



TRUST AND ESTATE LITIGATION

Inheritance disputes are as old as the Book of Genesis (Jacob and Esau). Over the next 30 years it is estimated that \$30 trillion – yes, trillion – will pass under Wills and Trusts from Baby Boomers to their children, grandchildren, and charities. This means there will be ample incentive for descendants who have been disinherited, or believe they have not received their “fair share,” to litigate their grievances. Trustees too will face increased scrutiny and litigation concerning their investment decisions and trust administration.

The Trust and Estate attorneys at Burke, Warren, MacKay & Serritella are trial attorneys. They are familiar with the law, and the courts. Along with the assistance of our highly regarded estate planning and tax attorneys, we can successfully guide you through what is often a highly-charged situation due to family dynamics. Because we are trial attorneys, we prepare cases for trial, but we are also problem solvers. Being known for careful trial preparation, we are often able to obtain favorable settlements for our clients without going to trial, saving them time and money.

We have represented grantors, beneficiaries, trustees, and executors. Here are some of the matters we have litigated:

- Will contests
- Undue influence
- Breach of fiduciary duty
- Removal of trustee/transfer of trust assets
- Equitable deviation of trust terms
- Trust construction actions
- Reformation of Wills and Trusts
- Challenges to investment decisions and results
- Petitions for instructions regarding Wills and Trusts
- Disputes involving charitable trusts and foundations

PROFESSIONALS

Nicholas A. Gowen
Morgan M. Hess
Anna G. Kardaras
Alexander D. Marks
Mary Kruit McWilliams
Frederic A. Mendelsohn
Gerry D. Ring
Martin P. Ryan

RELATED PRACTICES & INDUSTRIES

Litigation
Wealth and Succession Planning



Experience

- Specializes in the unique tools available for the protection of wealth owned or inherited by disabled individuals, including powers of attorney, special needs trusts, and guardianships
- 15 CH 05818 (Cook County, Chicago, Illinois, Chancery Division), obtained judgment on the pleadings for trustee to determine the proper beneficiary of a trust involving over 30 respondents.
- 14 CH 02412 (Cook County, Chicago, Illinois, Chancery Division), obtained court order granting petition for equitable deviation of trust and approval of accounting.
- 14 CH 14277 (Cook County, Chicago, Illinois, Chancery Division), obtained court order granting petition to construe five separate trusts.
- 14 D 7452 (Cook County, Chicago, Illinois, Domestic Relations Division), obtained an order transferring \$3.2 million from a charitable trust to a specific national university over the objection of the co-trustee.
- 13 CH 17678 (Cook County, Chicago, Illinois, Chancery Division) obtained verdict after a bench trial transferring over \$17 million in trust assets to a new trust under the control of a new trustee.
- 10 CH 15026 (Cook County, Chicago, Illinois, Chancery Division), obtained court order granting petition to construe ambiguity concerning the distribution of trust assets and approval of a family settlement agreement.
- 10 CH 25696 (Cook County, Chicago, Illinois, Chancery Division), obtained court order interpreting trust and approval of a family settlement agreement on behalf of corporate Trustee.
- 10 CH 12223 (Cook County, Chicago, Illinois, Chancery Division), obtained court order dismissing an action to challenge the exercise of Power of Appointment against individual trustee.
- 08 CH 15284 (Cook County, Chicago, Illinois, Chancery Division), obtained a court order granting petition seeking approval of a trust-to-trust transfer.
- 07 P 7765 (Cook County, Chicago, Illinois, Probate Court), successfully represented beneficiaries in action to construe will and trust and require distribution.
- 05 CH 12622 (Cook County, Chicago, Illinois, Chancery Division), successfully represented bank as successor trustee in connection with a complaint to construe a trust, action for accounting, and imposition of constructive trust against original trustee who misappropriated funds, which resulted in the recovery of more than \$1.2 million.
- 01 P 4507 (Cook County, Chicago, Illinois, Probate Division), successfully represented qualified Illinois charitable organization in petition to construe trust and scope of charity's interest and recovered client's attorneys' fees.
- 2000-809TT (Calhoun County, Michigan), successfully represented individual beneficiary under a trust in connection with a petition for limited supervision, construction, and reformation of trust relating to the adoption of an adult.



