

THE SPOTLIGHT

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

Heard It All Before: Recurring Issues in Fiduciary Disputes



WELCOME TO THE SPOTLIGHT

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

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

SAVE THE DATE | 2026 WEALTH DISPUTES SEMINAR



Mark your calendars for our upcoming Wealth Disputes Seminar on Thursday, October 22 in Minneapolis.

Presented by Robins Kaplan's Wealth Planning, Administration, and Fiduciary Disputes Group, this annual CLE event brings together legal professionals, fiduciaries, and wealth advisors to explore timely issues impacting wealth transfer, governance, and fiduciary decision-making.

Additional details, including program information and registration, will be shared soon.



Recurring Characters:

The Human Patterns Behind Many Fiduciary Disputes

BY JESS PETTIT

Fiduciary disputes often present as technical fights — over distributions, valuations, disclosures, or duties of loyalty and care. But if you step back from the pleadings, a different picture emerges, because these cases are frequently driven less by novel legal questions and more by familiar personalities.

Over time, certain characters appear again and again. They show up in disputes involving family businesses, trusts, estates, partnerships, and powers of attorney. The setting may change. The assets may differ. But the cast is often remarkably consistent.

Here are a few of the recurring characters behind many fiduciary conflicts.

THE CONTROLLING FOUNDER

He or she built the business, made the investments, signed the checks, and for decades was the final word.

The controlling founder is often disciplined, decisive, and deeply committed to preserving his or her creation. This person equates centralized control with responsible stewardship. Family members may have deferred to him or her — sometimes out of respect, sometimes out of habit.

The problem is not necessarily how he or she ran things during his or her lifetime. The problem is what happens when the familiar governance style becomes embedded in structures that outlive the controlling founder.

A controlling founder will often appoint one child as trustee, manager, or successor leader — often the child most aligned with the founder’s worldview. Reporting mechanisms are minimal. Discretion is broad. Checks and balances are limited, because, in the founder’s mind, they were never necessary in the first place.

After the founder’s death or incapacity, that same concentration of authority can feel very different. Siblings who once accepted the established control may bristle at a brother or sister exercising it. Decisions that once felt parental now feel exclusionary. Informality that once seemed efficient now looks like opacity.

In litigation, this character’s legacy often appears in allegations of secrecy, self-dealing, or failure to account. But at its core, the dispute stems from inherited control without inherited consensus.

GENDERED ROLES: THE DESIGNATED SON AND THE MARGINALIZED DAUGHTER

Particularly (but not always) when there is a patriarchal founder, traditional gender roles are a recurring theme. A designated son was brought into the business early. He attended the right meetings. He learned the financials. Over time, leadership simply became assumed.

Sometimes the preference is explicit. Sometimes it is cultural and unspoken. Daughters may have been steered elsewhere, given economic interests but little governance authority, or excluded from operational knowledge.

When the designated son becomes trustee, manager, or controlling shareholder, he may view his authority as earned and logical. He understands the enterprise. He has put in the hours. From his perspective, continuity requires decisiveness.

From his siblings’ perspective, the arrangement may look like institutionalized favoritism.

This is where fiduciary duty enters the picture. Even when governing documents allow unequal outcomes, fiduciaries must act impartially and in good faith. The designated son who blurs the line between “what’s good for the business” and “what’s

good for me” becomes vulnerable to claims of self-dealing or breach of loyalty.

These cases are rarely just about money. They are about validation. About whether leadership was genuinely earned or simply assigned.

On the other side of this recurring theme is another familiar character: the marginalized daughter.

She may be sophisticated, financially literate, and fully capable — but historically outside the inner circle. She may have received fewer updates, less access to records, or no meaningful voice in governance decisions.

For years, she may have tolerated the imbalance. Litigation often begins not with a dramatic event but with a request for information. When that request is met with defensiveness or delay, suspicion hardens.

