

## Publications

### **Client Alert: End of Year Roundup: Ohio Courts Provide Important Practice Pointers for Trust and Estate Professionals and Practitioners**

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Ohio courts were busy in the month of December, issuing a number of opinions related to trust and estate planning and administration. While the majority of these opinions did not plow new ground, they serve as important reminders to trust and estate professionals to dot their i's and cross their t's.

### **Challengers Must Bring Trust Contests within the Statutorily Prescribed Time Period**

The Eighth District in *Jackson v. PNC Bank, N.A.*, 2017-Ohio-9180, rejected a trust challenger's attempt to circumvent the statute of limitation for contesting the validity of a trust by pleading a cause of action for fraud, which has a longer limitations period. The manner in which a plaintiff labels her cause of action is irrelevant. Rather, when the nature of the cause of action contests the validity of a trust, that cause of action must be brought within the statutorily-prescribed time period.

### **Distribution of Estate Assets without Satisfying Estate Liabilities Is a Breach of Fiduciary Duty**

The case of *In re Estate of Porter* involved the transfer of estate property to the estate administrator pursuant to a settlement agreement approved by the probate court. However, the Tenth District ruled that the lower court's approval of the settlement agreement did not relieve the administrator of her duties to transfer estate property in a manner consistent with probate law. By distributing the estate's property without satisfying all of the estate's debts, the administrator breached her fiduciary duties.

## How to Distribute a Terminated Trust's Assets When the Trust Provides No Guidance

In a fairly unique case, the Third District was tasked with determining how to distribute a terminated trust's assets when the trust instrument is missing and there is insufficient evidence to ascertain the trust's purpose following the death of the primary beneficiaries and without successor beneficiaries. The court in *Brown v. Brown*, 2017-Ohio-8938, looked to the purpose of the trust during the primary beneficiaries' lifetimes for guidance. Determining that the trust's purpose was to provide for the primary beneficiaries during their lifetimes, the court distributed the trust proceeds to the estate of the last-surviving spouse to be distributed in accordance with his will.

## An Enforceable Antenuptial Agreement Requires Full Disclosure of Assets Prior to Execution

An antenuptial agreement is not enforceable if the agreement does not contain a complete listing and approximate valuation of a future spouse's assets. Reiterating that the party seeking to enforce the antenuptial agreement bears the burden of proving complete disclosure, the Second District in *Parrett v. Wright*, 2017-Ohio-9057, refused to enforce an antenuptial agreement where the record demonstrated that a widower was not made aware of his future spouse's assets and their approximate value **before** he executed the antenuptial agreement.

## Order Appointing Estate Administrator Is Not Appealable

In summarily dismissing an appeal, the Ninth District in *In re Bond*, 2017-Ohio-9076, reminded practitioners that an order appointing an estate administrator is not a final, appealable order.

Please contact your Vorys attorney if you have questions about any of these cases or any related issues.