

RELEASE AGREEMENTS IN TRUST DISPUTES

*Scott D. Weber**

I. INTRODUCTION	320
II. FIDUCIARY DUTIES	321
A. <i>Background</i>	321
B. <i>Disputes</i>	323
1. <i>Breach of Fiduciary Duty</i>	324
2. <i>Self-Dealing</i>	324
3. <i>Mismanagement of Funds</i>	325
4. <i>Waste</i>	325
5. <i>Damages</i>	326
6. <i>Beneficiary's Refusal to Sign Release Agreement</i>	326
C. <i>Removal or Resignation of Trustee</i>	327
1. <i>Removal</i>	327
2. <i>Resignation</i>	329
III. RELEASE AGREEMENTS	330
A. <i>Alternative Dispute Resolution</i>	331
B. <i>Drafting</i>	332
C. <i>Seminal Cases</i>	333
1. <i>Austin Trust Company as Trustee of Bob and Elizabeth Lanier Descendants Trusts v. Houren</i>	333
2. <i>Harrison v. Harrison Interests, Ltd.</i>	336
D. <i>Agreements</i>	338
1. <i>Release Agreements</i>	338
2. <i>Who Is Bound?</i>	339
3. <i>Presumption of Unfairness</i>	339
4. <i>Family Settlement Agreements</i>	340
5. <i>Disputes Between Trustee and Third Parties</i>	343
6. <i>Judicial Agreements and Discharges</i>	343
7. <i>Contingent Beneficiaries, Unborn Children, and Unascertained Beneficiaries</i>	345
IV. CONCLUSION	346

* Partner, Husch Blackwell, Dallas TX. Thank you to Adam Cambell, associate at Husch Blackwell in Houston, for his assistance.

I. INTRODUCTION

Trust disputes arise from various complexities inherent within the administration of trusts.¹ They most often originate from disagreements between trustees and beneficiaries over the interpretation, management, and distribution of trust assets.² These conflicts can escalate, leading to legal battles that strain relationships and deplete resources.³

One pivotal mechanism to resolve disputes is the release agreement.⁴ A release agreement functions as a formal instrument wherein the trustee and beneficiary agree to settle the dispute, often involving the waiver of certain rights and claims by the beneficiary in exchange for specified concessions from the trustee.⁵ These agreements should be crafted with meticulous attention to detail to ensure the interests of both parties are adequately protected while also upholding the overarching purpose and integrity of the trust.⁶

Release agreements are vital instruments for resolving trust disputes and provide a structured path for conflict resolution.⁷ These agreements serve varied purposes ranging from conditional releases that incentivize specific actions by trustees to mutual releases that promote cooperative interactions and protect both trustees and beneficiaries from future claims.⁸ Partial releases address distinct issues without compromising trustee integrity, while settlement releases formalize negotiated resolutions and safeguard trustees from additional claims.⁹

The strategic use of release agreements can significantly enhance the administration of trusts, ensuring that trustees' interests are safeguarded, their responsibilities are clearly delineated, and their contributions are recognized, thereby contributing to the stability of the trustee-beneficiary relationship.¹⁰ Most often, however, the trustee will resign as part of the settlement.¹¹ A properly crafted release allows the trustee to resign and a new trustee to be appointed, ensures that the settlement is binding on all parties, and does not lead to further litigation.¹²

Part II of this Article will take a step back to examine the trustee's various fiduciary duties to beneficiaries and the subsequent disputes that arise

-
1. Author's original thought.
 2. See discussion *infra* Section II.B.
 3. See discussion *infra* Section II.B.
 4. See discussion *infra* Part III.
 5. See discussion *infra* Part III.
 6. See discussion *infra* Section III.B.
 7. See discussion *infra* Part III.
 8. See discussion *infra* Part III.
 9. See discussion *infra* Section III.D.
 10. See discussion *infra* Part III.
 11. See discussion *infra* Section III.D.6.
 12. See discussion *infra* Section III.D.6.

from trustees' breaches (or alleged breaches) of those duties.¹³ This is helpful to review to understand the journey of the trustee-beneficiary relationship and consider how release agreements come to be.¹⁴

Part III of this Article will delve deeper into the various forms of release agreements, the types or classes of beneficiaries who are necessarily involved, and the required notices.¹⁵ Part III will provide the reader with an in-depth look at the construction of these agreements to ensure enforceability.¹⁶

II. FIDUCIARY DUTIES

A. Background

The origin of fiduciary duties can be traced back to common law principles that have been recognized and enforced for centuries.¹⁷ Fiduciary duties are considered “the highest known to the law” and are rooted in the common law duty of loyalty, which imposes stringent standards on fiduciaries to act solely in the interest of the beneficiaries, avoiding any conflicts of interest or self-dealing.¹⁸ The concept of fiduciary responsibility dates back to the Roman law concept of “fiducia,” which emphasized trust, confidence, honesty, fidelity, and integrity.¹⁹ The development of the term in legal history under the common law suggested a situation in which a person assumed the character of a trustee, or an analogous relationship, and an underlying confidence was involved that required scrupulous fidelity and honesty.²⁰ All trustees are subject to common law duties and equitable rules or principles, which have been codified by statute in some instances.²¹ In Texas:

The trustee shall administer the trust in good faith according to its terms and this subtitle. In the absence of any contrary terms in the trust instrument or contrary provisions of this subtitle, in administering the trust the trustee shall perform all of the duties imposed on trustees by the common law.²²

13. See discussion *infra* Part II.

14. Author's original thought.

15. See discussion *infra* Part III.

16. See discussion *infra* Part III.

17. Chamber of Com. of the U.S. v. U.S. Dep't of Lab., 885 F.3d 360, 370 (5th Cir. 2018); Utah v. Micone, 766 F. Supp. 3d 669, 677 (N.D. Tex. 2025).

18. Micone, 766 F. Supp. 3d at 683.

19. Chamber of Com., 885 F.3d at 370 (citing George M. Turner, *Revocable Trusts* § 3:2 (Sept. 2016 update)).

20. *Id.*

21. See GEORGE GLEASON BOGERT & AMY MORRIS HESS, BOGERT'S THE LAW OF TRUSTS AND TRUSTEES § 520 (2d ed. 2025).

22. TEX. PROP. CODE ANN. § 113.051.

Although a grantor can modify a trustee's duties to a degree, the existence of certain duties is critical to the existence of the trust relationship.²³

The duties of a trustee are voluminous and far exceed the scope of this paper, so only a few will be discussed here.²⁴ One of the primary duties of a trustee is to keep full, accurate, and orderly records concerning the status of the trust estate and all acts performed thereunder.²⁵ A trustee is charged with the duty of maintaining an accurate account of all transactions relating to the trust property.²⁶ The law charges the trustee with all assets that come into the trustee's hands and for which the trustee cannot account.²⁷

Under longstanding common law, trustees and executors owe the beneficiaries of a respective trust or estate a fiduciary duty of full disclosure of all material facts known to them that might affect the beneficiaries' rights.²⁸ This duty is crucial in fostering transparency and trust between the parties involved.²⁹ Trustees must disclose all material facts that could influence the beneficiaries' decision-making or affect their interests within the trusts.³⁰ Material interests include, but are not limited to, the status and performance of trust investments, key transactions involving trust assets, any changes to the trust's terms, and the trustee's compensation and expenses.³¹ By ensuring full disclosure, trustees help beneficiaries make informed decisions and guard against potential mismanagement or conflicts of interest.³² Furthermore, full disclosure helps protect against the possibility of trustees acting in their own interests rather than those of the beneficiaries.³³ Full disclosure creates an environment of accountability and oversight, enabling beneficiaries to monitor the trustee's actions and promptly address any concerns.³⁴ Trustees who fail to disclose all material facts may face legal repercussions and a loss of trust from beneficiaries, which can severely impact the trust's administration and objectives.³⁵

23. *Id.*; RESTATEMENT (THIRD) OF TR. § 86 (A.L.I. 2012).

24. *See* discussion *infra* Sections II.A, II.B, II.C.

25. *Corpus Christi Bank & Tr. v. Roberts*, 587 S.W.2d 173, 181 (Tex. App.—Corpus Christi 1979), *aff'd*, 597 S.W.2d 752, 756 (Tex. 1980) (citing *Shannon v. Frost Nat. Bank of San Antonio*, 533 S.W.2d 389 (Tex. Civ. App.—San Antonio 1975, writ *ref'd n.r.e.*); *Searle-Taylor Mach. Co. v. Brown Oil Tools, Inc.*, 512 S.W.2d 335 (Tex. Civ. App.—Houston [1st Dist.] 1974, writ *ref'd n.r.e.*)).

