

Trusts

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Trust Administration
Trusts

Overview

A trust is only as effective as the care taken in creating it and the discipline applied in maintaining it. We tell our clients that an unfunded trust is the single most common estate planning failure we encounter: a document that exists on paper but controls nothing because assets were never retitled into it. The result is a plan that looks complete but fails at the moment it matters most.

A will alone passes through probate and provides no tools for managing assets during incapacity. A trust can accomplish what a will cannot: keeping assets out of probate, providing management during incapacity, and implementing protections tailored to the family's circumstances. But those benefits require proper structure, full funding, and periodic review. When circumstances change, amendment or termination may be necessary. When disputes arise, the legal response must be timely. Cohen Cleary handles every stage of the trust lifecycle, from creation through litigation, for clients across Massachusetts and Rhode Island.

How Our Trust Attorneys Help Clients

Our trust practice covers the full range of trust-related legal needs, including:

Trust Creation and Funding

We draft revocable living trusts, irrevocable trusts, testamentary trusts, family trusts, and special purpose trusts (including supplemental needs trusts and charitable trusts). Every engagement includes a funding plan to ensure assets are properly retitled.

Trust Amendment and Modification

Life changes, tax law shifts, or evolving goals may require amending a revocable trust or pursuing judicial modification of an irrevocable trust. We advise on amendment, reformation, and decanting under Massachusetts law.

Trust Termination

When a trust has fulfilled its purpose, become uneconomical to administer, or no longer serves the settlor's (the trust creator's) intent, we guide clients through voluntary or court-supervised termination, including notice and consent requirements.

Trust Disputes and Litigation

We represent trustees, beneficiaries, and interested parties in disputes involving trust interpretation, breach of fiduciary duty, undue influence, trustee removal, and accounting challenges.

Why Clients Choose Cohen Cleary

At Cohen Cleary, our practice teams combine deep subject-matter experience with disciplined execution and responsive client service. We do not take a one-size-fits-all approach. Every

matter is handled with careful preparation, clear communication, and a strategy tailored to the client's goals and the realities of the forum.

Clients choose Cohen Cleary because we deliver:

Practice-Focused Legal Experience

Our attorneys work in defined practice areas, allowing us to develop practical insight into the legal, procedural, and regulatory nuances that matter most in each case. This focus allows us to anticipate issues, avoid unnecessary delays, and position matters for efficient resolution.

Clear Guidance and Proactive Communication

We prioritize clarity at every stage. Clients receive straightforward explanations of their options, timely updates on developments, and practical advice grounded in real-world outcomes.

Strategic Advocacy with Trial Readiness

Whether a matter calls for negotiation, mediation, or litigation, our attorneys prepare every case with discipline and foresight. We pursue efficient resolution when possible and are fully prepared to advocate aggressively when necessary to protect our clients' interests.

Regional Knowledge and Local Presence

With offices throughout Massachusetts and experience across New England courts and agencies, we bring local insight and regional reach to every matter.

Client-Centered Service

We treat every matter with urgency and respect. Our clients rely on us for responsive service, sound judgment, and steady counsel through complex legal challenges.

In our trust work, this approach helps clients navigate trust creation, modification, and disputes with clarity, efficiency, and confidence.

Our Approach to Trust Planning and Trust Litigation

Every trust engagement begins with a review of the client's full financial and family picture, not a template selection. Massachusetts trust law provides significant flexibility for modification and decanting under M.G.L. c. 203E, but the options depend on the specific trust language, the type of trust, and the interests of current and remainder beneficiaries. We evaluate these variables before recommending a course of action, because a modification strategy that works for one trust structure may be procedurally unavailable for another. When disputes escalate to trust litigation, we prepare with the same discipline, building the evidentiary record needed to advocate effectively in Probate and Family Court.

Serving Trust Clients Across Massachusetts and Rhode Island

Cohen Cleary represents trust clients from offices in [Taunton](#) and [Plymouth](#), with a practice spanning southeastern Massachusetts, Bristol County, Plymouth County, and Norfolk County. Our attorneys handle trust matters in the Probate and Family Courts serving these regions, bringing familiarity with local filing requirements and procedural expectations. We also serve clients throughout Rhode Island, with capacity to assist families across New England. This

presence allows us to coordinate trust planning alongside related matters such as probate administration, Medicaid planning, and estate litigation.

Schedule a Consultation With a Massachusetts Trust Attorney

If you are creating a trust, need to modify or terminate an existing one, or are involved in a trust dispute, contact Cohen Cleary to discuss your options. Our attorneys will evaluate your situation and recommend a clear path forward.

Frequently Asked Questions About Trusts

What is the difference between a revocable and irrevocable trust?

A revocable living trust allows the settlor to retain full control during their lifetime, including the ability to amend or revoke the trust at any time. Because the settlor maintains control, assets remain part of the taxable estate and are not shielded from creditors. An irrevocable trust removes the settlor's ability to unilaterally change the trust. This relinquishment of control provides the potential for asset protection and tax benefits. However, irrevocable does not mean permanently unchangeable: Massachusetts law provides mechanisms for modifying or terminating irrevocable trusts when circumstances justify it.

Can an irrevocable trust be modified or terminated?

Yes. Despite the name, irrevocable trusts can be modified or terminated under specific circumstances. Options include judicial modification when the trust's purposes have been fulfilled or circumstances have changed unexpectedly, consent-based termination when all beneficiaries agree, and trust decanting, which allows a trustee with discretionary authority to distribute assets into a new trust with updated terms. The right approach depends on the trust language and the reason for the change.

What should I do if I believe a trustee is mismanaging a trust?

Beneficiaries who suspect mismanagement, self-dealing, or breach of fiduciary duty should consult a trust dispute attorney promptly. A trustee has legally enforceable obligations including the duty of loyalty, the duty of prudent administration, and the duty to provide accountings. If a trustee fails to meet these obligations, beneficiaries may petition the court for trustee removal, an order compelling an accounting, or a surcharge action to recover losses. Acting quickly matters, because delays can result in further dissipation of trust assets.

Does a trust avoid probate in Massachusetts?

A properly funded trust can avoid probate for the assets it holds. The key phrase is "properly funded." A trust only controls assets that have been retitled into the trust's name or that have beneficiary designations directing them to the trust. Assets remaining in the individual's name at death pass through probate regardless of whether a trust exists. This is why trust funding is a critical part of the planning process. We work with clients to ensure every asset is properly positioned within the trust structure.