



# David L.J.M. Skidmore

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David Skidmore is a premier trial attorney whose practice focuses on probate, trust, estate, fiduciary, and real property disputes and litigation. David uses creative and strategic thinking to forge lasting solutions to complex and emotional probate disputes. He is a zealous advocate and a gifted writer, and he has a unique ability to communicate his clients' stories. He is a Fellow in the American College of Trust and Estate Counsel, as well as an officer of the governing council for the Probate & Estate Planning Section of the State Bar of Michigan, and he delivers the annual trust and estate case law update at ICLE's annual Probate Institute. He has written extensively on mental incapacity, undue influence, and other topics related to trust and estate litigation. David is also a trained mediator who is available to mediate probate disputes.

## Representative Experience

### Probate Litigation

- ▶ **Disputed Ownership of Joint Bank Accounts:** Represented two of decedent's three children in dispute with sibling over ownership of joint bank account; obtained judgment in favor of clients following 3-day bench trial
- ▶ **Creditor Claims against Estates:** Represented two of decedent's three children in dispute with sibling over his creditor claim against estate for compensation allegedly due; filed motion asking Court to deny creditor claim, which caused sibling to permanently withdraw creditor claim
- ▶ Extensive experience representing individuals and entities in disputed estate, trust, fiduciary, guardianship and conservatorship matters
- ▶ Represented individual and corporate personal representatives, trustees and other fiduciaries, as well as individual and charitable beneficiaries of estates and trusts
- ▶ Often retained in cases involving emotional family disputes and complex legal issues
- ▶ Represented clients in Probate Court proceedings throughout Michigan, as well as in appeals to Circuit Court and/or the Michigan Court of Appeals
- ▶ **Challenges to Lifetime Gifts/Transactions:** Represented many clients in litigation where it was claimed that a lifetime property conveyance was improperly obtained through mental incapacity, undue influence, fraud or duress:

## Industries

- ▶ Financial Services

## Practices

- ▶ Litigation and Dispute Resolution
- ▶ Real Property Litigation
- ▶ Real Estate Services
- ▶ Probate Litigation
- ▶ Trusts and Estates Law
- ▶ Estate Settlement and Trust Administration
- ▶ Family Business and Succession Planning
- ▶ Fiduciary Representation
- ▶ Fundamental Estate Planning
- ▶ Tax Planning

## Education

- ▶ Cannon Trust School 2010, 2007
- ▶ University of Michigan Law School J.D. 1998 (1995 Recipient, Clarence Darrow Scholar Award; 1998 Recipient, Rockwell T. Gust Oral Advocacy Award)
- ▶ Michigan State University B.A. 1992 high honors (Phi Beta Kappa)

