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THE SPOTLIGHT

BROUGHT TO YOU BY ROBINS KAPLAN LLP'S WEALTH PLANNING,
ADMINISTRATION, AND FIDUCIARY DISPUTES GROUP

Stewardship in the Modern Era:
From Boardrooms to Ballparks to Blockchain

WELCOME TO THE SPOTLIGHT

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The Spotlight strives to provide a forum to discuss the latest news and compelling issues impacting fiduciaries and those to whom fiduciaries owe duties. Whether you are an officer, director, trustee, beneficiary, trust officer, attorney, financial advisor, or anyone impacted by the law governing fiduciaries, we hope that you will find this newsletter interesting, informative, and perhaps at times even a bit entertaining.

Fiduciary disputes come in many varieties, but they share some consistent themes that involve the erosion of trust, high emotion, and opportunities—sometimes missed—for creative approaches to avoid or resolve litigation. As practitioners and teachers of fiduciary law, our attorneys have built a reputation for excellence in meeting the needs of individuals and organizations facing complex fiduciary issues, starting with the transactional and estate planning work that can mitigate risk from the beginning. We counsel individuals and business owners in a broad range of fiduciary issues, from estate planning and business succession, to dispute resolution and litigation when unavoidable.

Is there a topic affecting your practice that you would like us to discuss in an upcoming issue of The Spotlight? Let us know at all_marketing@robinskaplan.com.

– **Denise S. Rahne and Steven K. Orloff**

Q&A with John Taft

Vice Chair of the Executive Committee at Robert W. Baird & Co.

On October 23, 2025, Robins Kaplan LLP will host its 8th annual seminar on wealth and fiduciary disputes. We are excited to see how many of you have already registered and are equally excited about how our programming is shaping up! This year's theme is "What Keeps Fiduciaries Up at Night," and we are very lucky to feature John Taft, Vice Chair of the Executive Committee at Robert W. Baird & Co. Incorporated, as your keynote speaker.

John has more than 40 years' experience in the financial industry and has won respect as a courageous leader on issues impacting communities and public service. He graduated from Yale University and has a master's degree in public and private management from the Yale School of Organization and Management. He has served in various capacities with numerous organizations, including RBC Wealth Management, the Securities Industry Financial Markets Association, Columbia Threadneedle Funds, United Way, the Walker Art Center, and the Northwest Area Foundation, just to name a few. He will speak on how to lead in times of uncertainty.

Recently The Spotlight sat down with John for a Q&A so that our attendees can get to know him a bit more before the seminar. We hope you can join us!

The Spotlight: You were raised on the East Coast. What brought you to the Midwest?

JT: While I grew up on the campus of Yale University, where my father was a professor of physics, I was actually born in Chicago, so maybe it was in my DNA. That, or I'm no fool when it comes to relationships. I married my college girlfriend who told me that she was going to raise our children in the Midwest.

The Spotlight: You have had such an interesting career, starting with work as a journalist. Does your training and experience in journalism continue to impact your professional or personal endeavors?

JT: Absolutely. I think journalism is (or was) the equivalent of getting a graduate education in life. I think I wrote every type of newspaper and magazine article there was, from sports to obituaries to politics to public policy for publications ranging from a small county weekly newspaper to major metropolitan dailies to national policy magazines. In the process, I got exposed to situations, experiences, and people I would never have come into contact with otherwise. And I draw on those all the time in my work and in my personal life.

The Spotlight: I think it would be an understatement to say that you emerged from a political family. Your great-grandfather was our 27th president (and fun fact: the only person to ever have served both as president and chief justice of the U.S. Supreme Court). And your grandfather served for many years as a United States senator from Ohio. Did you ever consider a career in politics? Why or why not?

JT: Certainly. Many times. Even as recently as this year. But … while I am what I would describe as a genetic Republican, and loyal to my family's legacy, I am very liberal on social issues and conservative when it comes to finances. Which means I am unelectable! There seems to be no place in the Republican party today for moderates like me. Plus, who would want to expose themselves and their families to the extraordinary risk and abuse public figures are subject to today?

SPOTLIGHT Q&A

The Spotlight: You've been with Baird now for more than seven years and came out of retirement to serve there. What is your favorite thing about Baird?

