



PROBATE LITIGATION

Riker Danzig offers a unique skill set within its Probate Litigation Group. While often general or commercial litigators team with estate planning attorneys to litigate probate cases, Riker Danzig enjoys the distinct advantage of attorneys with decades of dual expertise in tax, trusts and estates and probate litigation. This combination of extensive probate litigation with tax, trusts and estates knowledge proves invaluable to achieving a client's objectives, whether in litigation or estate planning.

Our probate litigation clients benefit from having attorneys with extensive experience and knowledge in tax, trusts and estates, who have an intimate knowledge of the rules, procedures and substantive law in the very specific and burgeoning area of probate litigation. Our probate litigators know the incisive questions to ask witnesses, are able to identify deficiencies in an expert's testimony, and know the appropriate answers so that a basis may be established to discredit or even disqualify an adversary's expert witness. In addition, a litigator with a tax, trusts and estates background is confident in navigating the unique arena of the Chancery Division, Probate Part of the New Jersey Superior Court and the New York Surrogate Court and such Courts' different procedural and filing requirements.

As an example of the strengths provided by this dual expertise, in one representative assignment, our attorneys faced a very experienced commercial litigator that did not have a tax, trusts and estates background. Because he lacked the intricate knowledge of the tax laws concerning the marital deduction, opposing counsel did not realize when his expert made an error on direct examination, and therefore lost the opportunity to rehabilitate his witness. On cross examination, we were able to use our many years of tax, trusts and estates experience to seize on the mistake and discredit the expert witness. Opposing counsel's lack of tax, trusts and estates knowledge and our significant expertise created the scenario that became the turning point of the trial, resulting in a favorable outcome for our client.

At the same time as providing a true advantage to clients in the courtroom, Riker Danzig's probate litigators provide much added value to clients in drafting their estate plans. The probate litigator's experience allows him or her to incorporate issues occurring in litigation matters into the estate plans he or she drafts, and to share insights with

other estate planning colleagues at the firm, to reduce the likelihood that estate plans later end up in litigation. As experienced planners, our attorneys handle unique and complex situations on a regular basis. With the advantage of in-depth probate litigation experience, our estate plans are drafted to anticipate potential issues that could give rise to litigation at a later time.

Our Probate Litigation lawyers regularly represent individuals and financial institutions. Also, where appropriate, we have recovered costs and counsel fees on behalf of clients, whether the client is successful or not.

Our probate litigation services include:

- Litigation involving the interpretation of wills, trusts, and beneficiary designations
- Representation in both basic and complex will contests receiving local, regional, and national media coverage
- Evaluation and litigation of undue influence, incapacity and formality issues
- Counsel to executors, trustees and attorneys-in-fact on preventing and handling disputes
- Disputes involving fiduciary accountings
- Evaluation of claims by beneficiaries of estates and trusts
- Counsel on the challenge to or defense of lifetime transfers, gifts, joint accounts, jointly owned property, and beneficiary designations
- Formation and implementation of administrative policies by fiduciaries
- Guardianships for the elderly and incompetent

Our Probate Litigation practice is strengthened by our ability to think creatively, draft novel arguments, and rely on our attorneys with up to three decades of strong litigation, tax, and trust and estate planning experience.