

Trust & Fiduciary



A *fiduciary* is someone who acts on behalf of someone else for decision-making. This can be a financial role or it can include other decision-making duties. Being a fiduciary is an ethical obligation to work in the best interest of someone else. It requires technical knowledge, sensitivity, and fair judgment.

Black's Law Dictionary defines *fiduciary* as "Someone who is required to act for the benefit of another person on all matters within the scope of their relationship; one who owes the duties of good faith, loyalty, due care and disclosure."

We wear various fiduciary hats for our clients: Trustee, Agent under Power of Attorney, Personal Representative, and Conservator and/or Guardian. In these cases, we have more of an ongoing role than just being legal counsel: we take care of big and small issues for seniors, individuals with disabilities, and their loved ones.

The extent of our involvement depends on the client's needs and the role we've been assigned. For some, we take care of mail and bill-paying. We can act as a local liaison to keep family members up to date on how a loved one is faring. We can be a go-between for tax preparation. Sometimes we have to do unusual tasks like sell the car, re-home the pet, or arrange for caregivers to come to the house. We can serve as Agent under Power of Attorney for either medical or financial needs (or both) in the event a client becomes incapacitated. We can be hired, or appointed by the Court, to serve as Guardian and/or Conservator for someone who is unable to advocate for him- or herself. (Guardianships are to assist with personal needs like

medical decisions and housing needs; Conservatorships are for financial affairs like paying bills and opening accounts.) We can advise Personal Representatives, or serve as PR ourselves, for an estate after someone has passed away. For our clients with trusts, we can be hired to serve as Trustee, alone or in conjunction with another person. As a disinterested party, we are able to be impartial, plus we also bring investment knowledge and management expertise.

We bring expertise in:

1. appropriate distributions
2. tax identification numbers/annual tax filings
3. Uniform Prudent Investor Act
4. Fiduciary Duty
5. Uniform Trust Code
6. fair market value and cost basis considerations
7. income versus principal allocation
8. required beneficiary notices
9. annual accountings
10. tax preparation and review of annual filings

If you have been named in a legal or fiduciary capacity, you may not want to accept the role because of the time, investment knowledge, management expertise, or impartiality it requires. Many documents allow you to resign so that someone else may be appointed. Whether you are looking for advice on how to best to fulfill your duties or you are interested in delegating some of the tasks, we may be able to help you prepare your thoughts and come up with a strategy.

Please continue on to our [Articles](#) page for in-depth information on specific concepts.