JT: Its culture and its values, which align with the stewardship and servant leadership principles I espoused in my first book, *Stewardship: Lessons Learned from the Lost Culture of Wall Street*.

The Spotlight: You write and speak a great deal on leadership issues. In a nutshell, what is your leadership philosophy?

JT: My philosophy is consistent with the concept of servant leadership: Lead in the service of others. We are all members of communities, the collective wellbeing of which is our responsibility. Our calling is to responsibly steward that which has been entrusted to our care, no matter what organization or industry or society we are leading.

The Spotlight: What are the implications of your leadership philosophy for fiduciaries?

JT: The core principle of stewardship is 100% consistent with that of being a fiduciary. In fact, the words could almost be used interchangeably. Both mean responsibly managing that which has been entrusted to our care.

The Spotlight: Dream vacation?

JT: Four Seasons beach resort near a cultural center.

The Spotlight: Last really good book you read?

JT: Serious read: *Romney: A Reckoning* by McKay Coppins. Fun read: *So Help Me Golf* by Rick Reilly.

The Spotlight: If you could only have one food item for the rest of your life, what would it be?

JT: Saltimbocca with a side of pasta with pesto.

The Spotlight: That might be cheating (you're getting two meats and noodles!), but it sounds so good that we are going to give you a pass. And while we might not be able to have saltimbocca on offering for our social hour at the event on October 23, we sure are looking forward to your talk!

Scan Here to Register for Wealth Disputes Seminar!

No Home Field Advantage:

Navigating Multi-Venue Dispute Resolution in T&E Litigation

BY ANNE LOCKNER

In baseball, teams play just one team at a time and in one location. That is not always the case for their owners. The ongoing saga of the Seidler Family — owners of the San Diego Padres — being duked out in both Travis County, Texas Probate Court and in arbitration, illustrates a complex challenge facing modern litigation: What happens when trusts-and-estates disputes intersect with business agreements that contain mandatory arbitration clauses? This case highlights the growing complexity of multi-venue dispute resolution in an era where family wealth is increasingly tied to business entities with sophisticated governance structures.

CASE BACKGROUND: A TALE OF TWO FORUMS

The dispute centers on Sheel Kamal Seidler's claims against Matthew and Robert Seidler regarding their roles as trustees of various trusts established by her late husband, Peter Seidler. Before he died in 2023, Peter Seidler was a co-founder of Seidler Kutsenda Management Company (SKMC), a private equity firm managing over $5 billion in assets, and owner of the San Diego Padres.

What makes this case particularly instructive is the dual nature of the claims. On one hand, Sheel filed suit in Travis County Probate Court seeking trustee removal and alleging breaches of fiduciary duty related to control and management of trust assets, San Diego Padres ownership issues, and general trustee misconduct. These are traditional probate matters that courts have long handled.

On the other hand, SKMC and one of its principals initiated an arbitration against Sheel two weeks before she brought her case in Texas. Therefore, Matthew and Robert moved to compel arbitration in the Texas matter, taking issue with Sheel trying to "publicly litigate" matters that they contend are subject to mandatory arbitration.

THE ARBITRATION WEB: MULTIPLE AGREEMENTS, ONE RESULT

The defendants argue that Sheel's SKMC-related claims must be arbitrated under several interconnected agreements. The primary arbitration sources include the core SKMC operating agreement, which contains broad arbitration language covering "any dispute relating to this Agreement." Crucially, Sheel signed a spousal consent form acknowledging her binding commitment to the LLC agreement's terms, including its arbitration provision.

The web extends further through the redemption agreement that explicitly incorporates the LLC agreement's arbitration provision, the rescission agreement that also requires arbitration, and multiple general partner agreements with similar arbitration clauses. This creates a comprehensive framework where virtually any dispute touching on SKMC business matters arguably falls within arbitration requirements.

Perhaps most significantly, the defendants invoke the "direct benefits estoppel" doctrine, arguing that Sheel cannot simultaneously seek benefits under agreements while avoiding their arbitration requirements. This doctrine prevents parties from cherry-picking favorable contract terms while rejecting unfavorable ones, a principle with broad implications beyond this case.

