

Focus

Trusts + Estates

Probate Litigation Newsletter | Fall 2026

When probate law meets family law

David Skidmore

Divorce and death don't always wait for each other. When a marriage is ending — or an incapacitated spouse can no longer act — probate and family law collide in ways that catch families, and sometimes their advisors, off guard. A few principles every Michigan family law practitioner should keep in mind:

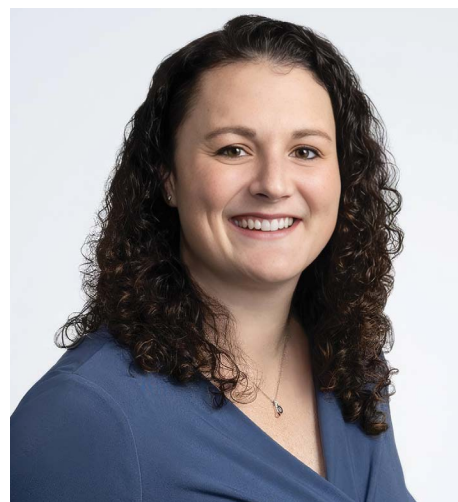
- When divorce is in the best interest of an incapacitated ward, the conservator may seek a divorce on the ward's behalf under MCR 2.201(E)(1)(a).

- During a divorce, one spouse cannot disinherit the other through a will — Michigan law lets a surviving spouse elect against the will and take the statutory elective share instead. A trust is different: absent fraud, one spouse may disinherit the other through a trust.
- If one spouse dies before a divorce is finalized, the enforceability of any property settlement comes into question. A final property settlement is not enforceable in a divorce that remains pending at death, but it is enforceable in a pending separate maintenance action.
- A divorce pending when one spouse dies creates a rebuttable presumption that the survivor did not intend to willfully abandon the decedent — a point that matters when determining spousal inheritance rights under intestacy.
- Under the Estates and Protected Individuals Code, a judgment of divorce revokes the gifts each spouse made to the other and to the other's relatives in their estate-planning documents.
- A surviving ex-spouse who waived rights to an insurance policy in the divorce judgment may remain named as the beneficiary when the other ex-spouse dies. ERISA may require that the funds be paid to the survivor, but under Michigan's law of waiver, the survivor must return them to the decedent's estate.

Questions about where a family matter sits on the line between probate and divorce? Contact David Skidmore at dskidmore@wnj.com or 616.752.2491.

WELCOME TO THE TEAM

Meet Chelsea Brown



We're pleased to welcome Chelsea Brown to Warner's probate litigation team. Senior counsel in our Midland office, Chelsea has practiced since 2016 in trusts and estates, estate and trust administration, elder law and probate litigation. She has represented clients in contested matters — including will, deed, capacity and undue influence disputes — and brings a steady, client-focused approach to some of the most emotional moments families face.

A native of Petoskey and a graduate of Michigan State University College of Law, Chelsea is a past president of the Great Lakes Bay Estate Planning Council and serves on the board of the Saginaw Children's Zoo. Her addition deepens the team's bench and extends our reach across mid- and northern Michigan.





PRACTICAL GUIDANCE

Tips for a successful mediation

Laura Morris and David Skidmore

Mediation resolves the vast majority of probate disputes — and a few best practices can make the difference between a long day that ends in a signed agreement and one that doesn't. Field notes from the mediation table:

1. Use a mediator familiar with probate litigation and, when possible, with the particular court involved.
2. Make sure each litigant brings anyone important to their decision-making, so that person buys into the process rather than becoming an 11th-hour obstacle by phone.
3. Have all participants clear their evening, in case the process runs past 5 p.m.
4. Anticipate and research tax issues before the mediation.
5. The mediator should validate each party's perspective while giving a realistic assessment of the legal framework.
6. When a party makes an offer, the mediator should type it up and confirm its accuracy with that party before delivering it — and keep doing so as counteroffers fly back and forth. Seeing the terms in writing throughout the day makes it easier for everyone to envision a settlement.
7. When an agreement is reached, document it and have the parties sign it — no matter the hour.
8. In the settlement, address whether any future documents will need to be signed, and how disputes over the agreement's interpretation or performance will be handled. Make clear that the settlement is a binding contract, not an "agreement to agree."
9. Invite other interested persons in the probate proceeding to the mediation, so they are bound by any agreement reached. If some do not attend, make the agreement subject to probate court approval to bind them.

Stay informed.

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Scan the QR code or go to wnj.com to explore our Michigan Probate Litigation Cases & News blog.

GIVING BACK

Community involvement

David recently concluded his term as chair of the Broadway Grand Rapids board of directors and also performs with Opera Grand Rapids.

Laura serves on the Probate and Estate Planning Section Council. The Council operates as the governing and public policy-making body for the Probate & Estate Planning Section of the State Bar of Michigan.

Chelsea serves on the board of the Saginaw Children's Zoo.

OFF THE CLOCK

Personal updates

A little about the people behind the practice.



Chelsea Brown

This photo is from the Cheeseburger Festival in Caseville, Michigan. Chelsea and her family have enjoyed this and other community events across Michigan over the years. She looks forward to continuing the tradition this year.



David Skidmore

David's daughter Anna just finished her first year at MSU College of Law, and son David Jr. started there in the fall. A proud MSU alumnus (Class of '92), David is thrilled to see both of his children become Spartans and follow in his footsteps! David also plays the baritone horn with the Spartan Alumni Marching Band.



