The Rise of Trust Litigation in Wyoming

by Andrew V. Hardenbrook and Justin Dausman

Trust formation, administration and (more recently) litigation have become booming businesses in Wyoming. This is because Wyoming has taken steps to position itself as one of the most trust-friendly jurisdictions in the country.

A combination of deliberate attempts to modernize its Uniform Trust Code[1] and the creation of a dedicated business and trust tribunal have made the state an increasingly attractive venue.

In March 2019, the Wyoming Chancery Court was created to resolve commercial, business and trust cases on a quicker schedule than possible in the existing district court.[2] On the statutory side, Wyoming's asset protection framework under Wyo. Stat. Ann. §§ 4-10-510 to 523 is equally compelling. Wyoming's Qualified Spendthrift Trust is an irrevocable, self-settled trust that allows a settlor to remain a discretionary beneficiary while shielding assets from future creditors. Discretionary Trusts under Wyo. Stat. Ann. §§ 4-10-506(b)-(c) provide similar protections. This structure pairs well with Wyoming's lack of a state income tax and dynasty trust provisions, allowing a trust to continue for up to 1,000 years.

Wyoming law also makes it straightforward for out-of-state settlors to take advantage of these protections. Absent a controlling designation in the trust instrument, Wyoming courts apply the law of the jurisdiction with the "most significant relationship" to the trust.[3] To do so, Wyoming courts weigh the principal place of administration most heavily, followed by the location of trust property with the domicile of the settlor or beneficiaries given the least weight.[4] As a result, a settlor need not reside in Wyoming or hold large amounts of property there to benefit from the Wyoming law, provided the trust's administration is properly anchored in the state. These features begin to explain why Wyoming continues to attract settlors and trustees alike.

But the attractiveness of Wyoming in trust formation also has seemingly given rise to increased trust litigation. Because trust cases are often hidden from public view,[5] the number of cases involving trust disputes is hard to determine. But new filings in the Wyoming Chancery Court have grown steadily from 15 cases in the court's first year, 2021, to 31 in 2023 and 47 in 2024.[6] Disposed cases have kept this pace, rising from six in 2022 to 37 in 2025.[7]

Settlors have demonstrated an intent to reduce the amount of litigation by including no-contest clauses in trust agreements. But these clauses have their limits, and litigation regarding the scope and limits of a trustee's fiduciary duty persists.

No-Contest Clauses

One of the most powerful tools a trust settlor has for protecting a trust from costly, disruptive litigation is the no-contest clause, and Wyoming courts have demonstrated a willingness to enforce them. By doing so, Wyoming can deter speculative or retaliatory challenges to trust instruments, reinforcing the settlor's intent long after the settlor is gone.

No-contest clauses are provisions

in a trust instrument that impose a condition upon a beneficiary that they will not dispute the provisions of the trust instrument. Such clauses are valid in Wyoming, and the settlor's intent, as expressed in the plain language of the instrument, is the controlling inquiry.[8] The intent of the settlor is determined from the four corners of the trust document, and Wyoming courts will give clear and unambiguous provisions their full effect.[9] The consequence for a beneficiary who challenges a trust instrument is forfeiture of rights as a trust beneficiary.[10]

In *Gowdy v. Cook*, a beneficiary who attached a proposed "decanted"[11] trust to his complaint, ostensibly to correct drafting errors, was found to have forfeited his interest entirely.[12] The Wyoming Supreme Court affirmed that the settlor's intent was clear:

> [t]he right of a beneficiary to take any interest . . . under this trust [will be revoked] if that beneficiary . . . seeks to obtain adjudication in any court proceeding that [the trust] or any of its provisions is void, or otherwise seeks to void, nullify, or set aside [the trust] or any of its provisions[.][13]

Gowdy demonstrates that Wyoming courts will hold beneficiaries to the settlor's chosen language, and that attempts to unwind, modify or relitigate trust terms carry substantial consequences for beneficiaries.

No-contest clauses therefore may deter beneficiaries from challenging the validity of a trust agreement. Trustees, however, have no such limitation to request judicial intervention when their authority under the trust agreement is questioned. Additionally, the Wyoming Supreme Court has determined that challenges to a trustee's fiduciary duty may not implicate a no-contract clause, depending on the language of the trust agreement.[14] Litigation regarding a trustee's fiduciary duty therefore likely will continue.

