

Trustee Removal: Supreme Court Speaks

Cowles & Thompson | October 2009



Editor-in-Chief

Stephen M. Spitzer
Cowles & Thompson PC
Tyler, Texas

 Forward to a Friend



By the Numbers

Behind every successful law firm you will find attorneys who love their profession, and Cowles & Thompson is no exception.

Our numbers speak for themselves. In business since 1978, we have worked with over 48 of the Fortune 100 companies (2006) as well as local middle-market companies.

Our experience includes having handled more than 500 appellate matters and 20,000 litigation matters, over 2,000 business matters and more than 500 legal malpractice matters. Experience matters.

Cowles & Thompson

Appellate
Aviation
Bankruptcy
Business
Commercial
Construction

Probate Litigation Update

What are the time deadlines for suing an objectionable trustee? This summer, the Texas Supreme Court ruled that the answer depends on whether the suit seeks removal of the trustee or whether the suit seeks the recovery of damages from the trustee.

Trustee Removal: No Limitations Period

There is no statute of limitations that applies to a suit for the removal of a trustee. The trustee owes a fiduciary duty and, if that duty is breached, there is no time limitation for an interested party to sue to remove the trustee from office. Because of the ongoing nature of the fiduciary relationship, suit to terminate that relationship can be brought at any time, so that the trustee would not be immune from any past misconduct.

Monetary Recovery: Limitations Applies

Suits seeking the recovery of damages caused by a trustee's breach are governed by limitations, likely a four year period from the date of the conduct causing the damage.

Ditta v. Conte, No. 07-1026, 2009 Tex. LEXIS 319; 52 Tex. Sup. J. 823 (Tex. June 5, 2009).

If you have questions, click [here](#) to contact Steve Spitzer.

Your Probate Litigation Resource



Cowles & Thompson's probate litigation section has a web site at www.TexasEstateDisputes.com. The web site provides current information on disputed probate, heirship and trust issues, including the latest on statutory changes made by the Texas Legislature.

Dallas Office:

Cowles & Thompson
901 Main Street, Suite 3900
Dallas, Texas 75202
(214) 672-2000

Tyler Office:

Cowles & Thompson
100 East Ferguson, Suite 1202
Tyler, Texas 75702
(903) 596-9000

Corporate
Employment
Estate Planning & Probate
Financial Institutions
Healthcare
Hospitality and Lodging
Insurance Corporate
Insurance Coverage
Intellectual Property
Int'l Business & Trade
Municipal, Public Law &
Land Use
Oil, Oil Field and Gas
Premises Liability
Probate Litigation
Product Liability
Professional Liability
Real Estate
Sports & Entertainment
Tort & Insurance
Toxic Tort/Environmental
Transportation & Trucking
Wills & Trusts
Worker's Compensation

To contact Steve Spitzer, click [here](#)

For more information on Cowles & Thompson, click [here](#)

Editor: Steve Spitzer, Esq.

sspitzer@cowlesthompson.com

Dallas | Tyler

Cowles & Thompson

Dallas Office: 901 Main Street, Suite 3900, Dallas, TX 75202 214-672-2000

Tyler Office: 100 East Ferguson Street, Suite 1202, Tyler, TX 75702 903-596-9000

www.cowlesthompson.com