26. *Id.*

27. *Id.* (citing *National Cattle Loan Co. v. Ward*, 255 S.W. 160, 164 (Tex. Comm'n App 1923); *Maxwell's Unknown Heirs v. Bolding*, 36 S.W.2d 267 (Tex. App.—Waco 1931, no writ)).

28. *Austin Tr. Co. v. Houren*, 664 S.W.3d 35, 45 (Tex. 2023) (citing *Huie v. DeShazo*, 922 S.W.2d 920, 923 (Tex. 1996) (quoting *Montgomery v. Kennedy*, 669 S.W.2d 309, 313 (Tex. 1984)).

29. *See id.*

30. *Montgomery*, 669 S.W.2d at 313; *see also* TEX. PROP. CODE ANN. § 113.151(a).

31. *See* TEX. PROP. CODE ANN. §113.151–.152.

32. *See generally Montgomery*, 669 S.W.2d at 313 (recognizing trustees' fiduciary duty to disclose all material facts to beneficiaries).

33. *See generally id.* (recognizing trustee's duty to disclose material facts to prevent self-dealing and protect beneficiaries' interests).

34. *See id.*

35. *See* cases cited *supra* note 28.

In most instances, trustees also must follow the prudent investor rule.³⁶ A trustee who invests and manages trust assets owes a duty to the trust beneficiaries to comply with the prudent investor rule.³⁷ The prudent investor rule—a default rule—may be expanded, restricted, eliminated, or otherwise altered by the provisions of a trust.³⁸ For example, a beneficiary cannot hold a trustee liable to the extent the trustee reasonably relied on the trust's provisions.³⁹ The Prudent Investor Act states: “A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust . . . using reasonable care, skill, and caution.”⁴⁰ A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.⁴¹

Under Texas law, several categories of people or entities have standing to sue a trustee for breach of fiduciary duty.⁴² Under the Texas Property Code, “any interested person may bring an action to, among other things, construe a trust instrument and determine the liability of a trustee.”⁴³ An “interested person” is defined as “a trustee, beneficiary, or any other person having an interest in or a claim against the trust or any person who is affected by the administration of the trust.”⁴⁴ These provisions are similar to those found in the Restatement (Third) of Trusts, which states that a suit against a trustee to redress a breach of trust or otherwise enforce the trust may be maintained by a beneficiary, co-trustee, successor trustee, settlor, or other person acting on behalf of one or more beneficiaries.⁴⁵

B. Disputes

Trusts are a fundamental tool in estate planning and asset management designed to protect property and ensure the orderly transfer and management of wealth across generations.⁴⁶ However, the relationship between trustees and beneficiaries can be fraught with tension and potential disputes.⁴⁷

36. *White v. White*, 704 S.W.3d 250, 274 (Tex. App.—El Paso 2024, no pet.).

37. TEX. PROP. CODE ANN. § 117.003(a).

38. *White*, 704 S.W.3d at 274.

39. TEX. PROP. CODE ANN. § 117.003(b).

40. *White*, 704 S.W.3d at 261.

41. *Id.*

42. TEX. PROP. CODE ANN. § 115.011.

43. *In re XTO Energy Inc.*, 471 S.W.3d 126, 137 (Tex. App.—Dallas 2015, no pet); *see also* TEX. PROP. CODE ANN. §§ 115.001, 115.011.

44. TEX. PROP. CODE ANN. § 111.004(7).

45. RESTATEMENT (THIRD) OF TR. § 94 (A.L.I. 2012).

46. Melissa O'Rourke & Kelvin Leibold, *Evaluating Your Estate Plan: Trust as an Estate Planning Tool*, IOWA STATE UNIV. EXTENSION & OUTREACH (Dec 2020), <https://www.extension.iastate.edu/agdm/wholefarm/html/c4-59.html> [<https://perma.cc/9P4Z-KF8C>].

47. *See id.*

Trustees, who are responsible for administering the trust, must balance their fiduciary duties with the interests and expectations of the beneficiaries.⁴⁸ This delicate equilibrium often leads to conflicts, which arise from various aspects of trust management.⁴⁹ The following are common types of disputes between trustees and beneficiaries.⁵⁰

1. Breach of Fiduciary Duty

Trustees have a fiduciary duty to act in the best interests of the beneficiaries, maintain loyalty, and avoid conflicts of interest.⁵¹ Beneficiaries may seek legal recourse if they believe the trustee's actions have compromised the integrity of the trust or their rightful interests.⁵² To prevail on a breach of fiduciary claim against a trustee, the beneficiary must show: (1) a fiduciary relationship between the trustee and beneficiary exists; (2) a breach by the trustee of his or her fiduciary duty to the beneficiary; and (3) an injury to the beneficiary or a benefit to the trustee occurred as a result of the trustee's breach.⁵³ In general, to recover for a breach of fiduciary duty, a beneficiary has the burden of proving each element.⁵⁴

2. Self-Dealing

A subset or another type of breach of fiduciary duty is self-dealing.⁵⁵ A beneficiary's concern involving the duty of loyalty often arises in transactions involving trust property where the trustee has a personal interest.⁵⁶ A conflict of interest between a trustee's fiduciary and personal interests means the trustee is not acting solely in the interests of the trust beneficiaries, a practice often called self-dealing.⁵⁷ Self-dealing is considered a subset of breach of fiduciary duty.⁵⁸ Self-dealing can generally be defined as a situation in which a fiduciary uses their position to gain a benefit at the expense of those to whom they owe a fiduciary duty.⁵⁹ Thus, there can be no finding of self-dealing in the absence of evidence that a fiduciary profited from their

48. *Id.*

49. *See* cases cited *supra* note 28.

50. *See* discussion *infra* Sections II.B.

51. *White v. White*, 704 S.W.3d 250, 268–69 (Tex. App.—El Paso 2024, no pet.).

52. *Id.*

53. *Id.* at 269.

54. *Id.*

55. *Id.*

56. *Id.*

57. GEORGE GLEASON BOGERT & AMY MORRIS HESS, *supra* note 21, § 543.

58. *White*, 704 S.W.3d at 268–69.

59. *Mims-Brown v. Brown*, 428 S.W.3d 366, 374 (Tex. App.—Dallas 2014, no pet.).

actions.⁶⁰ Self-dealing can include actions such as accepting loans from entities related to the trust or using trust assets for personal gain.⁶¹

3. Mismanagement of Funds

Mismanagement of funds and trust assets is another form of breach of fiduciary duty.⁶² When it occurs, it is a serious issue in trust management, often leading to litigation between trustees and beneficiaries.⁶³ This problem arises when trustees fail to act in the best interests of the beneficiaries, either through negligence, incompetence, or intentional wrongdoing.⁶⁴ It most often involves trustees who do not follow the dictates of the trust document.⁶⁵ Disputes regarding mismanagement of funds often arise from a trustee breaching the prudent investor rule.⁶⁶

4. Waste

Another form of breach of fiduciary duty occurs when a trustee commits waste by engaging in actions that result in the unauthorized destruction or severance of improvements, trees, minerals, or other corporeal hereditaments associated with the trust property, leading to a reduction in the value of the interest of the beneficiaries.⁶⁷ Additionally, waste can occur if the trustee fails to properly account for or manage trust funds, leading to a loss or dissipation of trust assets.⁶⁸

60. See *InterFirst Bank Dallas, N.A. v. Risser*, 739 S.W.2d 882, 888 (Tex. App.—Texarkana 1987, no writ); see *Gillespie v. Hernden*, 516 S.W.3d 541, 555 (Tex. App.—San Antonio 2016, pet. denied) (concluding that the plaintiff's claim that the attorney engaged in self-dealing was unsupported by the record because the evidence conclusively proved that the benefit to the attorney was shared equally with clients).

61. *Head v. State*, 299 S.W.3d 414, 432 (Tex. App.—Houston [14th Dist.] 2009, pet. ref'd).

62. *Hoenig v. Tex. Com. Bank, N.A.*, 939 S.W.2d 656, 661 (Tex. App.—San Antonio 1997, writ denied).