Fiduciary Duty of Trustee

Trustees hold both a statutory and common-law duty of loyalty to the beneficiaries of trusts.[15] A trustee that violates this duty exposes itself to liability.[16] Trustees therefore are incentivized to seek court guidance when their authority is in doubt. Courts also seem open to allowing trustees to seek such guidance.

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For example, in *Matter of Bruce F. Evertson Dynasty Trust*, the trustee filed a "Petition for Instruction," asking the court to confirm the trustee's authority under Wyoming law and the Trust Agreement to decant the trust's property.[17] The ability to seek such guidance typically has been limited to resolving discrete legal questions where doubt exists about the trust interpretation or the application of the law, neither which was at issue in that case.[18] Nevertheless, the court allowed the trustee to proceed with seeking instruction from the court.

Similarly, the Wyoming Uniform Trust Code encourages trustees to obtain court guidance in the form of nonjudicial settlement agreements. Such agreements can bind "interested persons" with respect to any matter involving a trust provided the agreement does not violate a material purpose of the trust or applicable law.[19] A trustee, or other interested person, may then obtain court approval of the agreement.[20]

While needlessly seeking court intervention should be avoided to conserve trust assets, trustees will likely commence judicial proceedings if legitimate questions have been raised about their actions or scope of authority.

With the increase in trust creation in Wyoming, litigation involving trust administration and interpretation is on the rise. While no-contest clauses may limit beneficiary-led actions, trustees will continue to seek guidance and instruction from the courts. Such cases will undoubtedly increase in the coming years as people from all over the country take advantage of Wyoming's trust-friendly laws. ◆

Endnotes

1 Wyo. Stat. Ann. § 4-10-101 *et seq.*
2 Wyo. Stat. Ann. § 5-13-115(a).
3 Wyo. Stat. Ann. § 4-10-107(a)(ii).
4 *Id.*
5 Wyoming Statute Annotated § 4-10-205 allows for the sealing of certain records and documents in connection with judicial proceeding involving trusts.
6 *Wyoming Chancery Court Presentation*, Wyo. Judicial Branch (n.d.), Wyoming-Chancery-Court-Presentation-112025.pdf.
7 *Id.*
8 *Gowdy v. Cook*, 455 P.3d 1201, 1210 (Wyo. 2020).
9 *Matter of Phyllis V. McDill Revocable Tr.*, 506 P.3d 753, 761 (Wyo. 2022).
10 *See Gowdy*, 455 P.3d at 1211.
11 In the context of trusts property, decanting typically refers to the "distribution of assets from one trust into a second trust, like wine is decanted from the bottle to another vessel." *Matter of Bruce F. Evertson Dynasty Tr.*, 2019 WY 84 ¶ 1 n. 1, 446 P.3d 705, 706 n.1 (Wyo. 2019) (quoting *In re Est. of Sibley*, 246 Ariz. 498, 503, 442 P.3d 805, 810 (Ct. App. 2018)).
12 *Gowdy*, 455 P.3d at 1211.
13 *Id.* at 1210.
14 *Spurlock v. Wyoming Tr. Co.*, 2024 WY 19, ¶ 25, 542 P.3d 1071, 1078 (Wyo. 2024).
15 Wyo. Stat. Ann. § 4-10-802; *Aimone v. Aimone*, 2023 WY 43, ¶ 42, 529 P.3d 35, 46 (Wyo. 2023).
16 *Aimone*, ¶ 44, 529 P.3d at 47.
17 *Matter of Bruce F. Evertson Dynasty Tr.*, 2019 WY 84, 446 P.3d 705 (Wyo. 2019). In the context of trusts property, decanting typically refers to the "distribution of assets from one trust into a second trust, like wine is decanted from the bottle to another vessel." *Id.* ¶ 1, n. 1, 446 P.3d at 706 n.1 (quoting *In re Est. of Sibley*, 246 Ariz. 498, 503, 442 P.3d 805, 810 (Ct. App. 2018)).
18 *Id.* ¶ 23 n.9, 446 P.3d at 711 n.9 (quoting *Rock Springs Land & Timber, Inc. v. Lore*, 2003 WY 100, ¶ 22, 75 P.3d 614, 623 (Wyo. 2003)).
19 Wyo. Stat. Ann. § 4-10-111(b), (c). Interested persons means a "qualified beneficiary, the settlor, if living, the trustee and trust protector, if any." Wyo. Stat. Ann. § 4-10-111(a).
20 Wyo. Stat. Ann. § 4-10-111(e).

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