

Estate and Trust Litigation

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Overview

Disputes over estates and trusts surface when someone with authority over assets fails to act properly, or when a will or trust document does not reflect what the decedent actually intended. Beneficiaries discover that distributions have been delayed without explanation. Executors learn they are being accused of self-dealing. Family members suspect that a last-minute change to a will was the product of undue influence rather than genuine intent. These situations do not resolve themselves. Massachusetts Probate and Family Court is where these disputes are adjudicated, and the procedural requirements, filing deadlines, and evidentiary standards are exacting. As an estate litigation attorney in Massachusetts, Cohen Cleary represents both fiduciaries defending their administration and beneficiaries challenging it, bringing litigation experience and Probate Court familiarity to every matter.

How We Help Resolve Estate and Trust Disputes

Estate and trust litigation encompasses several distinct categories of disputes, each carrying its own procedural framework and burden of proof.

Will contests challenge the validity of a testamentary instrument, typically on grounds of undue influence over a will, lack of testamentary capacity, or defective execution under M.G.L. c. 190B. Standing to bring a will contest is limited to interested persons, and the filing window is narrow. Missing the deadline to object is usually fatal to the claim, regardless of its merits.

Breach of fiduciary duty claims address misconduct by executors, personal representatives, or trustees. A breach of fiduciary duty in an estate context can include self-dealing, failure to account, commingling of assets, unreasonable delay in distribution, and failure to preserve estate property. Remedies range from removal and surcharge of the fiduciary to the recovery of damages caused by the breach.

Accounting disputes in probate arise when beneficiaries challenge the accuracy or completeness of a fiduciary's financial reporting. Massachusetts Probate Court requires fiduciaries to file accountings, and beneficiaries have the right to examine them and object.

Trust litigation includes actions to reform, modify, or terminate a trust, as well as claims for breach of trust, trustee removal, and disputes over trust interpretation or construction. Parties seeking to challenge a trust or its administration can pursue remedies ranging from trustee removal to judicial reformation. We also handle petitions for instructions where trustees face ambiguous governing documents and need court guidance before acting.

Why 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 Estate and Trust Litigation work, this approach helps clients navigate fiduciary disputes and contested proceedings with clarity, efficiency, and confidence.

Our Approach to Trust and Estate Litigation

We tell our clients that most estate disputes are won or lost on preparation, not courtroom theatrics. Probate litigation rewards the party that can marshal documentary evidence early: financial records, communications, medical records bearing on capacity, and a clear timeline of events. Our approach begins with an intensive factual investigation designed to determine whether the evidence supports the claim or defense before significant litigation costs accumulate. Executors and trustees who distribute assets before fully resolving creditor claims, tax obligations, and potential disputes expose themselves to personal liability. The urge to distribute quickly is understandable, but premature distribution is one of the most common fiduciary mistakes we encounter in practice.

Serving Massachusetts and Rhode Island Probate Courts

Cohen Cleary's trust litigation lawyers and probate dispute attorneys practice primarily in Massachusetts and Rhode Island Probate Courts, with particular familiarity with filing requirements, scheduling patterns, and procedural expectations across Bristol County, Plymouth County, and Norfolk County divisions. Our offices in [Taunton](#) and [Plymouth](#) position us for efficient representation in the courts where many of these disputes are filed. Clients seeking a

Taunton estate litigation attorney or a Plymouth will contest attorney benefit from our proximity to those divisions. We also represent clients in estate and trust disputes throughout New England, drawing on active litigation experience across the region.

Schedule a Consultation With a Trust and Estate Litigation Attorney

If you have concerns about how an estate or trust is being administered, or if you are a fiduciary facing allegations of misconduct, contact Cohen Cleary to discuss your situation. Our Massachusetts trust dispute lawyers can evaluate the strength of your position and outline a clear path forward. Schedule a consultation through our [Taunton](#) or [Plymouth](#) offices.

Frequently Asked Questions About Estate and Trust Litigation

What types of disputes qualify as estate or trust litigation?

Common disputes include will contests based on undue influence or lack of capacity, breach of fiduciary duty claims against executors or trustees, accounting objections, petitions for trustee removal, and actions seeking surcharge for fiduciary misconduct. Disputes over trust interpretation and petitions for court instruction also fall within this category.

Do I have standing to challenge a will or fiduciary conduct as a family member?

Yes. Family relationships do not bar legal challenges. If you are an interested person under Massachusetts law, you have standing to contest a will or challenge fiduciary conduct regardless of your relationship to the executor or trustee. A beneficiary rights attorney can evaluate whether you have grounds to act. The misconception that you cannot challenge a family member's administration prevents many valid claims from being pursued.

What is the deadline to contest a will in Massachusetts?

Massachusetts imposes strict deadlines for will contests and other objections in probate proceedings. These deadlines vary depending on the type of proceeding and the notice provided. A will contest attorney can assess your timeline and determine whether you are still within the window to file. Missing the filing deadline can permanently foreclose your claim, so consulting an attorney promptly after concerns arise is critical.

What remedies are available if a fiduciary breaches their duties?

Courts can order removal of the fiduciary, surcharge (personal financial liability for losses caused), restoration of misappropriated assets, damages, and appointment of a successor. In some cases, the court may also award attorney's fees to the prevailing party.

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