- 97 CH 0843 (DuPage County, Illinois, Chancery Division), obtained dismissal of action brought by successor trustee against client concerning the disposition of the remainder interest.
- 06 CH 11985 (Cook County, Chicago, Illinois, Chancery Division), obtained court order granting petition to reform a trust which, due to a scrivener's error, may not have qualified as an intentionally defective grantor trust.
- 04 P 408 (Cook County, Chicago, Illinois, Probate Division), obtained court order which granted petition for reformation of trust where the trust, as drafted, may have violated Section 2056(b)(7) of the Internal Revenue Code because it provided for a specific payment annually to the widow, rather than distribution of all income.
- 03 CH 18183 (Cook County, Chicago, Illinois, Chancery Division), obtained court order reforming trust due to a scrivener's error that could be interpreted to permit the grantor's wife to designate herself as a beneficiary and thus subject a GST exempt trust to GST tax pursuant to Section 2652(a)(1) of the Internal Revenue Code and potential Federal estate tax in wife's estate.
- 12 P 3085 (Cook County, Chicago, Illinois, Probate Court), obtained order dismissing, with prejudice, citation to recover assets which was based upon allegations of undue influence.
- 10 CH 43667 (Cook County, Illinois, Chicago, Chancery Division), obtained court order dismissing, with prejudice, action for breach of fiduciary duty relating to administration of trust relating to tax planning, and partial judgment on the pleading relating to action for breach of fiduciary duty relating to investments (balance of action pending).
- 09 CH 16385 (Cook County, Illinois, Chancery Division) obtained dismissal of claims against Trustee for reformation, fraud, unjust enrichment, and breach of fiduciary duty.
- 07 P 266 (Kankakee County, Illinois, Probate Division), recovered \$500,000 in prosecution of citation to recover assets based upon undue influence.
- 07 CH 4362 (Cook County, Chicago, Illinois, Chancery Division), obtained removal of individual Co-Trustee for conduct detrimental to the interests of the trust and its administration.
- 04 CH 04442 (Cook County, Chicago, Illinois, Chancery Division), successfully represented a qualified charitable organization regarding construction of an alleged amendment to a trust to determine client's status as a beneficiary.
- 02 CH 7210 (Cook County, Chicago, Illinois, Chancery Division), obtained instructions from court and an order mooted certain administration issues on behalf of an individual trustee on a petition for instructions relating to trust administration.
- 01 L 455 (Lake County, Illinois, Law Division), successfully defended corporate trustee in action seeking \$1 million in damages for an alleged breach of fiduciary duty.
- 00 PR 165 (McHenry County, Illinois, Probate Division), obtained summary judgment in favor of corporate executor and trustee in connection with a petition to contest a will based on allegations of the existence of another will, and a promise to make a will.



- 00 CH 135 (Champaign County, Illinois), obtained judgment on the pleadings in favor of beneficiary in action to determine proper beneficiaries under a trust.
- 98 CH 128206 (Cook County, Chicago, Illinois, Chancery Division), successfully represented charitable beneficiary to determine proper beneficiaries under a will and trust.
- 98 P 0918 (DuPage County, Illinois, Probate Division), successfully dismissed citation against a qualified Illinois charitable organization in a case involving undue influence—case resolved on favorable terms.
- 96 P 10660 (Cook County, Chicago, Illinois, Probate Division), successfully represented a beneficiary against claims of undue influence and lack of capacity concerning a gift.
- 96 P 7462 (Cook County, Chicago, Illinois, Probate Division), successfully dismissed will contest.
- Advises clients on a variety of family wealth preservation matters, including estate and gift planning; estate, gift, and generation-skipping transfer tax issues; closely held businesses and succession planning; and privacy and asset protection

Insights

NEWS

Burke Warren a Proud Sponsor of Chicago Volunteer Legal Service Vino + Gogh 2023 Event
News, [June 27, 2023](#)

Burke Warren a Proud Supporter of The American Red Cross of Greater Chicago 2023 Heroes Breakfast
News, [April 27, 2023](#)

Burke Warren Proud to Participate in the Chicago Bar Foundation's 2023 Investing in Justice Campaign
News, [April 20, 2023](#)

Burke Warren a Proud Sponsor of the Chicago Hope Academy 2023 Story of Hope Luncheon
News, [April 11, 2023](#)

Burke Warren a Proud Member Firm of the Chicago Lawyers' Committee for Civil Rights
News, [April 4, 2023](#)

Burke Warren a Proud Supporter of the GI Research Foundation 2023 Annual Ball
News, [February 20, 2023](#)

Burke Warren a Proud Sponsor of 2023 Better Business Bureau of Chicago Annual Dinner Meeting
News, [February 8, 2023](#)

Burke Warren a Proud Sponsor of One Tail at a Time 2023 Houndstooth Ball
News, [February 7, 2023](#)



Burke Warren a Proud Sponsor of Boys & Girls Clubs of Chicago 2023 Youth of the Year Competition & Dinner

News, [January 20, 2023](#)

Burke Warren Partner John Stephens Named Advisory Board Member of AbstoneLalley, Inc.