The marginalized daughter frequently becomes the plaintiff challenging valuations, questioning discretionary distributions, or alleging that fiduciaries are favoring insiders. Courts increasingly view these disputes through a modern lens, particularly where patterns of exclusion are evident.

Importantly, her claims are not always about achieving equal dollars. They are often about equal respect — equal access to information, equal transparency in process, equal recognition of stake.

THE MULTI-HATTED INSIDER

Another recurring character is the multi-hatted insider.

This individual plays several roles at once: trustee and beneficiary, corporate officer and shareholder, agent under a power of attorney, and eventual heir. Each role may be legitimate on its own. Together, they create structural tension.

The multi-hatted insider may make decisions that are entirely defensible from a business standpoint — reinvesting profits, increasing executive compensation, restructuring ownership. But when those decisions also affect personal economic interests, scrutiny intensifies.

Without careful documentation, independent input, and consistent disclosure, even prudent decisions can look self-interested.

Courts understand that overlapping roles are common in closely held enterprises. What they look for is process. Was the conflict acknowledged? Were safeguards implemented? Or did one person simply decide and move forward?

THE GATEKEEPER OF INFORMATION

Then there is the gatekeeper — the person who controls the flow of information.

Sometimes the gatekeeper inherited the role. Sometimes the role evolved naturally because one person “handles the finances.” Reports may be sporadic. Requests for documents may be viewed as challenges rather than routine oversight.

Information asymmetry is combustible. Even in the absence of wrongdoing, lack of transparency erodes trust. In many fiduciary disputes, the tipping point is not a particular transaction but the perception that decisions are being made behind closed doors.

The law is clear: Fiduciary duty includes meaningful disclosure. When communication breaks down, litigation often fills the silence.

THE LATE-LIFE INFLUENCER

Finally, many disputes feature the late-life influencer — the child or advisor who becomes closely involved during a period of the founder’s aging, illness, or life transition.

When longstanding arrangements are revised late in life — especially to concentrate authority or increase one person’s benefit — other stakeholders may suspect undue influence or diminished capacity.

These cases turn on evidence: independent advice, medical records, contemporaneous documentation. But the recurring pattern is familiar. A shift in proximity leads to a shift in power, and the rest of the family questions how and why.

WHY THESE CHARACTERS MATTER

Not every fiduciary dispute features all these figures. But many contain some combination of them. The controlling patriarch sets the structure. The designated son assumes authority. The marginalized daughter demands transparency. The multi-hatted insider blurs roles. The gatekeeper restricts information. The late-life influencer alters the plan.

By the time the dispute reaches court, the legal issues are framed in terms of duty and breach. But beneath those doctrines are deeply human dynamics: control, identity, favoritism, resentment, and competing definitions of fairness.

Recognizing these recurring characters is more than an academic exercise. It helps families and advisors anticipate risk. Concentrated power benefits from independent oversight. Overlapping roles require formal conflict management. Unequal treatment demands clear explanation and documentation. And information, shared early and consistently, can prevent suspicion from taking root.

Fiduciary law provides the rules. But the disputes themselves are often driven by character. Understanding this early — and advising clients to break out of character — can avoid litigation that is costly from both a monetary and human perspective.



JESS PETTIT is counsel in the firm’s Los Angeles office who represents corporations and individuals in high-stakes commercial litigation, including real estate, construction, trade secret, and contract disputes.



“All happy families are alike; each unhappy family is unhappy in its own way.”

- LEO TOLSTOY,
ANNA KARENINA (1877)

Sibling versus Sibling: Keeping Drama in the Family

BY TIM BILLION

The opening line of Tolstoy's great novel resonates in part because of its simplicity. It has even given rise to the "Anna Karenina Principle," which suggests that complex mechanisms require all key factors to exist and function to succeed, and therefore are all similar on at least a general level. But because even one missing element can lead to failure, there are many unique ways the mechanism can be unsuccessful.