63. *Id.* at 659.

64. *Id.* at 661.

65. *Id.*

66. *InterFirst Bank Dallas, N.A. v. Risser*, 739 S.W.2d 882, 888 (Tex. App.—Texarkana 1987, no writ).

67. *Oldham v. Keaton*, 597 S.W.2d 938, 942 (Tex. App.—Texarkana 1980, writ ref'd n.r.e.).

68. *Wheeling v. Wheeling*, 546 S.W.3d 216, 225–26 (Tex. App.—El Paso 2017, no pet.) (affirming waste judgments based on the failure of a party to account for community funds under their control, which is analogous to a trustee's failure to account for trust funds); see also *Corpus Christi Bank & Tr. v. Robers*, 587 S.W.2d 173, 181–83 (Tex. App.—Corpus Christi 1979, writ granted), aff'd, 597 S.W.2d 752 (Tex. 1980); see also *Moody v. Herz*, No. 01-22-00202-CV, 2024 WL 1260278, at *13–14 (Tex. App.—Houston [1st Dist.] Mar. 26, 2024, no pet) (describing how a trustee was accused of failing to make productive use of trust funds, thereby depriving the trust of potential income).

5. Damages

The trustee is accountable to the beneficiaries for the trust property and any profit made through the administration of the trust and is liable for any loss or depreciation in value of the trust property resulting from a breach of trust.⁶⁹

A trustee who commits a breach of trust is chargeable with any damages resulting from such breach of trust, including but not limited to: (1) any loss or depreciation in value of the trust estate as a result of the breach of trust; (2) any profit made by the trustee through the breach of trust; or (3) any profit that would have accrued to the trust estate if there had been no breach of trust.⁷⁰

However, a trustee is not liable to the beneficiary for a loss or depreciation in value of the trust property or for a failure to make a profit that does not result from a failure to perform the duties or from any other breach of trust.⁷¹

Punitive damages may also be chargeable against a trustee for an intentional breach of fiduciary duty.⁷² While it is a general rule that Texas courts allow the recovery of punitive damages when the defendant, in committing a tort, acted willfully, maliciously, or fraudulently, when punitive damages are awarded for breach of fiduciary duty, the actual motives of the defendant and whether the defendant acted with malice are immaterial.⁷³ But something more than a simple breach is required for the recovery of punitive damages; the acts constituting the breach must have been fraudulent, or at least intentional.⁷⁴ An intentional breach may be found when the fiduciary intends to gain an additional benefit for themselves.⁷⁵

6. Beneficiary's Refusal to Sign Release Agreement

In the midst of a trust dispute, a trustee may proffer a release agreement, but the beneficiary can decline.⁷⁶ A beneficiary's refusal to sign

69. TEX. PROP. CODE ANN. § 114.001.

70. *Id.*

71. *Id.*

72. *Lesikar v. Rappeport*, 33 S.W.3d 282, 311 (Tex. App.—Texarkana, 2000).

73. *Id.* (describing the strict duties of executors to act in good faith and the legal consequences of breaching such duties, including the imposition of constructive trusts and potential punitive damages).

74. *Id.*; *see also Int'l Bankers Life Ins. Co. v. Holloway*, 368 S.W.2d 567, 584 (Tex. 1963) (holding that punitive damages require fraudulent or willful conduct and are not recoverable for a mere breach of fiduciary duty); *see also InterFirst Bank Dallas, N.A. v. Risser*, 739 S.W.2d 882, 907 (Tex. App.—Texarkana 1987, no writ) (holding that exemplary damages require intentional or bad-faith fiduciary misconduct and are not recoverable for a mere breach).

75. *InterFirst Bank Dallas*, 739 S.W.2d at 886–88.

76. *Austin Tr. Co. v. Houren*, 664 S.W.3d 35, 52 (Tex. 2023)

a release agreement provides no respite from a trustee's fiduciary duties.⁷⁷ Therefore, the trustee must continue administering the trust or estate funds according to those duties.⁷⁸ If a trustee fails to do so, the beneficiary may have a claim for waste or other breach of fiduciary duty.⁷⁹

C. Removal or Resignation of Trustee

There are several circumstances under which a trustee may cease to hold their position, including, but not limited to, resignation, removal, court order, incapacity, death, expiration of term, and termination of the trust.⁸⁰ The scope of this Article will focus on resignation and removal.⁸¹

I. Removal

According to the Texas Property Code:

A trustee may be removed in accordance with the terms of the trust instrument, or, on the petition of an interested person and after hearing, a court may, in its discretion, remove a trustee and deny part or all of the trustee's compensation if: (1) the trustee materially violated or attempted to violate the terms of the trust and the violation or attempted violation results in a material financial loss to the trust; (2) the trustee becomes incapacitated or insolvent; (3) the trustee fails to make an accounting that is required by law or by the terms of the trust; or (4) the court finds other cause for removal.⁸²

Furthermore, "[a] beneficiary, co-trustee, or successor trustee may treat a violation resulting in removal as a breach of trust."⁸³ Upon removing a sole trustee, "a successor trustee shall be selected according to the method . . . prescribed in the trust instrument."⁸⁴ If no method is provided, a court may appoint a successor trustee.⁸⁵ Removal actions are generally brought in conjunction with claims of breach of fiduciary duty and requests for damages.⁸⁶

77. *See id.* at 45.

78. *See id.*

79. *See* TEX. PROP. CODE ANN. § 114.001.

80. *See id.* §§ 113.081–.083, 112.052.

81. *See* discussion *infra* Section II.C.

82. TEX. PROP. CODE ANN. § 113.082(a)(1–4).

83. *Id.* § 113.082(b).

84. *Id.* § 113.083(a).

85. *Id.*

86. *See id.* §§ 113.082, 114.008.

After being removed as a trustee in a non-judicial setting, it is crucial to understand the reasons behind the decision.⁸⁷ This understanding is necessary to determine whether the removal was justified and to prepare an appropriate response.⁸⁸ It is important for the trustee to carefully review the terms and conditions of the trust agreement to determine if the removal adhered to the procedures stipulated.⁸⁹

Moreover, “the [grantor] may reserve the power . . . to remove the trustee, or, if the [grantor] has retained the power to modify the trust, the [grantor] may use that power to remove the trustee.”⁹⁰ “If the trust instrument does not reserve a power [in the grantor] to remove the trustee, the [grantor] will have the power only if given by statute.”⁹¹

Furthermore, it is important to maintain a comprehensive record of actions and decisions while serving as a trustee.⁹² This documentation can serve as evidence of diligence and proper management of the trust to help defend against breach of fiduciary duty and removal claims.⁹³ Maintaining a comprehensive record not only satisfies this duty but is also useful when a beneficiary demands an accounting of all trust transactions.⁹⁴ If a trustee fails to provide an adequate accounting, courts may intervene and require the trustee to deliver a written statement of accounts.⁹⁵ The trustee’s duty of full disclosure of all material facts known to them exists independently of the rules of discovery applying, even if no litigation is then pending between the trustee and beneficiaries.⁹⁶ Because the trustee has the duty to keep full, accurate, and orderly records, maintaining more records than necessary is a good way for a trustee to fulfill their fiduciary duty and protect themselves against potential breach claims in the future.⁹⁷

The orderly removal of a trustee, executed with due diligence and respect for all parties involved, reinforces the trust’s adaptability and resilience in the face of changing circumstances.⁹⁸ By maintaining transparency, fostering collaboration, and adhering to legal requirements, trustees and beneficiaries can navigate the removal process constructively.⁹⁹ This approach not only protects the trust’s assets and preserves its purpose but may sometimes

87. GEORGE GLEASON BOGERT & AMY MORRIS HESS, *supra* note 21, § 543.

88. *See id.*

89. *See id.*

90. *Id.*

91. *Id.*

92. *See* TEX. PROP. CODE ANN. § 113.151.

93. *See id.*

94. *Id.*

95. *Id.*

96. Huie v. DeShazo, 922 S.W.2d 920, 923 (Tex. 1996).

97. *See* discussion *supra* Section II.A.

98. *See* Katherine C. Akinc, *Inside the Mind of a Trustee: The Importance of Understanding a Trustee’s Perspective*, 12 EST. PLAN. & CMTY. PROP. L. J 185, 228 (2020).