## Admitted

- ▶ 1998, Michigan

- ▶ Represented decedent's four children in a lawsuit to set aside decedent's deed conveying condo unit to their stepmother; the estate recovered the condo unit
- ▶ Represented decedent's estate in lawsuit to invalidate decedent's deed conveying his farm property to one of his five children; the estate recovered the property
- ▶ Represented decedent's estate to invalidate decedent's gift of nearly all her property to a neighbor; the estate recovered a substantial portion of the property through a favorable settlement
- ▶ Represented decedent's estate to recover decedent's substantial lifetime gifts to her accountant; the estate recovered a substantial portion of the gifted property through a favorable settlement
- ▶ **Challenges to Estate-Planning Documents:**  
Represented many clients in litigation where it was claimed that an estate-planning document was improperly obtained through mental incapacity and/or undue influence:
  - ▶ Represented decedent's estate to challenge the validity of decedent's handwritten will offered by decedent's neighbor; obtained a favorable settlement
  - ▶ Represented decedent's surviving wife in multi-million-dollar case to set aside decedent's will codicil and trust amendment; concluded with a favorable settlement
  - ▶ Represented decedent's three daughters who sought to invalidate their stepmother's will; obtained a favorable settlement
  - ▶ Represented decedent's estate to oppose a will contest brought by decedent's disinherited daughter; obtained a ruling in favor of the estate without the need for a trial
- ▶ **Misappropriation of Trust/Estate Assets:** Handled numerous claims of misappropriation of estate or trust assets, including one case that resulted in a jury verdict of \$2.3 million against a co-trustee for misappropriating a valuable coin collection, and another case in which a trust beneficiary sued the trustee (her brother) for misappropriating \$8 million in trust assets, which resulted in a favorable settlement following appeal
- ▶ **Allegations of Breach Of Fiduciary Duty:** Represented both fiduciaries and beneficiaries in cases where it was alleged that a fiduciary violated legal duties to the beneficiaries:
  - ▶ Represented three sisters who sued the corporate trustee for mistakes in administering their late father's trust, including making unnecessary payments; following trial, the Probate Court decided that the sisters had proven a breach of fiduciary duty, so the trustee was not allowed to pay attorney fees from trust
  - ▶ Represented the co-trustees of a trust to defend against the beneficiaries' legal challenge of how the co-trustees funded the beneficiaries' trust shares; obtained a favorable settlement
  - ▶ Represented three brothers in an effort to force their aunt/trustee to distribute real property that the brothers were entitled to; the brothers got the property
  - ▶ Represented decedent's son who was sued for mismanaging his mother's finances while serving as agent under durable power of attorney over an extended period; favorable settlement obtained during trial
  - ▶ Represented an individual serving as trustee of his late father's trust, who was accused of misconduct by his sister, a trust beneficiary; the trustee was exonerated of all charges and the sister was ordered to pay the trustee's attorney fees
- ▶ **Interpretation, Reformation and Modification:**  
Regularly retained in cases where a party seeks to have the Probate Court interpret an ambiguous testamentary instrument, reform a trust agreement based on a mistake, or modify a trust agreement based on unanticipated circumstances
- ▶ **Removal of Personal Representative or Trustee:**  
Extensive experience bringing and defending petitions to remove a personal representative, trustee or other fiduciary:
  - ▶ Represented an elderly woman who did not want a particular daughter to serve as her conservator and guardian; successfully persuaded the Probate Court to appoint someone else
  - ▶ Represented a large group of siblings to petition for removal of their sister from her roles as patient advocate for the mother and guardian for a

developmentally disabled sister; following trial, the Probate Court removed the sister from both roles

- ▶ Represented a woman in a petition for removal of her aunt as personal representative of her grandfather's estate, due to the aunt's delay in administering the estate; following a hearing, the Probate Court removed the aunt and appointed someone else

### Real Property Litigation

- ▶ Substantial experience representing clients in real property disputes and litigation
- ▶ Represented property owners in lawsuits involving claims of adverse possession and boundary line disputes, including a case that went to trial in Lake County and resulted in a judgment for the property owner
- ▶ Represented property owners in access easement disputes
- ▶ Represented the trustee of a family cottage trust in litigation concerning use of the cottage and responsibility for payment of cottage expenses
- ▶ Represented both landlords and tenants in eviction proceedings, including a case in Oceana County that resulted in a favorable jury verdict for the client
- ▶ Represented banks and mortgagees in both judicial foreclosure actions and priority disputes with construction lien claimants
- ▶ Represented tenants in common in actions seeking to partition or sell joint real property
- ▶ Represented developers in numerous actions to amend or vacate a plat in connection with urban redevelopment
- ▶ Represented property owners and claimants in quiet title actions and chain of title disputes
- ▶ Represented insureds under title insurance policies with respect to coverage claims
- ▶ Represented a title insurance company with respect to coverage decisions on claims raised by numerous construction lien claimants on a development project

### Honors and Awards

- ▶ Private Wealth Law – Michigan, *Chambers High Net Worth Guide*, 2016-19
- ▶ AV Preeminent Peer Review Rated, Martindale-Hubbell

- ▶ Named the *Best Lawyers' 2020, 2018 and 2016 Grand Rapids Trusts and Estates Litigation Lawyer of the Year*
- ▶ *Best Lawyers in America*, Litigation-Trusts & Estates, 2015-Present
- ▶ Named by Michigan Super Lawyers to the Top 50 Consumer Attorneys in Michigan list, 2018
- ▶ Named to Michigan Super Lawyers, 2013-Present
- ▶ Named by *Michigan Super Lawyers* magazine as a 2008 Rising Star

