

Recent Case In Michigan Appeals Court

By Elizabeth Glines

What is a Declaration of Trust or Trust Ownership?

The Michigan Court of Appeals recently sided with one of the co-trustees in the matter involving Schaddelee Vs. Deleon regarding creating a trust and its terms and what assets or potential assets will flow into the trust. Michigan's probate court determined that the declaration of trust ownership was not a contract. A trust agreement is a separate document from a declaration of trust ownership.

For some background, in 2021, Ronald Schaddelee, Sr. created a trust that named two of his children, Maria and Ronald, Jr., co-trustees. The trust was irrevocable and could not be altered. The grantor of the trust reserved the right to add property to the trust and upon his death, the children were directed to "divide the remaining trust property, including additions from other sources, into separate shares" amongst the beneficiaries. Such property included bank accounts, savings accounts, CD's mutual and money markets, and any such property held in his name, excluding any interest held by me with another person.

Ronald Sr., before creating his trust, opened an investment account naming Maria as the sole beneficiary, never amending the beneficiary designation. Ronald Sr. passed away in March 2021, and Ronald Jr. petitioned the court to remove his sister as co-trustee because she had refused to transfer the investment account proceeds to the trust. He thought this violated the declaration of trust ownership, and she breached her fiduciary duties. Maria's position was that the investment account had a separate beneficiary designation. The probate court ruled this did not breach the contract.

Saying there is an understanding of intent and that you will abide by it is a statement. The court said that a settler could list anything in his or her declaration of trust ownership, but it is only property they own that can flow into the trust. Maria won because the investment account was

not part of the trust and flowed directly to her per the beneficiary designation.

This is an excellent example of why when we have completed the estate planning process and a trust has been created, we tell our clients to fund the trust and change the beneficiary designations on all their accounts to the trust as beneficiary. It confirms that an assignment or declaration may not control the disposition of financial assets. You should regularly check your beneficiary designation on your assets. If you need assistance in these matters, call the Altman & Associates team at 301 299 0488 for more information and or assistance.

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