99. *See id.* at 87–88.

strengthen the relationships between all parties involved.¹⁰⁰ The ability to remove a trustee, when necessary, allows the trust to adapt to changing circumstances, benefiting the trust and its beneficiaries in the long term.¹⁰¹

2. Resignation

A trustee may resign in accordance with the terms of the trust instrument, or a trustee may petition a court for permission to resign as trustee.¹⁰² The court may accept a trustee's resignation and discharge the trustee from the trust on the terms and conditions necessary to protect the rights of other interested persons.¹⁰³ If the trust instrument does not specify a method for resignation, the trustee must petition the court for permission to resign.¹⁰⁴ The resignation may not be effective until a successor trustee is appointed either by the method prescribed in the trust instrument or by the court if no method is specified.¹⁰⁵

There are various reasons why a trustee would resign.¹⁰⁶ Trustees may resign due to personal circumstances that affect their ability to fulfill their duties effectively.¹⁰⁷ These can include health issues, family obligations, or relocation to a different geographical area that makes it impractical to continue their role.¹⁰⁸ It is important to understand the scope of the trustee-beneficiary relationship because it helps prepare for and anticipate a dispute around the corner.¹⁰⁹

A trustee may resign if they find that their role within the trust interferes with other professional responsibilities, or if they encounter conflicts of interest that impede their ability to act impartially and in the best interests of the beneficiaries.¹¹⁰

Disputes and disagreements with co-trustees or beneficiaries can lead to a trustee's resignation.¹¹¹ Persistent conflicts can create a hostile environment

100. *See id.* at 87.

101. *See id.*

102. TEX. PROP. CODE ANN. § 113.081(a).

103. *Id.* § 113.081(b).

104. *Gamboa v. Gamboa*, 383 S.W.3d 263, 273 (Tex. App.—San Antonio 2012, no pet.).

105. *See cases cited supra* note 25.

106. Author's original thought.

107. *Id.*

108. *Id.* For example, a trustee of a trust in which the beneficiaries are comprised of the trustees' nieces and nephews. In this example, the trustee wants to take a step back because he wants to retain his relationship with his nieces and nephews and doesn't want to also be a trustee who is relied upon for money. While the relationship is strong, the trustee believes it's time for each beneficiary to be trustee of their own separate trust.

109. *See Ditta v. Conte*, 298 S.W.3d 187, 191 (Tex. 2009).

110. *See Lesikar v. Rappeport*, 33 S.W.3d 282, 297 (Tex. App.—Texarkana 2000, pet. denied).

111. *See, e.g., Burnett's Tr. v. Farmers State Bank*, 175 S.W.2d 453, 455 (Tex. Civ. App.—Waco 1943, writ ref'd w.o.m.).

that hampers effective trust management, prompting a trustee to step down to avoid further discord.¹¹²

It is imperative for trustees to consider the potential impact of their resignation on the trust and its beneficiaries.¹¹³ Thoroughly evaluating the reasons for resignation, communicating them to the beneficiaries, and ensuring that there are no underlying issues that could affect the trust's stability are essential.¹¹⁴ Trustees should also be prepared to assist with the transition and offer support and guidance to the successor trustee to ensure continuity in the trust's management.¹¹⁵

Trustees should also consider the timing of their resignation.¹¹⁶ Strategic timing can mitigate disruptions and allow for a more orderly transition.¹¹⁷ For instance, resigning during a period of minimal trust activity or after achieving significant milestones can help maintain stability and prevent adverse effects on the trust's operations.¹¹⁸

A trustee's resignation, when managed with foresight, transparency, and adherence to legal requirements, can be a positive step in the trust's evolution.¹¹⁹ Trustees can uphold their fiduciary duties and contribute to the trust's long-term success and sustainability by ensuring a smooth transition and maintaining open communication with beneficiaries.¹²⁰ The ability to resign allows trustees to adapt to changing circumstances, benefiting the trust and its beneficiaries.¹²¹

III. RELEASE AGREEMENTS

"It has been the stated policy of Texas from at least 1987 'to encourage the peaceable resolution of disputes . . . and the early settlement of pending litigation through voluntary settlement procedures.'"¹²² "There is no statute or case law in Texas that explicitly prohibits any specific form of alternative dispute resolution."¹²³ In reality, it is the opposite.¹²⁴ "It is the policy of [Texas] to encourage the peaceable resolution of disputes, with special consideration given to disputes involving the parent-child relationship,

112. *See, e.g., id.*

113. *See McCormick v. Hines*, 498 S.W.2d 58, 63 (Tex. Civ. App.—Amarillo 1973, writ dismissed w.o.j.).

114. *See id.*

115. *See id.*

116. Author's original thought.

117. *Id.*

118. *Id.*

119. *Id.*

120. *Id.*

121. *Id.*

122. *In re Mabray*, 355 S.W.3d 16, 26–27 (Tex. App.—Houston [1st Dist.] 2010, no pet.) (citing TEX. CIV. PRAC. & REM. CODE ANN. § 154.002).

123. *Id.*

124. *See* TEX. CIV. PRAC. & REM. CODE ANN. § 154.002.

including mediation of issues involving conservatorship, possession, and support of children, and the early settlement of pending litigation through voluntary settlement procedures.”¹²⁵

A. Alternative Dispute Resolution

An effective way to resolve such disputes is through different forms of alternative dispute resolution (ADR).¹²⁶ ADR is any procedure agreed to by the parties to a dispute in which they use the services of a neutral party to assist them in reaching agreement and avoiding litigation.¹²⁷ Types of ADR include arbitration, mediation, negotiated rulemaking, neutral factfinding, and mini-trials.¹²⁸ With the exception of binding arbitration, the goal of ADR is to provide a forum for the parties to work toward a voluntary, consensual agreement, as opposed to having a judge or jury decide the case.¹²⁹ In addition to avoiding the expense, delay, and uncertainty associated with traditional litigation, ADR is also intended to improve communication between the parties.¹³⁰

No matter which of the aforementioned ADR methods is used, if a settlement is reached, the parties will sign a release agreement.¹³¹ In the realm of trust disputes, these agreements play a crucial role in ensuring that conflicts are settled and no further litigation arises.¹³² The Texas Property Code governs release agreements in trust disputes.¹³³

A beneficiary who has full legal capacity and is acting on full information may relieve a trustee from any duty, responsibility, restriction, or liability as to the beneficiary that would otherwise be imposed on the trustee by this subtitle, including liability for past violations. The release must be in writing and delivered to the trustee.¹³⁴

125. *Id.* § 154.002. (Section 154.002, along with the identical language of TEX. FAM. CODE ANN. § 15.001, is often referred to as the “collaborative law statute.”) *See In re Mabray*, 355 S.W.3d at 27.

126. *See generally* Scott D. Weber, *Mediation of Trust, Estate, and Fiduciary Disputes*, 63-1 Real Est. Prob. RTC L. REP. 59, (2025) (looking at how anticipated and actual legislation impacting estate taxes, grantor trusts, and other estate planning vehicles, along with the largest intergenerational transfer of wealth in the history of the world, has led to a flurry of estate planning that will likely be ripe for litigation, thus increasing the use of mediation and other forms of alternative dispute resolution, as well as ways to prepare for successfully utilizing those tools).

127. *Alternative Dispute Resolution*, U.S. DEP’T OF LAB., <https://www.dol.gov/general/topic/labor-relations/adr> [<https://perma.cc/JW7U-2D7G>] (last visited Jan. 20, 2026).

128. *Id.*

129. *Id.*

130. *Id.*

131. *Id.*

132. *Id.*

133. TEX. PROP. CODE ANN. § 114.005.

134. *Id.* § 114.005(a)–(b).