### Publications

- ▶ Undue Influence Claims— Getting Harder to Win, 2/18/2019
- ▶ Surviving Spouse: Till Death Do Us Part — Or Not, 2/18/2019
- ▶ Cell Phone Wills?!, 2/18/2019
- ▶ "Litigating the Presumption of Undue Influence Based on Confidential or Fiduciary Relations," *Michigan Bar Journal* (Vol. 937, No. 11), November 2018
- ▶ "Practice and Procedure in Probate Litigation," *Michigan Probate Litigation: A Guide to Contested Matters*, 3rd Edition, November 2017
- ▶ Co-Editor, *Michigan Probate Litigation: A Guide to Contested Matters*, 3rd Edition, November 2017
- ▶ "Observations on Undue Influence," *Michigan Probate & Estate Planning Journal* (Vol. 36, No. 1), Winter 2016
- ▶ Disability Planning: Where Do Conservators and Guardians Fit In?, 12/22/2016
- ▶ Agents Beware: Risks of Serving as a Power of Attorney, 11/16/2016
- ▶ Halting Elder Abuse: Know Your Options, 11/16/2016
- ▶ Not All Mental Capacity is Created Equal, 11/16/2016
- ▶ Finish Your Estate Plan: Ensuring Consistency with Your Property Ownership and Your Plan, 7/21/2016
- ▶ "Property Ownership," *Michigan Estate Planning Handbook*, 3rd Edition, June 2016
- ▶ The Probate Exception to Federal Diversity Jurisdiction, *Michigan Probate & Estate Planning Journal* (Vol. 35, No. 2), 4/1/2016
- ▶ Serving as an Amateur Fiduciary is Risky – Legally and Financially, 11/5/2015

- ▶ 15 Years of MCL 700.2503 and “Writings Intended as Wills,” *Michigan Probate & Estate Planning Journal* (Vol. 34, No. 3), 6/1/2015
- ▶ There Is No Such Thing as “The Attorney for the Trust,” *Michigan Probate & Estate Planning Journal* (Vol. 34, No. 1), 12/1/2014
- ▶ Post-EPIC Case Law Evaluating The Reasonableness Of Fiduciary Fees, *Michigan Probate & Estate Planning Journal* (Vol. 33, No. 3) , 6/1/2014
- ▶ “Discovery in Probate Court Litigation,” Michigan Bar Journal (Vol. 93, No. 5), May 2014
- ▶ Putting Adult Children on Bank Accounts is Risky, 4/9/2014
- ▶ Seeking Divorce During A Spouses Disability, 4/1/2014
- ▶ “Michigan Rule of Evidence 803(3) and Decedent’s Statements of Then-Existing Intent,” *Michigan Probate & Estate Planning Journal* (Vol. 33, No. 1), Winter 2013
- ▶ Whose Privilege Is It, Anyway? the Fiduciary Exception to Attorney-Client Privilege (co-authored with Laura E. Morris), *Michigan Probate & Estate Planning Journal* (Vol. 27, No. 5), 9/1/2013
- ▶ “Intestacy and Determination of Heirs,” Michigan Probate Litigation: A Guide to Contested Matters, 2nd Edition, September 2013
- ▶ “Show Me the Money! The Intricacies of Joint Bank Account Litigation in Michigan” (co-authored with Laura E. Morris), *The Litigation Newsletter* (SBM Litigation Section), Summer 2013
- ▶ Giving Effect To Every Word: An Impossible Task For An Ambiguous Legal Instrument, *Michigan Probate & Estate Planning Journal* (Vol. 32, No. 3), 6/1/2013
- ▶ Supreme Court Rules on Patented Seed Case, 5/15/2013
- ▶ “Before the Party’s Over: The Arguments For and Against Pre-Death Will Contests” (co-authored with Laura E. Morris), *Probate & Property* (Vol. 27, No. 2), March/April 2013
- ▶ “Legal and Ethical Issues Raised by an Attorney Acquiring a Lien or Mortgage Against A Client’s Real Property,” *Michigan Real Property Review*, Fall 2012/ Winter 2013
- ▶ Admissibility of Extrinsic Evidence in Will and Trust Proceedings, *Michigan Probate & Estate Planning Journal* (Vol. 32, No. 1), 12/1/2012
- ▶ Loath To Supplement the Language: 2010 Michigan Appellate Decisions Concerning Extrinsic Evidence of Testator’s or Settlor’s Intent, *Michigan Probate & Estate Planning Journal* (Vol. 31, No. 1), 12/1/2011
- ▶ “15 Pointers, Practice Tips, and Reminders Regarding Easements: Highlights of 2010 Michigan Appellate Decisions,” *Michigan Real Property Review* (Vol. 38, No. 2), Summer 2011
- ▶ Wills & Trusts Litigation: 3 New Cases in a Nutshell, 4/20/2011
- ▶ Estate Planning Focus - Spring 2010, 5/10/2010
- ▶ Estate Planning Focus - Summer 2007, 6/19/2007
- ▶ Estate Planning Focus - Fall 2006, 10/20/2006
- ▶ What Businesses Should Know About -- Identity Theft, 2/19/2005
- ▶ Michigan Law & Practice Encyclopedia, 1/1/2004
- ▶ “Wills and Estate Administration,” *Michigan Law and Practice Encyclopedia*, Vol. 34, 2nd Ed., 2004
- ▶ Estate Planning Focus - Fall 2003, 9/1/2003