VARIETIES OF SIBLING DISPUTES

With due respect to Tolstoy, many legal fights involving siblings have some roots in similar concepts. Whether a family is managing a closely held business or dealing with the realities of aging and transfer of assets, recognizing patterns of conflict can help advisors—and sometimes even the combatants themselves—move past conflict to find solutions.

ZOMBIE WARS!

A sibling is often the longest relationship in a person's life—unlike parents, children, and even many friends, our siblings exist with us at every stage of life. When siblings disagree about an issue, the disagreement may be motivated by concerns (or grudges) extending back years or even decades. Is a disagreement over Mom's inheritance, or is it really over the fact that you got the Christmas present I really wanted when I was eight? Is an argument about who should control the voting shares of the family business, or is it really because I was the responsible one when we were younger and you never helped out with all the stress I felt, even though you were too young? Sometimes these conflicts, even decades after supposedly dying out, can reappear and force their way into otherwise unrelated discussions.

I WIN!

Siblings often compete against each other, whether it is for the last slice of pizza, who gets to choose the movie, or who is better at Ping-Pong. Sometimes competition goes deeper, though, such as vying for affection or approval or competing for scarce resources. The winner is superior. Sometimes the winner, often an older sibling, is seen as the "chosen one" or "golden child." Those roles can become entrenched over time.

I'M IN CHARGE!

When the existing hierarchy is challenged, whether it is based on age or on "golden child" status, siblings can feel threatened by change. An older child may feel like he or she is losing status when the parents invite a younger sibling to share responsibilities, whereas a younger sibling may feel like he or she is fighting to establish a role of his or her own or step out of an older sibling's shadow. Whether arguing over who will babysit when Mom and Dad leave for an evening or who will take charge of the family business, status concerns can lead to competition or open conflict.

I'M RESPONSIBLE!

One sibling may default to being the "responsible" sibling. As parents age, the responsible sibling often becomes a caretaker. The caretaker feels the burden of making decisions for others. Often, this leads to a buildup of resentment directed at other siblings who, in the caretaker's view, are not shouldering a fair share of the load. The free-spirit siblings, on the other hand, can feel excluded or minimized by the caretaker.

IMPLICATIONS FOR ADVISORS AND PARTICIPANTS

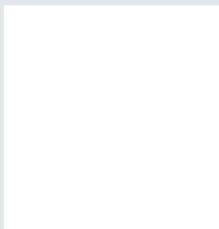
Those are only a handful of common sibling dynamics. As Tolstoy would note, there is an infinite variety of underlying circumstances, personal histories, and justifications. As these patterns harden, they can become a primary lens through which siblings view each other. Calcification can lock people into roles that may have applied as children but no longer fit.

In addition, siblings' perspectives of others and themselves can change over time. For example, as a responsible older child with a younger sister, this author would have confidently said that the oldest child is always right and bears a greater weight of responsibility. But as a parent with two children, this author now (begrudgingly) recognizes that sometimes responsible older siblings may also act in a way that other siblings perceive as bossy or domineering (unfairly so, in my case).

Understanding how these dynamics affect clients is a valuable tool in conflict avoidance and resolution. It is important for succession planning and estate planning to avoid putting people in roles that are incompatible with their skills, but it is also important to avoid putting people in roles that will inevitably lead to conflict with other stakeholders. And once conflict arises, it is important for negotiation and litigation to gauge the source of the disagreement and try to determine what the other side truly wants—recognition? Responsibility? Retribution?

When addressing sibling disputes in any context, it is important that others—whether they are lawyers, trustees, advisors, or other counselors—do not avoid the issue or sweep it under the rug. It will usually reappear later. There is often a temptation for parents to leave a business to siblings jointly, or make them co-trustees, with the hope that making them work together will force them to work out their differences and play nice. But whatever built-up issues exist generally do not vanish when parents are no longer in charge.

Regardless of how sibling conflict manifests itself, it regularly impacts planning and strategy. Using a third party like a lawyer, trustee, or mediator can sometimes depressurize the sibling dynamic, but understanding the root of sibling disagreements can help avoid or minimize an otherwise expensive conflict.