B. Drafting

Similar to other agreements, “Release Agreements should be tailored to the specific circumstances of the parties to the agreement.”¹³⁵

A release agreement typically addresses the following issues:

- a description of the claims or disputes to be released, including a description of any actions taken by the parties with respect to such claims (e.g., mediation, arbitration, or filing a lawsuit);
- language that grants the release and discharges the relevant claims or disputes;
- confirmation that the party giving the release is acting upon full and complete information;
- a description of the consideration given in exchange for the release;
- an agreement that neither party has admitted to any guilt or wrongdoing in connection with the granting or receipt of the release;
- an agreement by the parties to keep the release and underlying claims confidential; and
- an agreement by the parties to refrain from disparaging one another.¹³⁶

The Texas Supreme Court has provided guidance “on when a settlement agreement’s disclaimer of reliance on the parties’ representations forecloses one of the parties from claiming the agreement was fraudulently induced and thus unenforceable.”¹³⁷ Texas courts have identified six factors to consider when determining whether a release is valid:

- (1) the terms of the contract were negotiated rather than boilerplate, and the disputed issue was specifically discussed;
- (2) the complaining party was represented by legal counsel;
- (3) the negotiations occurred as part of an arms-length transaction;
- (4) the parties were knowledgeable in business matters;
- (5) the release language was clear; and
- (6) the parties were working to achieve a

135. *Commercial Drafting Guide—Release Agreements*, BLOOMBERG L., <https://www.bloomberglaw.com/external/document/X3197C8C000000/commercial-drafting-guide-release-agreements> [<https://perma.cc/3BU2-XB6K>] (last visited Jan. 25, 2026).

136. *Id.*

137. *Austin Tr. Co. v. Houren*, 664 S.W.3d 35, 48 (Tex. 2023); *see* *Forest Oil Corp. v. McAllen*, 268 S.W.3d 51, 60 (Tex. 2008) (identifying the first five factors as “guid[ing] our reasoning” in evaluating disclaimer-of-reliance clauses under a totality-of-the-circumstances approach, and the sixth as an “additional factor urging rejection of fraud-based claims”).

once and for all settlement of all claims so they could permanently part ways.¹³⁸

Texas applies these factors in an effort to “balance society’s interest in protecting parties against fraudulently induced promises with its interest in enabling parties to fully and finally resolve disputes between them.”¹³⁹ The Texas Supreme Court stopped short of applying these factors when assessing the validity of a release of a breach-of-fiduciary-duty claim because “Section 114.005 of the Texas Property Code expressly enables beneficiaries to consent to the releases at issue when they have full information”¹⁴⁰

C. Seminal Cases

I. Austin Trust Company as Trustee of Bob and Elizabeth Lanier Descendants Trusts v. Houren

The Texas Supreme Court opinion in *Austin Trust Company v. Houren* involved a dispute arising from the administration of the estate of Robert C. Lanier, who was the trustee and sole beneficiary of the Robert C. Lanier Marital Trust during his lifetime.¹⁴¹ The Marital Trust was established by the will of his first wife, Elizabeth, and was funded with approximately \$54 million in assets.¹⁴² Elizabeth’s will directed that upon Bob’s death, the remaining principal of the Marital Trust be distributed equally to their five children from the first marriage, subject to Bob’s special testamentary power of appointment.¹⁴³ Bob Lanier distributed approximately \$37.4 million from the Marital Trust to himself over his lifetime.¹⁴⁴ Upon his death in 2014, about \$5.5 million remained in the trust.¹⁴⁵ Bob’s will directed that the remaining assets of the Marital Trust “pass to the Bob and Elizabeth Lanier Descendants Trusts for the benefit of the First Marriage Children” while other assets were left to his second wife, Elyse.¹⁴⁶ A family settlement agreement was

138. *Houren*, 664 S.W. 3d at 48.

139. *Id.* (citing *Transcor Astra Grp. S.A. v. Petrobras Am. Inc.*, 650 S.W.3d 462, 473 (Tex. 2022) (quoting *Schlumberger Tech. Corp v. Swanson*, 959 S.W.2d 171, 179 (Tex. 1997)).

140. *Id.*

141. *Id.* at 39.

142. *Id.*

143. *Id.*

144. *Id.* at 40.

145. *Id.*

146. *Id.* (“Over Bob’s lifetime, he distributed approximately \$37.4 million in both income and principal from the Marital Trust to himself. When Bob died on December 20, 2014, approximately \$5.5 million in assets remained in the trust. Upon his death, the Marital Trust terminated, subject to the administration of Bob’s estate and transfer of the trust’s remaining assets. Bob’s will directed that the Marital Trust assets remaining at his death would pass to the Bob and Elizabeth Lanier Descendants Trusts for the benefit of the First Marriage Children. Bob left other assets to his wife Elyse, reflecting an overall estate plan of distributing the Marital Trust’s assets to the First Marriage Children and the other estate assets to Elyse. Bob’s will named his attorney, Jay Houren, independent executor of Bob’s estate.

negotiated between the parties.¹⁴⁷ The agreement included broad release provisions releasing the parties from any claims related to the trust's administration and distributions.¹⁴⁸

The primary legal issues in *Houren* centered around the enforceability of the release agreements within the family settlement agreement.¹⁴⁹ Austin Trust Company, as the successor trustee, challenged the validity of the releases, arguing that the beneficiaries lacked "full information" when they executed the agreement.¹⁵⁰ The trust company sought a declaration that a \$37 million debt allegedly owed by Bob to the Marital Trust existed, and claimed that Bob breached his fiduciary duty by making unauthorized distributions to himself.¹⁵¹

The Supreme Court of Texas held that the releases in the family settlement agreement were valid and enforceable.¹⁵² The court reasoned that the beneficiaries had "full information when they executed the agreement," as required by Texas Property Code Section 114.005(a).¹⁵³ The court noted

Cadence Bank served as successor trustee of the Marital Trust for winding-up purposes and also initially served as trustee of the various Descendants Trusts.").

147. *Id.*

148. *Id.* at 41–142. (As part of an effort to expedite distribution of the trust and estate assets, Houren proposed a family settlement agreement (Agreement) to all interested parties of Bob's estate, including the First Marriage Children, Elyse, Elyse's children, Houren, and Cadence Bank. Before signing the Agreement, the parties obtained independent counsel and received "Disclosures" that included, among other documents, general accounting ledgers for Bob and the Marital Trust for the years 2009 through 2014. The Marital Trust ledgers reflect payments to Bob totaling \$37,405,964.03 as of December 31, 2014, an amount equivalent to the total amount of trust distributions—both income and principal made to Bob during his life. The payments are classified as 'A/R - Robert C. Lanier' at the top of each page. Bob's ledgers reflect corresponding payments from the Marital Trust in the same amount, classified as 'A/DIST - LANIER MATITAL [sic] TR.' By June 2015, all interested parties had signed the Agreement. Article IV of the Agreement contains broad release provisions releasing the parties from any claims by any other parties related to 'Covered Activities,' which encompass 'the formation, operation, management, or administration of [various] Trusts' including the Marital Trust; 'the distribution (including, but not limited to, gifts or loans) (or failure to distribute) of any property or asset of or by [Bob] . . . or the Trusts'; and claims 'related to, based upon, or made evident in the Disclosures' or 'the facts set forth in Article I; of the Agreement.'").

149. *Id.* at 44–53.

150. *Id.* at 49.

151. *Id.* at 51. ("On December 1, 2016, Austin Trust Company, the successor trustee of the Descendants Trusts, sent a demand letter to Houren seeking repayment of the "\$37,405,964.03 debt . . . that [Bob] owed to the Marital Trust at his death," as purportedly evidenced by the accounting ledgers. After receiving the demand letter, Houren conferred with Bob's accountant, Cecil Holley, who explained that the "A/R," or accounts receivable, designation on the Marital Trust ledgers is erroneous and merely a product of the accounting software he had used. Holley informed Houren that Bob had never borrowed money from the Marital Trust and that the accounting entries tracked distributions, not a debt. Houren thus concluded that no debt was owed and rejected Austin Trust's claim. Houren subsequently filed a declaratory-judgment action against Austin Trust, as trustee of both the Marital Trust and the Descendants Trusts, and the First Marriage Children, seeking a declaration that the alleged \$37.4 million debt does not exist. Austin Trust counterclaimed for a declaratory judgment that the debt does exist. Austin Trust later amended its pleadings to add an alternative claim that Bob, as trustee of the Marital Trust, had breached his fiduciary duty to the trust's remainder beneficiaries—the Descendants Trusts.").