STRATEGIC IMPLICATIONS OF MULTI-VENUE DISPUTES

Sheel's strategy appears designed to keep all claims in probate court, where proceedings are public, traditional discovery rules apply, jury trials may be available (they are not available in all states, but they are in Texas), and judicial precedent provides more predictability. This approach allows her to frame the dispute as a matter of fiduciary duty and trustee misconduct rather than commercial contract disputes.

Arbitration proponents argue, however, this approach threatens to undermine contractual arbitration commitments, create inconsistent outcomes across forums, and increase costs through duplicative proceedings. The defendants face their own strategic challenges, including the prospect of partial arbitration where some claims may be arbitrated while others remain in court, coordination issues to ensure consistent factual findings across forums, and difficult decisions about whether to seek a complete stay or partial arbitration. They also have lost the benefit of confidentiality, which is often a driver behind wanting an arbitration provision.

BROADER TRENDS AND IMPLICATIONS

This case reflects broader trends in family wealth management that create fertile ground for multi-venue disputes. Modern family offices involve multiple entities with varying governance structures, creating complexity that didn't exist when family wealth was held more simply.

The case also previews arbitration's expanding reach into areas traditionally handled by courts. For instance, earlier this year, the Texas Court of Appeals reversed the lower court's denial of testator's children's motion to compel arbitration against the grandchildren. *Hollingsworth v. Swales*, No. 10-23-00018-CV, 2025 Westlaw 479545 (Tex. App. Feb. 13, 2025) (not final). Family business disputes increasingly involve commercial arbitration clauses that affect family members who may not have directly negotiated them. Questions arise about whether trust beneficiaries can be bound by trustees' arbitration agreements, challenging traditional notions of consent and contract formation. In contrast to Texas, a New Jersey court refused to enforce a will's arbitration provision holding that, "a will is a unilateral disposition of property that does not require a meeting of the minds to be effective." *Matter of Est. of Hekemian*, No. A-1774-21, 2023 WL 176098, at *6 (N.J. Super. Ct. App. Div. Jan. 13, 2023). It remains to be seen where jurisprudence on this issue will land, but at least for the time being, it will likely vary by state.

PRACTICAL CONSIDERATIONS FOR PRACTITIONERS

Drafting considerations become crucial in preventing these conflicts. Practitioners must clearly define which disputes are subject to arbitration while considering carve-outs for certain matters such as equitable relief or trustee removal. Including coordination mechanisms for staying related litigation pending arbitration can help manage multi-venue complexity. If attempting to add an arbitration provision to a will or other estate-planning document, counsel should determine whether courts in the controlling state will enforce it and consider providing alternatives in the event a court does not.

Litigation strategy requires early assessment to identify venue requirements before filing suit. And when on the receiving end of a lawsuit, determining whether there is an arbitration or other venue provision to enforce must be done quickly—otherwise, there is a risk of waiver.

CONCLUSION: COMPLEXITY IN MODERN DISPUTE RESOLUTION

The *Seidler* case exemplifies the modern reality of dispute resolution, where clean separations between forums are increasingly rare. As family wealth becomes more institutionalized and business relationships more sophisticated, practitioners must develop strategies that account for multiple venues, overlapping jurisdictions, varying choice-of-law, and competing procedural requirements.

Ultimately, anytime there is a multi-front war, the primary winners are the lawyers, as these cases will cost the parties and trusts involved far more than a unilateral war. After all, significant time and resources will be spent fighting about where to fight the fight before the real fight can even begin.

DAOs and the New Fiduciary Frontier:
When Code Meets Duty

BY ANNE LOCKNER &
BELLE BOROVIK

Picture this: A trustee receives an email notification that a "governance proposal" needs their vote, because the trust owns tokens in something called a DAO—and suddenly, they're not just holding digital assets, they're making decisions that could affect millions of dollars. Welcome to the new frontier where blockchain technology meets fiduciary duty.

WHAT EXACTLY IS A DAO?

A decentralized autonomous organization (DAO) runs itself through blockchain technology instead of traditional hierarchical management. Think of it as a company without a CEO, board of directors, or corporate headquarters—just computer programs (called "smart contracts") that automatically execute decisions based on member votes.

Here's how it works: Members can acquire voting tokens through initial purchases, transfers from others, by earning or receiving them in ways designated by the DAO, or receiving them as rewards for participation. DAO's decisions are made by token holders voting directly on the blockchain. Smart contracts automatically execute the decisions according to the DAO's programmed rules, without the intervention of any managers or executives who might slow things down or alter the decision. But this greater transparency also brings risks, because such decisions might not be easily overturned or align with an impacted entity's desires and intentions.