#### Professional Affiliations

- ▶ Michigan Bankers Association Trust Counsel Committee Member (2015-Present)
- ▶ American College of Trust and Estate Counsel Fellow (2013-Present); Member, Fiduciary Litigation Council
- ▶ West Michigan Estate Planning Council Director (2013-16)
- ▶ Kent County Circuit Court Case Evaluator; Qualified Civil Mediator

#### Community Affiliations

- ▶ 2019 Festival of the Arts Regional Arts Competition and Exhibition, Grand Rapids, Michigan Selected Artist
- ▶ 2019 Annual Moby-Dick Marathon, New Bedford Whaling Museum, Massachusetts Reader
- ▶ Broadway Grand Rapids Member, Board of Directors (2013-Present)
- ▶ City Life Church Member

- ▶ ArtPrize 2015, Grand Rapids, Michigan Artist Entrant
- ▶ Widowed Persons Service Board of Directors Member (2011-Present); Secretary (2012); Chairperson (2013-14)
- ▶ Hillman Advocacy Program Member, Steering Committee (2010-13)
- ▶ Grand Rapids Civic Theatre Board of Directors (2006-08); Vice President (2007-08); Cast Member, Peter Pan (2010)
- ▶ Leadership Grand Rapids Class of 2010
- ▶ Central High School, Grand Rapids Public Schools Established Mock Trial Class and Team; Volunteer Coach; Mock Trial Team (2006-07)

### Bar Associations

- ▶ American Bar Association Member, Probate and Fiduciary Litigation Committee
- ▶ State Bar of Michigan Probate & Estate Planning Section Vice Chair (2019-Present); Secretary (2018-19); Treasurer (2017-18); Council Member (2012-Present); Amicus Curiae Committee (Member, 2018-Present; Chair, 2012-18)
- ▶ Grand Rapids Bar Association

### Speaking Engagements

- ▶ Speaker, "Trust & Estate Case Law Update," Probate and Estate Planning Institute (ICLE), May 16, 2019 (Acme) and June 20, 2019 (Plymouth)
- ▶ Speaker, "Trust & Estate Case Law Update," Probate and Estate Planning Institute (ICLE), May 17, 2018 (Acme) and June 14, 2018 (Plymouth)
- ▶ Speaker, "Fiduciary Duty and Probate Litigation Overview," Rehmann, November 10, 2017
- ▶ Speaker, "Fiduciary Litigation Update," Midwest Trust & Wealth Management Conference (Michigan Bankers Association), October 4, 2017
- ▶ Speaker, "Anatomy of a Lawsuit: Practice and Procedure in Probate Litigation," Institute for Continuing Legal Education's 57th Annual Probate and Estate Planning Institute, Acme, Michigan, May 20, 2017

