

## Title

Minnesota Supreme Court's decision in the Johnson Trust Case (2025) is doctrinally nonsensical in that it is unsupported by equity doctrine, which defines and regulates the rights, duties, and obligations of the litigants

## Text

Assume a parcel of real estate was the subject of an irrevocable express trust until the trustee in breach of trust deeded the title to himself, ostensibly free of trust. Our self-dealing trustee is hereinafter referred to as "the transferee." The equity court has determined that the real estate belongs *in specie* back in the trust. The Uniform Trust Code (UTC) is of absolutely no help when it comes to making this happen. First and foremost, the trust relationship itself is an institutional creature of equity not statute. The UTC does not presume even to define what a trust is. It is merely an aggregation of selected tweaks to trust-related equity jurisprudence in all its vastness. Equity also involves an application of maxims that were formulated in decisions of England's chancery courts. Equity's maxims have many jurisprudential functions, one critical function being to sinew the equitable principles that regulate the trust relationship. See generally my Sept. 23, 2024, JDSUPRA posting: <https://www.jdsupra.com/legalnews/equity-s-maxims-have-many-2669774/>. And then there are the equitable remedies that are the subject of this posting. If the trustee commits a breach of trust it is equity acting *in personam* that seeks to place the beneficiary in the position that the beneficiary would have been in had there not been a breach of trust. The court in the exercise of its inherent equitable powers to make the beneficiary whole may grant the beneficiary a single remedy, or mix a cocktail of remedies should a single remedy afford the beneficiary less than full relief. See generally §7.2.3 of *Loring and Rounds: A Trustee's Handbook* (2026). The procedural equitable remedies support the substantive equitable remedies.

Examples of procedural equitable remedies are equitable accounting, tracing, following, and constructive trust imposition. In our hypothetical situation, the trial court, in order to temporarily preserve or freeze the *status quo*, declares "the transferee" to be a constructive trustee of the real estate. By "temporarily preserving or freezing the *status quo*" I mean first and foremost preventing "the transferee" from transferring the title on to a BFP, or to anyone else for that matter, unless ordered to do so by the court. Recall that equity acts *in personam*. "The transferee" was an express trustee. Now he is a constructive trustee under the direct supervision of the equity court. Were he to attempt to encumber or convey legal title behind the court's back he would be in contempt of court.

Examples of substantive equitable remedies are removal of the trustee of an express trust, mandatory injunction in the nature of a specific performance order, and equitable damages. In our hypothetical, the court having imposed the constructive trust removes "the transferee" as the designated trustee of the express trust and replaces him with a qualified successor trustee of the express trust. The court then orders "the transferee," now merely a constructive trustee, via a

permanent mandatory injunction to transfer legal title to the real estate to the successor trustee of the express trust. End of story. The real estate is now “back in the trust.”

Now comes the Minnesota Supreme Court in a case involving a fact pattern like our hypothetical and holds that the trial court’s specific performance order to transfer title to the successor trustee of the express trust “is neither an injunction nor the functional equivalent of an injunction” such that the order is not immediately appealable. See *Matter of Trust Created Under Agreement by and between Janet E. Johnson, Settlor, and Paul Johnson, Successor Trustee, Dated July 15, 1998*, 2025 WL 2714477 (Minn.). The proffered authority for such an ill-considered assertion is a grab bag of irrelevances, namely that the UTC does not expressly authorize such an injunction, that the plaintiffs had not requested the issuing of an injunction, and that the trial court had not considered whether there was an “adequate remedy at law” in lieu of the issuing of an injunction.

First, the UTC merely mentions some breach-of-trust remedies. It “does not attempt to cover the refinements and exceptions developed in case law.” See UTC § 1001, cmt. (“The availability of a remedy in a particular circumstance will be determined not only by this Code but also by the common law and principles of equity.”). Second, the trial court was duty bound to act administratively, *sua sponte* if necessary, in defense of the trust and its provisions. See generally my April 20, 2022, JDSUPRA posting: <https://www.jdsupra.com/legalnews/when-adjudicating-trust-disputes-the-eq-49523/>. Third, as noted above, judicial supervision of the institution of the trust is the bailiwick of equity, not the law. One could go on and on. I conclude with this example of the appellate court’s unrelenting muddling of the jurisprudence: “Although a constructive trust directs one party to affirmatively act by conveying property to another, it does not create an injunction. Imposing a constructive trust does not relate to the preservation or restoration of the status quo, which is generally a key feature of injunctions.”