152. *Id.*

153. *Id.* at 49.

that the beneficiaries were represented by independent counsel, had access to relevant records, and acknowledged the facts set forth in the agreement.¹⁵⁴ The court further held that the executor did not owe a fiduciary duty to the beneficiaries of the Marital Trust because they were not beneficiaries of the estate's probate assets.¹⁵⁵ The court emphasized that the executor's duty runs to the estate and its beneficiaries, not to creditors or non-probate beneficiaries.¹⁵⁶

This case underscores the importance of ensuring that beneficiaries have full information when executing release agreements in trust disputes.¹⁵⁷ The court's decision highlights that such releases are enforceable when beneficiaries are adequately informed and represented by counsel.¹⁵⁸ The ruling also clarifies that executors owe no fiduciary duties to non-probate beneficiaries, which may influence how future trust disputes are resolved.¹⁵⁹

The decision in *Austin Trust Company v. Houren* serves as significant precedent on the enforceability of release agreements in trust disputes, emphasizing the necessity of transparency and informed consent among beneficiaries.¹⁶⁰ The case illustrates the balance between the freedom of

154. *Id.* (“We hold that the Beneficiary Parties were sufficiently informed to understand the character of the act they were releasing and were in a position to reach an informed opinion on the advisability of agreeing to the release. This conclusion is supported by both the parties’ acknowledgments in the Agreement itself as well as the circumstances surrounding its execution. All parties to the Agreement ‘agree[d], acknowledge[d], and affirm[ed] that . . . the facts set forth in Article I of [the] Agreement are true and correct and hereby incorporated into [the] Agreement as agreed to, acknowledged, and affirmed facts.’ Article I recites that Elizabeth’s will established the Marital Trust, of which Bob was the trustee, and directed the Trust ‘to pay [Bob] all of the net income of the Marital Trust and such amounts of principal as the trustee . . . in his sole judgment may determine are necessary for [Bob’s] health, support, or maintenance in his accustomed standard of living.’ The Agreement further describes Bob’s testamentary power of appointment over the Marital Trust and his election to treat the Marital Trust as a QTIP trust under 26 U.S.C. § 2056(b)(7). Additionally, several provisions of the Agreement reference ‘distributions’ from the Marital Trust to Bob.”).

155. *Id.* at 45–46.

156. *Id.* (“[T]he Beneficiary Parties agreed to release their claim that Houren, as executor of Bob’s estate, was obligated to repay the Marital Trust sums that Bob allegedly borrowed from the trust’s assets. Austin Trust argued that the release is not valid because Houren owed fiduciary duties to the Estate’s beneficiaries, including the Beneficiary Parties, and thus could be released from liability to those beneficiaries disclosed. Houren responds that when the Agreement was executed, he owed no such duty to the First Marriage Children because they were beneficiaries of the Marital Trust, not the Estate. The Court agreed with Houren. [The Courts’ precedent described an estate executor as] ‘. . . trustee of the property of the estate, . . . subject to the high fiduciary standards applicable to all trustees.’ The executor’s duty runs to the estate and its beneficiaries. The duty is reflected in the Estates Code, which ‘vests’ a decedent’s estate immediately in his devisees or heirs at law, subject to payment of the decedent’s debts, TEX. EST. CODE § 101.001, and requires the executor or administrator to ‘recover possession of the estate and hold the estate in trust to be disposed of in accordance with the law.’”)

157. *Id.* at 50–53.

158. *Id.*

159. *See generally id.* at 45–53 (holding that releases in a trust dispute were valid where beneficiaries had transparency and informed consent and clarifying the scope of an executor’s fiduciary duties).

160. *Id.*

contract and the fiduciary duties owed by trustees and executors, providing guidance for similar disputes in the future.¹⁶¹

2. Harrison v. Harrison Interests, Ltd.

The case of *Harrison v. Harrison Interests, Ltd.* illustrates how courts evaluate the validity and enforceability of release agreements.¹⁶² In *Harrison Interests, Ltd.*, the dispute arose from a “Master Agreement” executed to facilitate the premature distribution of assets to William B. Harrison, a beneficiary of the estate of Bruce F. Harrison.¹⁶³ The agreement included provisions releasing and indemnifying the estate’s trustees and executors, Daniel J. Harrison III and Edwin H. Knight, Jr., from fiduciary obligations.¹⁶⁴ William challenged the validity of these releases, arguing that they were unfair and that the fiduciaries breached their duties.¹⁶⁵

The court emphasized the importance of negotiation and legal representation in assessing the fairness of release agreements.¹⁶⁶ In this case, the Master Agreement was not a boilerplate document, but a sophisticated settlement negotiated by the parties, each represented by competent legal counsel.¹⁶⁷ William was represented by a legal team specializing in trusts and

161. *Id.*

162. *Harrison v. Harrison Ints., Ltd.*, No. 14-15-00348-CV, 2017 WL 830504 (Tex. App.—Houston [14th Dist.] Feb. 28, 2017, pet. denied).

163. *Id.* at *1–2.

164. *Id.*

165. *Id.* at *7–9. (“[The] argument is that Dan and Ed breached their fiduciary duties, which they owed as a matter of law to William, because the complained-of portions of the Master Agreement are unfair to him. Were the Court to agree that Dan and Ed owed William fiduciary duties as a matter of law and could not be released from those duties by the Master Agreement, the trial court’s rulings upholding the Master Agreement and ordering specific performance of the second set of releases would necessarily be undermined. Accordingly, [the Court] declined to affirm the trial court’s judgment on the basis of waiver.”)

The [William] Parties argue[d] certain portions of the Master Agreement were unfair. . . . They contended that because Dan and Ed owe William fiduciary duties as a matter of law the Dan/Ed Parties were required to rebut a presumption the transactions are unfair. ‘Texas courts have applied a presumption of unfairness to transactions between a fiduciary and a party to whom he owes a duty of disclosure, thus casting upon the profiting fiduciary the burden of showing the fairness of the transactions.’ Where a transaction between a fiduciary and a beneficiary is attacked, it is the fiduciary’s burden of proof to establish the fairness of the transaction. The William Parties argued that because the Master Agreement is a transaction between fiduciaries and a beneficiary the presumption applies to the case at bar.”)

166. *Id.* at *13.

167. *Id.* at *5, *12–13. (“In deciding whether the record supports the trial court’s implied finding the release is valid, the Court considered the following: (1) the terms of the contract were negotiated, rather than boilerplate, and the disputed issue was specifically discussed; (2) the complaining party was represented by counsel; (3) the parties dealt with each other in an arms-length transaction; (4) the parties were knowledgeable in business matters; and (5) the release language was clear. Moreover, the Court stated that the fact that the parties “are effecting a ‘once and for all’ settlement of claims” weighed in favor of upholding the release.”)

[The Court first noted that] William was of legal age and the William Parties ma[de] no claim that William lacked capacity to enter into the Master Agreement. William attended college for several years and studied business. William sought a split of interest in assets that were held in common with the Dan/Ed

estates, and he actively participated in the negotiations, suggesting many terms himself.¹⁶⁸ This level of involvement and representation was crucial in rebutting any presumption of unfairness or invalidity.¹⁶⁹

The court found that the Master Agreement clearly and unequivocally released Dan and Ed from any and all claims, excluding breaches or defaults under the agreement.¹⁷⁰ The clear language was a decisive factor in affirming its validity, leaving no room for ambiguity or misinterpretation.¹⁷¹

The court's decision also reflects broader public policy considerations, particularly the principle of freedom of contract.¹⁷² The court recognized that parties should have the latitude to define the terms of their business relationships, including limiting fiduciary duties through contractual agreements.¹⁷³ This principle supports the enforceability of release agreements negotiated at arm's length by sophisticated parties, because it aligns with the public policy of honoring contractual autonomy.¹⁷⁴

The case of *Harrison v. Harrison Interests, Ltd.* underscores the critical factors courts consider when evaluating release agreements in trust disputes.¹⁷⁵ The court's analysis highlights the importance of negotiation, representation, arm's-length transactions, clarity in release language, and public policy considerations in determining the validity of such agreements.¹⁷⁶ This case serves as a valuable precedent for understanding how release agreements can effectively resolve trust disputes while balancing the interests of beneficiaries and fiduciaries.¹⁷⁷

Parties, as well as early distribution of assets. William was represented by counsel that he described as "talented and intelligent" throughout the negotiations of the Master Agreement. The William Parties' legal team included lawyers that specialized in trusts and estates as well as oil and gas. The Atlantic Trust Company served as co-trustee with William and was represented by its own independent counsel. William was very involved in the negotiations and suggested many of the terms in the Master Agreement himself. William actively participated in the decisions on the Master Agreement. The releases were disputed and specifically discussed. The Master Agreement clearly and unequivocally releases Dan and Ed, in all capacities, from any and all claims, excluding breaches or defaults under the Master Agreement.")