TIM BILLION is a partner in the firm's Sioux Falls office who represents clients in a wide variety of cases, including trust and fiduciary litigation, contract and fraud claims, and earn-out disputes.

Reading the Tea Leaves:

How You Can Spot a Brewing Trust and Estate Dispute

BY MANLEEN SINGH AND SHIRA SHAPIRO

Fiduciaries are often tasked with managing a finite amount of trust or estate assets while navigating beneficiary needs, family dynamics, and potential issues that may arise. With multiple beneficiaries, managing funds can become a balancing act for the fiduciary, who must safeguard the best interests of all beneficiaries' shares under the fiduciary's control. For some beneficiaries, the assets may also hold significant emotional value. If this combination of money and emotions boils over, litigation can ensue. Ironically, such disputes can deplete the finite resources available for distribution. This article discusses some warning signs that a dispute might be brewing and offers best practices to prevent litigation and drainage of distributable assets.

POTENTIAL WARNING SIGNS AND OTHER CRACKS IN THE CHINA

A central ingredient in the relationship between a fiduciary and the beneficiaries is communication. Fiduciaries should frequently communicate with beneficiaries to provide updates on the trust or estate administration. How a beneficiary responds to the fiduciary is illuminating. A change in how a beneficiary communicates could signify that the beneficiary is unhappy or that a misunderstanding is developing. For instance, beneficiaries may not initially request information but simply accept what the fiduciary provides, or they may request only summaries. At some point, those same beneficiaries may begin demanding more detailed information or supporting documentation. At a minimum, this likely means that a beneficiary is compiling a record. But it could also indicate a beneficiary has concerns about the administration.

A change in tone can also signal discontent. Perhaps communications suggest more suspicion or become more accusatory. A beneficiary may not remember that certain information was already provided or that he or she never voiced an objection to a certain decision. Such shifting positions or forgetfulness could indicate a potential dispute.

Another warning sign is when a beneficiary begins including more people in the conversation, such as additional family members (e.g., spouses), personal financial advisors, or attorneys. This shift can be as obvious as a beneficiary including these individuals directly on communications or an overt reference that their advisors seek more information. A non-lawyer beneficiary may also uncharacteristically cite statutes to support or justify his or her positions.

FIDUCIARY BEST PRACTICES

Fiduciaries can take meaningful steps to minimize the risk of disputes, primarily in how they communicate with beneficiaries. Regular updates about the administration process are helpful. When there are no substantive updates to report, it is helpful when a fiduciary provides a recap summarizing how the



parties reached the current position, along with an anticipated timeline for next steps. If no such timeline is ascertainable, then a fiduciary should let beneficiaries know. That way, beneficiaries are not left wondering what happened to the assets they are expecting to receive.

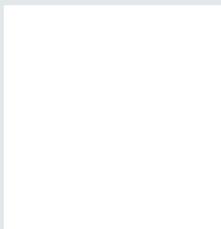
Another strategy is education. Most people do not understand how a trust or estate must be administered. A fiduciary who explains why assets are distributed in a certain way, or why a certain decision was made, can help a beneficiary understand the process. For instance, many do not understand the critical distinction between probate assets that are distributed from an estate, separate trust assets, and assets that pass by operation of law to named beneficiaries on accounts. Understandably, many do not understand the tax process triggered upon the death of a testator, settlor, or his or her surviving spouse, or the ongoing tax considerations from both the federal and state level that may dictate how or when distributions can be made. Keeping beneficiaries highly educated about the process can help reduce the chances of disputes. If disputes still arise, a record inclusive of frequent, thorough, and informative communications will protect the fiduciary.

