



THE RACK LAW FIRM, P.C.

A PROFESSIONAL LAW CORPORATION

249 Central Park Avenue, Suite 220
Virginia Beach, VA 23462

p 757 . 605 . 5000

f 757 . 605 . 5020

WWW.RACKLAW.COM

Online Law Library



FIDUCIARY LITIGATION

The term, “fiduciary,” describes an individual (or entity) to whom the duties and obligations of managing the property or person of another have been granted by a legal instrument or by the courts. For example, a trustee named under a will or a conservator for an incapacitated adult who is appointed by a court are considered “fiduciaries” under the law. One in such a position is said to have a “fiduciary duty” to manage the assets under their control for the beneficiaries, the persons for whom they are holding the assets. The fiduciary standard of conduct is the highest in the law. One who misappropriates trust funds or fails to invest according to minimum legal standards is subject to removal and the imposition of penalties, including forfeiture of fiduciary commissions. Even those acting under powers of attorney are subject to scrutiny and, if necessary, litigation.

Oftentimes, the fiduciary actually commences the litigation. A trustee may seek judicial guidance as to the distribution of a trust. An executor may require aid and direction from the courts to determine the intention of the testator as to provisions in his last will and testament. General litigation matters may involve the estate administrator in his capacity as the personal representative of the deceased. These actions involve special knowledge of the legal status of the fiduciary and the beneficiaries. In addition, the procedural rules and court proceedings differ from other forms of litigation.

Our attorneys are experienced in the administrative and court proceedings typifying estate litigation. We have served clients who challenged wills and trusts, and we have represented the executors and trustees defending the validity of their respective documents. We have also represented spouses in establishing their claims to the elective share of the augmented estate, preventing complete disinheritance of the surviving spouse. Beneficiaries, including charitable organizations, have retained our attorneys to assist in protecting their interests under contested estate matters as well.

Given that The Rack Law Firm, P.C. limits the matters handled to estate, fiduciary and tax matters, it stands to reason that, when those matters involve litigation, the focus and experience of our attorneys becomes ever more valuable to the goals of our clients.

NOTICE - This information is not legal advice or counsel absent an extant attorney-client relationship with the recipient; this information does not create an attorney-client relationship. Seek legal counsel before taking any action on the matters referenced above.