Why would anyone want this? DAOs promise to eliminate bureaucracy, reduce costs, and give every participant a direct voice in decision-making. They can also remove the "politics" or other challenging dynamics from the process.

WHEN FIDUCIARY DUTY MEETS DECENTRALIZED GOVERNANCE

Where fiduciary duty in the traditional legal sense meets the use of decentralization for decision-making is where things get interesting—and potentially complicated. Traditional fiduciary law assumes someone is in charge, decisions can be appealed, and assets can be protected through established legal channels. DAOs may have the effect of turning these assumptions upside down.

Consider a trust holding governance tokens in a DAO. When a proposal emerges to radically change the organization's investment strategy, the trustee faces a choice: Should they vote on questions put to the token holders? And, if so, how do they balance potentially competing interests, including their duty to act in the beneficiaries' best interest if it conflicts with commitments that can come with participating in a DAO?

Unlike traditional corporate governance, where trustees can rely on professional management and regulatory oversight, DAO governance puts the burden directly on token holders. There's no management team to defer to and often no clear way to reverse decisions once smart contracts execute them.

ESTATE PLANNING IN THE DIGITAL AGE

Death and DAOs don't mix well. When someone dies holding DAO tokens, their estate representative faces a maze of technical and legal challenges. Many DAOs have no process for recognizing court-appointed executors or handling the transfer of governance

rights. The deceased's private keys—essentially the passwords to their digital assets—might be lost forever.

Even if the tokens can be accessed, traditional estate administration assumes assets can be identified, located, and transferred through established legal processes. DAOs often operate outside these frameworks entirely.

FAMILY INVESTMENT EXPERIMENTS

Family offices and individuals may start experimenting with DAO structures for collective investments—pooling money for real-estate deals or startup investments through blockchain-based voting systems. While this can democratize family-investment decisions, it creates murky questions about how a dissatisfied family member can extract herself from a DAO.

In the traditional closely held corporation, there are often buy-sell agreements or state statutes that provide remedies for minority shareholders who are subject to oppressive conduct by the majority. But token holders may find themselves with similarly illiquid assets and restrictive holding periods that make it difficult to escape oppressive conduct by the DAO majority.

THREE CRITICAL CHALLENGES

The Knowledge Problem: When a trust holds member tokens in a DAO, this means the trustee must grasp how decentralized governance works—the voting mechanisms, the risks involved, and how decisions get executed through smart contracts. Simply assuming the technology will handle everything, or avoiding governance participation altogether, could constitute a breach of the duty of care. The fiduciary can't just treat these tokens as passive investments when they carry active governance responsibilities.

Code as Law: Smart contracts execute automatically and are often irreversible. The DAO hack in 2016, where attackers exploited a coding vulnerability to steal $60 million in Ethereum, illustrates the risks. Unlike traditional governance, where courts can intervene or decisions can be appealed, smart contracts cannot just be "undone" once executed; instead, another separate contract—and all the required voting to support it—would likely be required to change an outcome. A DAO's governance structure, and the "code is law" philosophy that often governs, might limit a fiduciary's ability to protect trust assets or seek remedies.

The Accountability Void: Many DAOs operate without formal corporate structures, and members often remain anonymous. When things go wrong, there may be no clear person or entity to hold responsible. While some DAOs are registering as LLCs, many still operate outside this paradigm.

PRACTICAL STEPS FORWARD

Until clearer legal guidance emerges, fiduciaries dealing with DAOs need to be proactive:

Due Diligence: A thorough understanding of blockchain technology is impractical for every trustee or fiduciary. Instead, "we should consider the diligence necessary for more traditional assets and whether that framework applies to this new technology, whether in whole or in part," says Katherine Johnson, Chief Governance Officer of Storj Labs, a distributed storage company with its own digital token, STORJ. After all, trusts own all kinds of assets, including shares of or even entire corporations. How a trustee would determine how to vote a trust's shares of stock can serve as an analogy for how to vote DAO tokens.

