CASE LAW UPDATE

A study of recent cases impacting special needs trusts, trustees and trust beneficiaries

MATERIALS BY
ROBERT W. FECHTMAN, FECHTMAN LAW OFFICE, INDIANAPOLIS, INDIANA
ELIZABETH NOBLE ROLLINGS FRIMAN, FLEMING & CURTI, PLC, TUCSON, ARIZONA

PRESENTED BY
ELISA DILLARD RAINEY, RAINEY & RAINEY, ATTORNEYS AT LAW, L.P., WACO, TEXAS

Removal of Trustee

In re: Guardianship of James P. Dwyer – Page 1
Ohio Court of Appeals, 1st District – July 3, 2024

Background

- James' parents created 3rd party SNT before their deaths.
- Sister Maureen appointed guardian and managed James' finances, including trust and STABLE account.
- Disputes arose between Maureen and siblings over James' care and financial management.
- Settlement agreements were created to resolve disputes, but Maureen was accused of breaching agreements and acting against James' best interests.
- Probate court removed Maureen as co-guardian and from managing James' financial accounts, ordering her to pay attorney fees to siblings.

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Decision

- Affirmed decision to remove Maureen as guardian and from James' financial accounts.
- Maureen's breach of settlement agreements and failure to act in James' best interests justified removal.

Notice to Interested Parties

Black as Trustees of Black v. Black – Page 2
Illinois Court of Appeals, 1st District – February 9, 2024

Background

- 2012 – Joanne (J) and Bernard (B) Black's mom passed away in New York.
- **Mom's Will:**
  - Two-thirds to SNT for Joanne, who suffers from schizophrenia.
  - One-third to "Issue Trust" for Bernard and his children.
- **Mom's Non-Probate Assets:**
  - 95% outright to Joanne (not in trust).
  - 1% to each of Bernard's five children.

Black as Trustees of Black v. Black – Page 2
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Background Continued - Bernard's Actions:

- B sought to correct mom's "mistake" by obtaining conservatorship of J in Colorado.
- As conservator, B "disclaimed" J's interests in the POD accounts, redistributing funds two-thirds to SNT and one-third to Issue Trust.
- 2015 - Colorado court ruled that B's actions amounted to civil theft, ordering him to pay $4.5 million in damages.
- Numerous cases in intervening years.
- Illinois, where B and his family resided, became focal point as trust investments were held at bank there.

Black as Trustees of Black v. Black – Page 2
Illinois Court of Appeals, 1st District – February 9, 2024

Background Continued - The 2021 Lawsuit:

- June 2021 – Bernard and son Samuel (trustees of Issue Trust) filed suit in Illinois, naming beneficiaries of the Issue Trust as defendants, seeking to confirm validity of disclaimer executed by B for J in 2013.
- September 2021 – Blacks filed motion for default judgment, stating defendants had not responded to the complaint within the required 60 days.
- October 2021 – Trial court granted summary judgment, ruling disclaimer was valid and irrevocable.

Title search: Case Law Update

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2025 Special Needs Trusts eConference

First appeared as part of the conference materials for the
21st Annual Changes and Trends Affecting Special Needs Trusts session
"Case Law Update"