- ▶ Speaker, "Hot Topics in Probate Litigation," Michigan Forum of Estate Planners, April 21, 2017
- ▶ Speaker, "Not All Mental Capacity is Created Equal: The Various Civil Legal Standards," Kent County Elder Abuse Coalition, March 21, 2017
- ▶ Moderator, "View from the Probate Court Bench" (ICLE On-Demand Seminar), January 4, 2017
- ▶ Panel Member, "Mediating Probate and Elder Law Disputes Teleseminar," State Bar of Michigan ADR Section, December 13, 2016
- ▶ Speaker, "Trust & Estate Case Law Update," Midwest Trust & Wealth Management Conference (Michigan Bankers Association), October 11, 2016
- ▶ How to Deal Effectively with Incapacity Using the Probate Court, ICLE Second Annual Elder Law Institute, September 16, 2016, Plymouth, Michigan
- ▶ Fifteen Years of MCL 700.2503 and "Writings Intended as Wills," Oakland County Bar Association, Probate, Estate & Trust Committee, April 25, 2016, Bloomfield Hills, Michigan
- ▶ Speaker, "Fiduciary Litigation Update 2015" (ICLE On-Demand Seminar), December 23, 2015
- ▶ Speaker, "Probate Exception to Federal Jurisdiction," ABA Section of Real Property, Trust and Estate Law Quarterly Meeting, October 14, 2015
- ▶ Speaker, "Discretionary Trust Distributions," Midwest Trust & Wealth Management Conference (Michigan Bankers Association), October 6, 2015
- ▶ Speaker, "Trust & Estate Case Law Update," Midwest Trust & Wealth Management Conference (Michigan Bankers Association), October 6, 2015
- ▶ Speaker, "Letters, Notes and Napkins: Harmless Error and Writings Intended as Wills," Trust & Estate Spring Symposium (American Bar Association), April 30, 2015, Washington, D.C.
- ▶ Speaker, "Drafting to Limit Trustee Liability," 24th Annual Drafting Estate Planning Documents seminar (ICLE), January 22, 2015, Grand Rapids, Michigan; February 12, 2015, Plymouth, Michigan
- ▶ Speaker, "Trust & Estate Case Law Update," Midwest Trust & Wealth Management Conference (Michigan Bankers Association), October 8, 2014
- ▶ Speaker, "Trust & Estate Case Law Update," Midwest Trust & Wealth Management Conference (Michigan Bankers Association), October 10, 2013



- ▶ Speaker, “The Probate Process from Start to Finish,” Institute for Paralegal Education seminar, May 21, 2013
- ▶ “Managing Your Practice,” panel discussion, Institute for Continuing Legal Education’s 53rd Annual Probate and Estate Planning Institute, Acme, Michigan, May 10, 2013
- ▶ Speaker, “Drafting Durable Powers of Attorney: Best Practices,” Webcast by Institute for Continuing Legal Education, released April 30, 2013
- ▶ Speaker, “New Probate and Trust Law Cases,” Midwest Trust & Wealth Management Conference, October 11, 2012
- ▶ Speaker, “The Admissibility of Extrinsic Evidence in Will or Trust Proceedings,” Michigan Supreme Court 2012 Judicial Conference, September 2012
- ▶ Presented “2010 Trust and Estate Case Law Update” to Chemical Bank, Fifth Third Bank, Huntington National Bank, Northeastern Michigan Estate Planning Council and Western Michigan Estate Planning Council
- ▶ Presented “2009 Trust and Estate Case Law Update” to Chemical Bank, Fifth Third Bank, Grand Rapids Bar Probate Section, Huntington National Bank, Founders Bank & Trust, Legacy Trust, Plante & Moran and West Michigan Estate Planning Council
- ▶ Speaker, “Overcoming Common Challenges in Trust Administration and Dealing with Common Litigation Issues,” National Business Institute Trust Administration Seminar, April 2010
- ▶ Speaker, “Avoiding the Icebergs of Trust Administration,” Fifth Third Bank Trust Officers Conference, February 2008

## Courts

- ▶ U.S. District Court, Western District of Michigan in 1998
- ▶ U.S. District Court, Eastern District of Michigan in 1999