Nor is it always problematic for beneficiaries to involve new legal counsel. An attorney can help fiduciaries communicate to beneficiaries and educate them about the administration process and its many challenges. To non-lawyers, and even to lawyers who do not practice in trust and estates, administration can be confusing. It is not everyone's cup of tea. Involving a lawyer can help a beneficiary

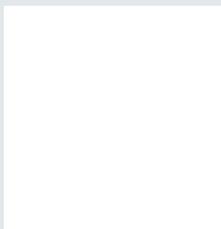
understand why certain assets can be distributed at a certain time and others cannot. Most often, beneficiaries are concerned with mismanagement of assets, even if no support for such claims exists. Counsel can assuage these concerns by explaining the nuances and complexities of administration. Although obtaining counsel could indicate forthcoming litigation, that counsel may instead help prevent such escalation.

Finally, a fiduciary may be concerned about a certain decision. For instance, a fiduciary could authorize an appropriate and permissible distribution under the terms of the trust document, but a beneficiary may still object. Alternatively, a beneficiary could insist that the fiduciary transfer certain assets over to him, but the fiduciary knows that such transfer is not in the best interests of the beneficiary or the entire trust corpus. In either case, if in doubt, the fiduciary can always seek court guidance. Petitioning the court is a strategic tool, because, regardless of the outcome, it provides the fiduciary clear instructions and allows beneficiaries to participate and object. Early court intervention may in fact save the fiduciary — and the beneficiaries — from a later, more contentious dispute.

Fiduciaries cannot control all circumstances that may cause beneficiary disputes. But fiduciaries can try to best anticipate potential disagreements, and help prevent escalation, through monitoring communications and regular check-ins with beneficiaries. Fiduciaries can also use those communications and continued education of beneficiaries to proactively minimize the risks of dispute.



MANLEEN SINGH is a partner in the firm's Boston office who advises businesses on mergers and acquisitions, commercial real estate, corporate governance, and complex transactional matters across a wide range of industries.



SHIRA SHAPIRO is counsel in the firm's Minneapolis office who focuses her practice on estate planning, representing individuals, families, fiduciaries, beneficiaries, and nonprofits for complex inheritance and wealth management needs.

MEET OUR ISSUE EDITOR:

David Martinez is a partner in the firm's Los Angeles office and serves on Robins Kaplan's Executive Board. He represents U.S. and international clients in complex commercial, intellectual property, shareholder, and partnership disputes, as well as in arbitration, mediation, and outside general counsel matters. His clients range from start-ups to Fortune 100 companies across industries including real estate, media, technology, retail, and manufacturing.

DAVID MARTINEZ
PARTNER
LOS ANGELES

David has extensive experience in fiduciary and partnership litigation and is known for delivering results in high-stakes matters nationwide. He is consistently recognized by leading industry publications, including *The Best Lawyers in America*, *Lawdragon's* 500 Leading Litigators in America, and the *World Trademark Review 1000*. Deeply committed to service, David serves on the Board of California Rural Legal Assistance.

David can be reached at DMartinez@RobinsKaplan.com.

FEATURE BIO:

Thomas Mahlum is co-chair of Robins Kaplan's Health Care Litigation Group and a seasoned trial lawyer with more than 30 years of experience handling complex disputes nationwide. He represents many of the country's largest healthcare payors in affirmative recovery actions involving fraud, waste, and abuse, and has also litigated matters involving contract, intellectual property, antitrust, and international arbitration.

THOMAS MAHLUM
PARTNER
MINNEAPOLIS

Over the course of his career, Tom has developed broad experience across industries and forums, from arbitrations to federal and state courts. In addition to his litigation practice, he has served on the firm's Executive Board, helping guide the strategic direction of Robins Kaplan. Tom is also committed to community service and previously chaired the board of a nationally recognized environmental organization focused on wilderness protection. He has been recognized in the past three editions of *The Best Lawyers in America* and as a North Star Lawyer for his commitment to *pro bono* service.

Tom can be reached at TMahlum@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
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
Partner; Co-Chair, Wealth Planning,
Administration, and Fiduciary Disputes
SORloff@RobinsKaplan.com
612.349.8500