Probate and Fiduciary Litigation Newsletter August 27, 2018

July 10, 2018

Probate and Fiduciary Litigation Newsletter July 10, 2018

November 21, 2017

Probate and Fiduciary Litigation Newsletter November 21, 2017

August 29, 2017

Probate and Fiduciary Litigation Newsletter August 31, 2017

June 28, 2017

Probate and Fiduciary Litigation Newsletter June 28, 2017

March 20, 2017

Probate and Fiduciary Litigation Newsletter March 20, 2017

February 14, 2017

Probate and Fiduciary Litigation Newsletter February, 2017

December 16, 2016

Probate and Fiduciary Litigation Newsletter December 16, 2016

November 30, 2016

Probate and Fiduciary Litigation Newsletter November 30, 2016

November 14, 2016

T&E Litigation Newsletter- 11/14/16

August 10, 2016

T&E Litigation Newsletter- 8/10/16

July 13, 2016

T&E Litigation Newsletter- 7/13/16

July 5, 2016

T&E Litigation Newsletter- 7/5/16

May 25, 2016

T&E Litigation Newsletter- 5/25/16

April 27, 2016

T&E Litigation Newsletter- 4/27/16