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Trustee Under Fire:

A Practical Guide to Defending Against Claims

By Fox Law | Trust and Estate Litigation

Being named as a trustee is an honor, but it can quickly turn into a burden when a beneficiary accuses you of wrongdoing.

If you've received a demand letter, a petition in probate court, or even just threats from a beneficiary, you may feel blindsided, frustrated, or even betrayed. This guide explains what's happening, what your risks are, and how to protect yourself.

1. First: Take a Breath

Trust litigation occurs more often than you might think, especially when money, strained family dynamics, and grief are involved.

Many trustees may be sued not because they acted dishonestly, but because:

- A beneficiary is upset about distributions
- A sibling suspects favoritism
- Communication broke down
- The trust terms are unclear
- There is a large inheritance at stake

An accusation is not necessarily a finding of wrongdoing. But how you respond matters.



2. Common Claims Trustees Face

Here are some common accusations beneficiaries allege against trustees:

Breach of Fiduciary Duty: Claiming you failed to act in the beneficiaries' best interests.

Failure to Account: Alleging you did not provide required financial information.

Self-Dealing: Accusing you of personally benefiting from trust assets.

Improper Distributions: Claiming you distributed too much, too little, or to the wrong person.

Some claims are legitimate. Many are misunderstandings. Some are strategic pressure tactics.

3. Your Role as Trustee: What the Law Actually Requires

Under California law, trustees must fulfill their duties, which are primarily found in California Probate Code §16000–16015, including:

- Acting in the best interests of beneficiaries
- Avoiding conflicts of interest
- Maintaining records of all transactions
- Treating beneficiaries impartially
- Keeping beneficiaries reasonably informed
- Properly managing and investing trust assets
- Following the terms of the trust

You are not required to:

- Make everyone happy
- Eliminate all risk
- Distribute money early to stop complaints



4. What To Do Immediately If You're Accused

If you suspect litigation is coming or have already been served:

A. Do Not Respond Emotionally

Do not fire off emails. Do not argue. Do not threaten back.

B. Preserve Everything

Document emails, texts, financial statements, accountings, notes, and correspondence.

C. Do Not Make Additional Distributions Without Advice

Distributions during a dispute can complicate your defense.

D. Contact a Trust Litigation Attorney Immediately

Early strategy often determines the outcome.

5. Can You Use Trust Funds to Defend Yourself?

Often, yes. If you are acting in good faith and within your fiduciary duties, trustees are typically entitled to use trust assets to pay for their legal defense.

However:

- If you are found to have breached your duties, you may be required to reimburse the trust.
- Courts can limit or scrutinize defense fees.
- Strategic decisions about fee advancement matter.

This is one of the most important issues to evaluate early.



6. What Litigation Actually Looks Like

Many trustees imagine dramatic courtroom battles. In reality, trust litigation often involves:

- Petition filed in probate court
- Written objections
- Exchange of financial documents
- Depositions outside of a courtroom but still sworn testimony
- Mediation
- Multiple court hearings
- Potentially trial

Many cases resolve before trial, but preparation is critical.

7. Your Personal Risk

Many trustees worry about:

- Personal liability
- Damage to family relationships
- Attorney's fees exposure
- Being removed as trustee

The level of risk depends on:

- The strength of and the type of the claims against the trustee
- The documentation supporting your actions
- Whether you followed formal trust procedures
- Whether you acted impartially

Consulting early on with an experienced trust litigation attorney can often help you evaluate your liability level and reduce exposure.



8. Strategic Defense Options

Every case is different, but defense strategies may include:

- Demonstrating compliance with fiduciary duties
- Proving beneficiary consent or waiver
- Showing good-faith reliance on professionals
- Challenging the legal sufficiency of the beneficiary's claim
- Seeking court instructions to protect yourself
- Negotiated settlement, sometimes through mediation

Sometimes the best defense is transparency and clarification. Other times, it requires firm litigation.

9. Common Mistakes Trustees Make During Disputes

Avoid these common trustee mistakes:

- Over-communicating emotionally
- Stopping all communication entirely
- Withholding required information
- Mixing personal and trust funds
- Paying yourself without documentation
- Resigning without legal advice

A misstep during litigation can create new claims.

10. When Removal Is Threatened

Beneficiaries may seek to remove you as trustee. Involuntary removal requires court approval and typically depends on:

- Serious breach of duty
- Conflict impairing administration
- Hostility that prevents proper management

Not every family conflict justifies removal, but it will be up to the judge to decide.



11. How Fox Law Helps Trustees Under Fire

At Fox Law, trust litigation is our focus. When representing trustees, we:

- Conduct a rapid risk assessment
- Review trust terms and financial records
- Evaluate exposure and indemnification rights
- Develop a strategic response plan
- Communicate directly with opposing counsel
- Prepare for every Court Hearing
- Participate in mediation
- Plan for and make ourselves prepared for trial when necessary

We understand that most trustees never asked to be in this position. Our job is to protect you: legally, financially, and strategically.

12. Is Settlement the Right Move?

Litigation is expensive and time-consuming, and the emotional cost of prolonged family conflict can be high. We help trustees evaluate whether to fight, negotiate, or seek court instruction.

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Settlement considerations include:

- Cost of defense vs. exposure
- Emotional toll
- Likelihood of prevailing
- Fee recovery possibilities
- Long-term family impact



13. The Most Important Principle

Remember that documentation wins cases. If you:

- Followed the trust
- Acted in good faith
- Kept records
- Communicated reasonably

... you are in a far stronger position than you may think.

You Don't Have to Navigate This Alone

If you are a trustee facing accusations, threats, or active litigation, timing matters. Early legal guidance can:

- Limit personal exposure
- Preserve trust assets
- Prevent escalation
- Protect your role and reputation

Schedule a no-cost initial consultation with Fox Law to evaluate your position and build your defense strategy. **Contact us at foxtrustlaw.com to get started.**