168. *Id.* at *13

169. *Id.* at *13–14 ("Not only did William enter into the Master Agreement which provided for the releases, he then executed the first set of releases. No challenge to the releases was made until after the first distribution of assets occurred. Thus the record before this court rebuts the presumption of unfairness or invalidity attaching to the release. Accordingly, William's only remaining claim for breach of fiduciary duty [was] precluded")

170. *Id.*

171. *Id.*

172. *See generally id.* at *11 (concluding that sophisticated parties have the freedom to determine the latitude and terms of their contracts).

173. *Id.* at *4, *11 ("This is especially true where the contractual limitation arises from an arms-length business transaction between sophisticated parties. This principle adheres to our public policy of freedom of contract.")

174. *Id.* at *11.

175. *Id.* at *13.

176. *Id.*

177. *Id.*

D. Agreements

I. Release Agreements

There are a variety of types of release agreements.¹⁷⁸ The differences boil down to their timing and scope.¹⁷⁹ Lump-sum releases provide beneficiaries with the entire inheritance or asset distribution in a single payment, releasing future liability.¹⁸⁰ Periodic releases, often part of a structured settlement or periodic payment agreement, involve releasing liability for a specific period, typically with payments made at regular intervals.¹⁸¹ Once the trust is terminated and all assets are distributed, trustees will seek a release from the beneficiaries from any further responsibility and liability.¹⁸²

Release agreements in trust disputes generally relate to the trustee's fiduciary duty to provide full disclosure of all material facts to beneficiaries before any release of liability can be considered valid.¹⁸³ Trustees must ensure that beneficiaries are fully informed of all relevant information before they can legally relieve the trustee from any duty, responsibility, or liability.¹⁸⁴ A beneficiary acting on full information may relieve a trustee from liability for past violations.¹⁸⁵

Generally, settlement agreements are enforceable in the same manner as any other written contract.¹⁸⁶ However, when the agreement purports to release claims against one who owes the other party a fiduciary duty, the policies of freedom of contract and encouragement of final settlement agreements must be balanced against the duties of care and loyalty owed by the released fiduciary.¹⁸⁷ "Under longstanding common law, trustees and executors owe the beneficiaries of a respective trust or estate a fiduciary duty of full disclosure of all material facts known to them that might affect the beneficiaries' rights."¹⁸⁸ With respect to agreements releasing a fiduciary

178. Author's original thought.

179. *Id.*

180. *See generally* Manning v. Sammons, 418 S.W.2d 362 (Tex. App.—Fort Worth 1967, writ ref'd n.r.e.).

181. *See generally* TEX. CIV. PRAC. & REM. CODE ANN. § 141.002(13)–(15) (defining structured settlements as arrangements for periodic payments and identifying the party that has a continuing obligation to make them).

182. *See generally* TEX. PROP. CODE ANN. § 114.005 (allowing a beneficiary to release a trustee from liability by written agreement).

183. *Id.*

184. Austin Tr. Co. v. Houren, 664 S.W.3d 35, 45 (Tex. 2023)

185. *Id.*

186. *Id.* at 44.

187. *Id.* at 45; *see also* Schlumberger Tech. Corp. v. Swanson, 959 S.W.2d 171, 175 (Tex. 1997).

188. *Houren*, 664 S.W.3d at 45.

from liability, the duty includes ensuring that the beneficiary “was informed of all material facts relating to the release.”¹⁸⁹

2. *Who Is Bound?*

Section 114.032 of the Texas Trust Code sets out who can be bound by release agreements.¹⁹⁰ “A written agreement between a trustee and a beneficiary, including a release, consent, or other agreement relating to a trustee’s duty, power, responsibility, restriction, or liability, is final and binding on the beneficiary and any person represented by a beneficiary”¹⁹¹ Additionally, a release agreement binds any individual who takes control under the power of appointment or who takes in default if the power of appointment is not executed.¹⁹²

A release agreement is also binding on a beneficiary who is a minor if:

(1) the minor’s parent, including a parent who is also a trust beneficiary, signs the instrument on behalf of the minor; (2) no conflict of interest exists; and (3) no guardian, including a guardian ad litem, has been appointed to act on behalf of the minor. A written instrument is final and binding on an unborn or unascertained beneficiary if a beneficiary who has an interest substantially identical to the interest of the unborn or unascertained beneficiary signs the instrument [A]n unborn or unascertained beneficiary has a substantially identical interest only with a trust beneficiary from whom the unborn or unascertained beneficiary descends.¹⁹³

3. *Presumption of Unfairness*

Texas courts have applied a presumption of unfairness to transactions between a fiduciary and a beneficiary to whom the fiduciary owes a duty of disclosure, thus placing the burden on the fiduciary to show the transactions’ fairness.¹⁹⁴ The fiduciary must show proof of good faith and that the transaction was fair, honest, and equitable.¹⁹⁵

Furthermore, in the 1945 Supreme Court of Texas decision, *Slay v. Burnett Trust*, the court established the rule governing when a “beneficiary’s consent to an act of his trustee which would constitute a violation of the duty

189. *Id.* (quoting *Keck, Mahin & Cate v. Nat’l Union Fire Ins.*, 20 S.W.3d 692, 699 (Tex. 2000).

190. TEX. PROP. CODE ANN. § 114.032.

191. *Id.* at (a).

192. *Id.* at (b).

193. *Id.* at (c)–(d).

194. *Webre, v. Black*, 458 S.W.3d 113, 118–19 (Tex. App.—Houston [1st Dist.] 2015); *see also* *Texas Bank & Tr. Co. v. Moore*, 595 S.W.2d 502, 504 (Tex. 1980); *Less v. Hasson*, 286 S.W.3d 1 (Tex. App.—Houston [14th Dist.] 2007, pet. denied); *Collins v. Smith*, 53 S.W.3d 832, 835 (Tex. App.—Houston [1st Dist.] 2001, no pet.).

195. *Webre*, 458 S.W.3d at 119 (citing *Less*, 286 S.W.3d at 21; *Collins*, 286 S.W.3d at 840).

of loyalty precludes him from holding the trustee liable for the consequences of the act.”¹⁹⁶ Such consent does not foreclose liability “unless it is made to appear that when he gave his consent the beneficiary had full knowledge of all the material facts which the trustee knew.”¹⁹⁷ Section 114.004 of the Texas Property Code does not define full information, but the Texas Supreme Court presumes the legislature enacted the provision “with full knowledge of the existing condition of the law and with reference to it.”¹⁹⁸

The Texas Supreme Court found Section 97(b) of the Restatement (Third) of Trusts to be persuasive in the analysis of what constitutes full information:

It is not necessary that the trustee inform the beneficiary of all the details of which the trustee has knowledge; but, because of the strict fiduciary relationship between trustee and beneficiary, a trustee who would rely on a beneficiary's consent, ratification, or release normally has the burden of showing that the beneficiary (or his or her representative) was sufficiently informed to understand the character of the act or omission and was in a position to reach an informed opinion on the advisability of consenting, ratifying, or granting a release.¹⁹⁹

Whether the trustee has provided such full information necessarily depends on the facts and circumstances of each case.²⁰⁰ The purpose behind the full-information requirement is to ensure the beneficiary makes a meaningful and informed decision before signing away any rights the beneficiary may have.²⁰¹ Knowledge of the full scope, extent, and details of the acts the beneficiary is releasing is certainly preferable, but it is not required if the beneficiary is sufficiently informed to understand the nature and consequences of what the beneficiary is giving up.²⁰²

4. Family Settlement Agreements

The family settlement doctrine is generally used when there is a dispute over the distribution of an estate, and the beneficiaries enter into an

196. *Slay v. Burnett Trust*, 187 S.W.2d 377, 390 (Tex. 1945).

197. *Id.* (citing RESTATEMENT (FIRST) OF TR. § 216 (1935)); *see also* *Keck, Mahin & Cate v. Nat'l Union Fire Ins. Co.*, 20 S.W.3d 692, 699 (Tex. 2000) (noting a fiduciary's burden to establish that an agreement releasing the fiduciary from liability was “fair and reasonable” and that the other party “was informed of all material facts relating to the release”); RESTATEMENT (THIRD) OF TR. § 97 (2012).