Laura Morris

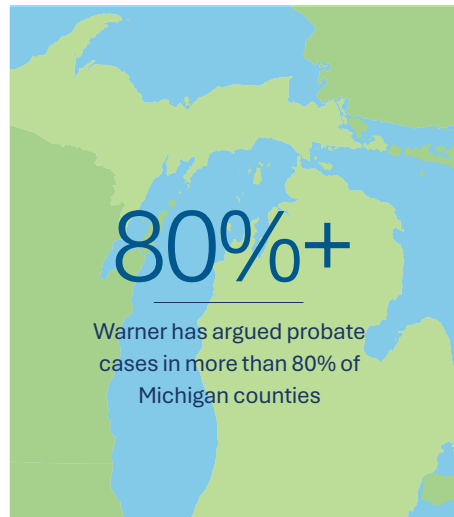
At age 13, Laura earned her scuba diving certification with her dad. The tradition continues with Laura's dad helping both of her teenage daughters become scuba certified. This June, Laura, her daughters and her dad (grandpa!) traveled to Bonaire for a scuba trip. Highlights included an octopus, a green eel so large it resembled a sea dragon, seahorses and turtles.

STATEWIDE REACH

Where we go

We have investigated, researched and resolved hundreds of family disputes in probate court. When clients want to preserve strained family relationships, we pursue solutions through the least adversarial process possible. Our attorneys draw on extensive dispute resolution experience to address many conflicts efficiently and effectively.

When compromise is not possible, we are prepared to advocate aggressively in court. Our attorneys have argued probate cases in more than 80% of Michigan counties.



SHARING WHAT WE KNOW

Writing and speaking engagements

- 66th Annual ICLE Probate & Estate Planning Institute — David delivered his annual case law update (2026)
- “Divorce Meets Death and Disability: The Intersection Between Domestic Relations and Probate/Estate Planning,” Michigan Family Law Journal — David (2026)
- “Probate Litigation Report: The Testamentary Exception to Attorney-Client Privilege in Joint Representation Situations,” Michigan Probate & Estate Planning Journal — David (2026)
- Michigan Probate Litigation Treatise, chapter on “Litigating Mental Incapacity” — Laura (2026)
- “When Estate Plans are Challenged: Capacity, Undue Influence and Conflict in Probate Court,” Great Lakes Bay Estate Planning Council — Chelsea (April 2026)

“I can never explain how grateful I am to have had you [David] on my side when I needed you the most.”

— a Warner probate litigation client

HOW WE HELP

What we do

Warner’s probate litigation attorneys handle disputes involving probate, trusts and estates — guiding families and fiduciaries through high-stakes, often emotional matters. Our team approaches each matter with strategic advocacy, practical counsel and a focus on efficient resolution.

Representative areas include:

- Will and trust contests
- Breach of fiduciary duty
- Trust and estate accountings
- Undue influence and lack of capacity claims
- Forgery and contested property transfers
- Charitable gift disputes
- Guardianship and conservatorship disputes
- Removing or defending a trustee or executor
- Protecting elders from financial abuse
- Joint account and life insurance disputes
- Sibling and blended-family disputes
- Trust modification and clarification

RECENT WINS

Success stories

Recent results for our clients in Michigan probate and circuit courts.

Dismissal of undue influence claims, Barry County.

Following the decedent’s death, his children sued his surviving wife, contesting the validity of his trust and deeds and alleging that the wife had exerted undue influence. David moved for summary disposition and prevailed. The probate court found no presumption of undue influence — there was no fiduciary relationship between the decedent and his wife — and no direct or circumstantial evidence that the wife caused the decedent to sign the documents. The court dismissed the claims.

Deed upheld after bench trial — affirmed on appeal, Ogemaw County.

Chelsea represented a decedent’s daughter and two grandchildren in a dispute over real estate the decedent had left to them rather than to two other children. The disinherited children challenged the deed on grounds of undue influence and lack of capacity. After a bench trial, the court ruled that the deed was valid, and Chelsea’s clients received the property as intended. The ruling was recently affirmed on appeal.

“In short, Laura’s efforts changed my life.”

— a Warner probate litigation client

Dismissal of case, Ottawa County.

Laura represented a client defending against allegations made by his brother that their mother’s updated trust should be invalidated on the grounds of mental incapacity, undue influence, insane delusions and duress. After extensive depositions and expert reports, Laura moved to have the case dismissed. The court agreed with Laura that the brother did not have evidence to support his claims and dismissed the entire case before trial.



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Accolades

David Skidmore

Best Lawyers in America, Litigation – Trusts and Estates (2015–present)

Best Lawyers, Grand Rapids Trusts and Estates Litigation Lawyer of the Year (2025)

Michigan Super Lawyers, Top 100 (2025)

Chambers High Net Worth, Private Wealth Law – Michigan (2016–present)

Fellow, American College of Trust and Estate Counsel (ACTEC)

Laura Morris

Michigan Lawyers Weekly, Michigan Legal 250 (2026)

Best Lawyers in America, Litigation – Trusts and Estates (2018–present)

Best Lawyers, Grand Rapids Trusts and Estates Litigation Lawyer of the Year (2021, 2019)

Grand Rapids Business Journal, 40 Under Forty (2020)

Past president, Women Lawyers Association of Michigan – Western Region

Chelsea Brown

Michigan Super Lawyers, Rising Star (2023–present)

Past president, Great Lakes Bay Estate Planning Council

Past president, Women Lawyers Association of Michigan – Great Lakes Bay Region

Contact us. To learn more about Warner's probate litigation services, contact our team or visit our website at wnj.com or scan the QR code.



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Warner Norcross + Judd LLP

A Better Partnership®

Warner is focused on providing the best legal solutions and exceptional client service to organizations throughout the world. With 230+ experienced attorneys practicing law in 70+ specialty areas from nine offices and virtually, we have what it takes to support you — no matter what issues you face. We put your people, issues and goals first, building lasting relationships through collaboration, responsiveness and trust.

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