

Probate & Trust Litigation – You can't take it with you but maybe you should!!!
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Sponsored by:

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Topics to be Addressed:

1. **Current Recession:**

Have you seen an increase in breach of fiduciary duty cases due to the current recession?

What kind of cases are you seeing?

How, if at all, are the current breach of fiduciary cases different from the cases arising out of the 2000-2002 time period?

What legal theories do you anticipate being asserted in a volatile investment market?

What advice would you give estate planning lawyers and trustees to help minimize future breach of fiduciary duty claims in a volatile investment market?

2. **Pre-Death Litigation:**

What is the general trend with regard to guardianship and conservatorship matters (i.e., more or less of them) and why?

Is this trend towards more pre-death matters changing post-death challenges (e.g., less will contests)?

Has the legislature acted to address the concerns raised in the guardianship and conservatorship area this year and if so, how?

Any notable cases in the past 12-18 months involving guardianships and conservatorships?

How do Powers of Attorney fit into the equation from a litigation perspective?

What advice would you give estate planning lawyers and guardians/conservators/attorneys-in-fact to help minimize claims?

3. New Trends in Litigation Challenging Testamentary Disposition of Property:

We are familiar with challenges to wills based upon claims of undue influence or incapacity, are you seeing other lawsuits that seek to evade the outcome set forth in testamentary instruments?

What kind of cases are you seeing?

In these lawsuits brought by life partners or companions of the deceased who are not beneficiaries, what kinds of claims are asserted?

How have courts analyzed and decided these cases?

Are there particular fact patterns that seem to influence the outcome?

Are there particular states that have recognized these claims?

4. Litigating in Probate Court:

As a trial lawyer who litigates both non-probate and probate cases, do you see differences in the way these cases are handled?

Do you find that relationships among lawyers and with the Bench are different in Probate cases?

Does it depend in part upon whether you are litigating in the Twin Cities or in Greater Minnesota?