Professional Support: Ideally, one could engage blockchain specialists and technology counsel when dealing with DAO holdings. But technical experts in this space are rare. Instead, "find someone with the breadth of legal experience and good judgment who can appropriately apply traditional fiduciary and governance frameworks to new technologies," says Johnson. "When seeking outside counsel or advisors, consider what type of clients they represent, how well versed they are with developing legal and regulatory frameworks, and their ability to communicate this knowledge in a way that is clear and reflects an understanding of past challenges and current trends."

Insurance Review: Existing fiduciary or cyber liability insurance may not cover DAO-related risks. Review policies to understand whether smart-contract failures, governance disputes, or technical errors are covered.

THE BOTTOM LINE

DAOs represent a fascinating experiment in digital democracy and automated governance. But for fiduciaries, they also represent uncharted legal territory. As these organizations handle increasingly large sums and become more prevalent in investment portfolios, the need for clear legal frameworks and practical guidance will only grow.

MEET OUR ISSUE EDITOR:

ANNE LOCKNER
PARTNER
MINNEAPOLIS

Anne M. Lockner is a partner in the firm's National Business Litigation Group with over 25 years of experience litigating complex commercial disputes in state and federal courts nationwide and arbitrations. She represents companies and individuals in high-stakes matters including breaches of fiduciary duty, shareholder disputes, trusts-and-estate litigation, and contract disputes. When she is not handling fiduciary disputes, Anne enjoys watching her twin daughters play volleyball, traveling with her family, and reading a variety of books—both fiction and non-fiction.

She can be reached at ALockner@RobinsKaplan.com.

FEATURE BIO:

EMILY NILES
PARTNER
MINNEAPOLIS

Emily Niles is a trial lawyer and a partner in the firm's Minneapolis office. Emily has a strong track record in high-stakes business and intellectual property disputes. She builds cases with a strategic eye towards trial, focusing on themes and details that resonate with jurors. Emily has served as trial counsel in cases resulting in multimillion-dollar verdicts and complete defense wins, including a $71.4 million judgment from a landmark $42.4 million jury verdict in a patent case. She has represented clients across industries, from consumer products and mobile apps to aerospace, oil and gas, and medical devices. Emily litigates on behalf of plaintiffs and defendants in complex matters involving commercial contracts, business torts, patents, trade secrets, copyrights, and technology licensing. Emily has been recognized as a Rising Star by *Law360*, an Attorney of the Year by *Minnesota Lawyer*, and by *Super Lawyers*, *Benchmark Litigation*, and more for her outstanding accomplishments and leadership.

Reach out to Emily at ENiles@RobinsKaplan.com.

ROBINS KAPLAN LLP

800 LASALLE AVENUE
SUITE 2800
MINNEAPOLIS MN 55402

BISMARCK
BOSTON
LOS ANGELES
MINNEAPOLIS
NEW YORK
SILICON VALLEY
SIOUX FALLS

800 553 9910
ROBINSKAPLAN.COM

BOSTON

ANTHONY A. FROIO
Managing Partner
Chair of the Executive Board
AFroio@RobinsKaplan.com
617.267.2300

PETER N. FOUNDAS
Partner
PFoundas@RobinsKaplan.com
617.267.2300

LOS ANGELES

DANIEL ALLENDER
Partner; Chair, LGBTQ+ Resource Group
DAllender@RobinsKaplan.com
310.552.0130

DAVID MARTINEZ
Partner
Member of the Executive Board
DMartinez@RobinsKaplan.com
310.552.0130

JAMES MENTON
Partner; Co-Chair, Corporate
Restructuring and Bankruptcy Group
JMenton@RobinsKaplan.com
310.229.5813

NORTH DAKOTA & SOUTH DAKOTA

TIMOTHY BILLION
Partner
TBillion@RobinsKaplan.com
612.349.8475

MINNEAPOLIS

DENISE S. RAHNE
Wealth Disputes
Partner; Co-Chair, Wealth Planning,
Administration, and Fiduciary Disputes
DRahne@RobinsKaplan.com
612.349.8500

ANNE M. LOCKNER
Business Fiduciary Disputes Partner
ALockner@RobinsKaplan.com
612.349.8470

STEVE K. ORLOFF
Wealth Planning
Partner; Co-Chair, Wealth Planning,
Administration, and Fiduciary Disputes
SOrloff@RobinsKaplan.com
612.349.8500