News, [January 16, 2023](#)

Burke Warren a Proud Supporter of Direct Effect Charities 2022 "Letters to Santa" Program

News, [December 15, 2022](#)

Burke Warren Elects Joshua Cauhorn as Director

News, [December 12, 2022](#)

Burke Warren Elects Jessica Cox as Shareholder

News, [December 12, 2022](#)

Burke Warren Elects Stephen Schuster as Shareholder

News, [December 12, 2022](#)

Season's Greetings and Best Wishes for a Happy New Year From Burke Warren!

News, [December 6, 2022](#)

Christine Eduardo and Mathew Musipa, Participants in Burke Warren's Fall 2022 3L Minority Internship Program, Accept Offers to Join the Firm

News, [December 5, 2022](#)

Burke Warren a Proud Sponsor of Catholic Charities of the Archdiocese of Chicago 2022 Spirit of Saint Nicholas Ball

News, [December 2, 2022](#)

Burke Warren a Proud Sponsor of Chicago Children's Museum 2022 Gala

News, [September 27, 2022](#)

Burke Warren a Proud Sponsor of After School Matters

News, [September 15, 2022](#)

Burke Warren 2022 3L Minority Internship Program Participant Mathew Musipa Quoted in U of I Blog Article Entitled, "Immigration Law Clinic students win two asylum cases"

News, [September 15, 2022](#)

Burke Warren Selects Christine Eduardo and Mathew Musipa to Participate in the Burke Warren 2022 3L Minority Internship Program

News, [August 29, 2022](#)

Burke Warren a Proud Sponsor of Chicago Volunteer Legal Services Vino + Van Gogh 2022 Event

News, [August 24, 2022](#)

Burke Warren a Proud Sponsor of 2022 @gives back Golf Classic

News, [August 19, 2022](#)



Burke Warren a Proud Sponsor of 17th Annual Savills Landlord Challenge Charity Golf Event
News, [August 5, 2022](#)

Burke Warren Launch of New Firm Website Coincides with Firm's 30th Anniversary Milestone
News, [July 28, 2022](#)

Burke Warren Partner John Stephens Quoted in Crain's Chicago Article Entitled, "For Black lawyers, roadblocks to partnership persist"
News, [June 10, 2022](#)

Burke Warren a Proud Supporter of the American Red Cross of Greater Chicago 2022 Heroes Breakfast
News, [May 4, 2022](#)

Burke Warren Cited In Chicago Tribune Article Regarding a Pro Bono Case Recently Undertaken by the Firm
News, [May 3, 2022](#)

Burke Warren a Proud Supporter of the GI Research Foundation 2022 Champions for a Cure Ball
News, [April 29, 2022](#)

Burke Warren Serves as Pro Bono Counsel in Federal Lawsuit Charging Advocate Health and Hospitals Corporation with Racial Discrimination
News, [April 21, 2022](#)

Burke Warren Welcomes Peter Ivancsits as Its Chief Financial Officer
News, [April 18, 2022](#)

Burke Warren Proud to Participate in the Chicago Bar Foundation's 2022 Investing in Justice Campaign
News, [April 6, 2022](#)

Burke Warren a Proud Member Firm of the Chicago Lawyers' Committee for Civil Rights
News, [February 21, 2022](#)

Burke Warren a Proud Sponsor of 2022 Entrepreneur and Family Business Council Gala
News, [January 25, 2022](#)

Burke Warren Named to Vault's 2022 20 Best Midsize Law Firms to Work For in Chicago
News, [December 2, 2021](#)

Adrian Atwater and Jolisa Warmack, Participants in Burke Warren's Inaugural 3L Minority Internship Program, Accept Offers to Join The Firm
News

Burke Warren Proud to Partner with JPMorgan Chase and Cabrini Green Legal Aid on Key Chicago Area Pro Bono Projects
News



Burke Warren Partner Nicholas Gowen a Featured Presenter for American Arbitration Association Chicago Office Program entitled, "Arbitrator's Responsibilities in a Social Media World" News, [August 10, 2021](#)

ALERTS

Burke Warren Remains Fully Committed to Client Service Through Remote Working Capabilities Alert, [March 18, 2020](#)

Long Term Attorney-Client Collaboration Leads to Legacy Planning Alert, [October 25, 2016](#)

Computer Forensics at BWM&S Alert, [July 3, 2012](#)

Estate & Gift Tax Considerations: No Action Brings Significant Changes Alert, [December 4, 2010](#)

Keeping Your Revocable Living Trust on Track Alert, [July 27, 2010](#)