

Understanding Trusts: What They Are, Common Issues, and How Legal Counsel Can Help

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A trust is a powerful [estate planning](#) tool that provides a way to manage and protect assets during your lifetime and after your death. While trusts are often created to avoid probate and provide for loved ones, disputes over the validity, terms, or [administration of a trust](#) can arise, creating challenges for beneficiaries and trustees.

At Cohen Cleary, P.C., we understand the complexities of trust law and are committed to helping individuals and families resolve trust disputes, protect their rights, and ensure that trust terms are upheld.

What Is a Trust?

A trust is a legal entity formed through a trust document that creates an arrangement in which a person (the **grantor**) transfers assets to a trustee to hold and manage for the benefit of beneficiaries. Trusts can serve various purposes, including avoiding probate, reducing taxes, protecting assets, and ensuring that specific conditions are met before beneficiaries receive their inheritance.

What Are the Common Types of Trusts?

- **Revocable Living Trusts:** Can be altered or revoked during the grantor's lifetime and often used to avoid probate.
- **Irrevocable Trusts:** Cannot be changed or revoked after creation, often used for tax planning or asset protection.
- **Testamentary Trusts:** Created through a will and take effect after the grantor's death.
- **Special Needs Trusts:** Designed to provide for a disabled beneficiary without jeopardizing their eligibility for government benefits.

What are the Legal Requirements for a Valid Trust?

To create a valid trust in Massachusetts, certain legal requirements must be met:

1. **Capacity:** The grantor must have the mental capacity to understand the nature of the trust and its terms at the time of creation.
2. **Intent:** The grantor must clearly intend to create the trust.
3. **Trust Property:** The trust must include specific property or assets to be managed.
4. **Named Beneficiaries:** The trust must identify beneficiaries who will receive the benefits.

of the trust.

5. **Trustee:** A trustee must be appointed to manage the trust and carry out its terms.
6. **Compliance with Formalities:** Certain trusts, such as testamentary trusts, must meet additional legal requirements, such as being part of a valid will.

If these requirements are not met, the trust may be challenged or invalidated.

What Are the Common Issues in Trust Disputes?

1. Validity of the Trust

Beneficiaries or heirs may challenge the trust's validity on several grounds, including:

- The grantor lacked capacity when creating the trust.
- The trust was created under undue influence or coercion.
- The trust does not meet legal requirements.

2. Mismanagement by Trustees

Trustees have a fiduciary duty to act in the best interests of the beneficiaries and manage trust assets responsibly. Common violations include:

- Misappropriating or misusing trust funds.
- Failing to follow the trust's terms.
- Neglecting to provide beneficiaries with required accountings or information.
- Engaging in conflicts of interest.

3. Ambiguities in Trust Terms

Unclear or conflicting provisions in a trust can lead to disputes among beneficiaries and require court interpretation.

4. Exclusion of Beneficiaries

Disputes often arise when beneficiaries believe they were unfairly excluded or that the trust does not reflect the grantor's true intentions.

What Are Your Options to Address Trust Disputes?

If you are involved in a trust dispute or believe that a trustee has violated their duties, you have several options:

1. Mediation or Negotiation

Many trust disputes can be resolved through negotiation or [mediation](#), avoiding the need for lengthy and costly litigation.

2. Court Petition

Beneficiaries or other interested parties may petition the court to:

- Challenge the validity of the trust.
- Remove a trustee for breach of fiduciary duty.

- Compel the trustee to provide an accounting or distribute assets.
- Clarify ambiguous trust terms.

3. Damages or Restitution

If a trustee mismanages assets or acts in bad faith, they may be held personally liable for financial losses suffered by the trust or its beneficiaries.

The Benefits of Securing Legal Representation For Trust Disputes

Trust disputes often involve complex legal and financial issues, making experienced legal counsel essential. An attorney can:

- **Evaluate the Validity of the Trust:** Determine whether the trust meets legal requirements or is susceptible to challenge.
- **Protect Beneficiaries' Rights:** Advocate for beneficiaries to ensure they receive the benefits they are entitled to under the trust.
- **Hold Trustees Accountable:** Pursue legal action against trustees who violate their duties or mismanage assets.
- **Resolve Disputes Efficiently:** Guide you through mediation, negotiation, or court proceedings to achieve a fair resolution.

At Cohen Cleary, P.C., we have extensive experience handling trust disputes and helping clients navigate these sensitive and often emotionally charged situations.

Contact Cohen Cleary, P.C. for Legal Assistance Regarding Trust Disputes

If you are facing a trust dispute, have concerns about the validity or administration of a trust, or need assistance creating a legally binding trust, Cohen Cleary, P.C. is here to help. Call us today at [508-880-6677](tel:508-880-6677) to [schedule a complimentary case consultation](#). Let us guide you through these complex issues and work toward a resolution that protects your rights and interests.