198. *Austin Tr. Co. v. Houren*, 664 S.W.3d 35, 50 (Tex. 2023); *see* *JCB, Inc. v. Horsburgh & Scott Co.*, 597 S.W.3d 481, 486 (Tex. 2019); *see also* *Phillips v. Beaver*, 995 S.W.2d 655, 658 (Tex. 1999) (noting that “we presume that the Legislature acted with knowledge of the common law”).

199. *Houren*, 664 S.W.3d at 51.

200. *Id.*

201. *Id.*

202. *Id.*

agreement to resolve the controversy.²⁰³ Because Texas Estates Code Section 101.001 provides for the immediate vesting of title at death, a family settlement agreement (FSA) is an alternative to formal administration of a decedent's estate, and is a favorite of the law.²⁰⁴

“The family settlement doctrine involves three basic principles: the decedent's right to make a testamentary disposition, beneficiaries' right to convey their rights, and balancing those competing rights by requiring an agreement to an alternative distribution plan.”²⁰⁵ It does not matter whether the parties agree to probate one of many wills or not to probate a will at all—the critical element is that the parties have agreed to an alternate disposition of the estate.²⁰⁶ The parties can even agree not to probate a will and to allow the estate to pass through the intestacy statutes.²⁰⁷ Alternatively, the parties can agree to probate a will merely as a muniment of title when the FSA obviates any need for estate administration.²⁰⁸ The mere agreement not to probate a certain will, however, if not combined with an agreement about distributing the estate, cannot constitute an FSA.²⁰⁹ An FSA may be enforced as a contract, or, if its terms are incorporated into a judgment, as a judgment or other court order.²¹⁰ It might also be necessary to file a will contest action to enforce certain FSAs.²¹¹

While it is generally not necessary for beneficiaries of an estate to be made parties to a settlement agreement when the interests of those non-joining beneficiaries were not changed by the agreement, every person having a pecuniary interest in the estate should certainly be joined as a party to an FSA if possible.²¹² Some cases hold, however, that a beneficiary under a proffered

203. *In re Est. of Halbert*, 172 S.W.3d 194, 200 (Tex. App.—Texarkana 2005, pet. denied); see also *In re Est. of Hodges*, 725 S.W.2d 265, 267 (Tex. App.—Amarillo 1986, writ ref'd n.r.e.).

204. *Est. of Riefler*, 540 S.W.3d 626 (Tex. App.—Amarillo 2017, no pet.) (citing *Nat. Gas Pipeline Co. v. Law*, 65 S.W.3d 121, 126 (Tex. App.—Amarillo 2001, pet. denied); see also *In re Est. of Hodges*, 725 S.W.2d at 267. (“Because the property became theirs instantly, the family settlement doctrine permitted the devisees to agree to divide the property as they wish without having to wait until after distribution through formal administration.”); *Houren*, 664 S.W.3d at 44; *Salmon v. Salmon*, 395 S.W.2d 29, 32 (Tex. 1965).

205. *In re Est. of Halbert*, 172 S.W.3d at 199–200.

206. *Id.* at 200.

207. *Id.* (citing *Cook v. Hamer*, 309 S.W.2d 54, 56 (Tex. 1958)); *Hopkins v. Hopkins*, 708 S.W.2d 31, 32 (Tex. App.—Dallas 1986, writ ref'd n.r.e.).

208. *In re Est. of Hodges*, 725 S.W.2d at 270–71.

209. *Est. of Morris*, 577 S.W.2d 748, 755–56 (Tex. App.—Amarillo 1979, writ ref'd n.r.e.) (citing *Stringfellow v. Early*, 40 S.W. 871, 874 (1897, no writ); *Fore v. McFadden*, 276 S.W. 327, 329 (Tex. App.—Texarkana 1925, writ dism'd w.o.j.)).

210. See *Stevens v. Snyder*, 874 S.W.2d 241, 243 (Tex. App.—Dallas 1994, writ denied).

211. Melissa Willms, *Knowing The Ropes & Binding The IRS: Income & Transfer Tax Issues of Settlements & Modifications That Every Fiduciary Should Know*, EST. PLAN. & CMTY. PROP. L. J. (Mar. 2, 2018), <https://www.depts.ttu.edu/law/epjcle/willms-binding-irs.pdf> [<https://perma.cc/N3NY-WEKL>].

212. *Fore*, 276 S.W. at 329; see *Pickelner v. Adler*, 229 S.W.3d 516, 524 (Tex. App.—Houston [1st Dist.] 2007, pet. denied) (stating that family settlement agreement “generally requires all heirs' or beneficiaries' agreement on the distribution”).

will may not be a named party to an FSA and yet still be bound thereby if the beneficiary, by their reliance on the FSA, affirms and ratifies it.²¹³ Parties that should be joined to the FSA include:

- A decedent's heirs at law, to the extent a will contest has been or may be filed which would result in the decedent dying intestate;²¹⁴
- All persons who are or may be beneficiaries of the estate under a probated or alleged will;²¹⁵
- The named trustee of a testamentary trust that is a beneficiary under the will;²¹⁶ and
- The personal representative, if any, and the heirs must be made parties in a suit against the estate of a decedent involving title to real property.²¹⁷

Additionally, parties should consider the appointment of an attorney *ad litem* to represent the interests of a person whose whereabouts are unknown, a possibly incapacitated person, a minor, or any other person whose interests may not be represented.²¹⁸ If such heirs' interests are affected by the FSA, the better practice would be to combine a motion to approve the FSA and render judgment on it with a proceeding to declare heirship (PDH) under the Texas Estates Code Chapter 202.²¹⁹ The court must appoint an attorney *ad litem* for heirs whose names or locations are unknown and, after service by publication, the court's judgment shall state the names of the heirs and their shares in the decedent's property.²²⁰ The judgment is final and provides protection for future bona fide purchasers for value and for transferors of estate property to the declared heirs.²²¹

213. *Fore*, 276 S.W. at 329; see *Pickelner*, 229 S.W.3d at 524 (stating that family settlement agreement "generally requires all heirs' or beneficiaries' agreement on the distribution").

214. See *Leon v. Keith*, 733 S.W.2d 372, 373 (Tex. App.—Waco 1987, writ ref'd n.r.e.).

215. See *Manning v. Sammons*, 418 S.W.2d 362, 367 (Tex. App.—Fort Worth 1967, writ ref'd n.r.e.).

216. See *In re Est. of Webb*, 266 S.W.3d 544, 549 (Tex. App.—Fort Worth 2008, pet. denied) (stating that when a testator devised his residuary estate to party as trustee of a spendthrift trust, the party's interest as trustee vested at the moment of testator's death; thus, other beneficiaries were free to decide between the two of them on an alternate distribution of the specific bequests left to them, but if they wanted to divide assets to which another devisee had a claim, they have to include that devisee in the agreement); see also *In re Est. of Isaacs*, No. 12-10-00048-CV, 2012 WL 524315, at *6 (Tex. App.—Tyler Feb. 15, 2012, pet. denied) (mem. op.) (rejecting argument that an agreement not to probate a will is invalid if it defeats a testamentary trust).

217. TEX. CIV. PRAC. & REM. CODE ANN. § 17.002; *Martinez v. Benavides*, No. 04-15-00465-CV, 2016 WL 3085913, at *3 (Tex. App.—San Antonio June 1, 2016, no pet.) (mem. op.).

218. See TEX. EST. CODE ANN. § 202.001–206.

219. *Id.*

220. *Id.* §§ 202.009, 202.052, 202.201.

221. *Id.* §§ 202.202, 202.204, 202.205.

5. Disputes Between Trustee and Third Parties

During controversies between the trustee and third parties, the trustee has full authority to enter into settlements to resolve such claims.²²² Under Section 113.019 of the Texas Property Code, a trustee is granted the power to compromise, contest, or settle claims of or against the trust estate or the trustee.²²³ Thus, when a trustee settles claims against third parties, the settlement will bind the trust's beneficiaries.²²⁴ The Texas common-law doctrine of virtual representation provides that beneficiaries of a trust are virtually represented by their trustee in transactions, contracts, and litigation entered into by the trustee for the trust, and those beneficiaries have no standing or right to question or contest such actions taken by the trustee.²²⁵ More specifically, the doctrine of virtual representation extends particularly to contracts entered into by the trustee regarding trust property and claims, including settlement agreements and settlement authority.²²⁶

6. Judicial Agreements and Discharges

Judicial agreements are similar to the agreements discussed above but often involve a judicial process (sometimes called a friendly suit) in which both parties come to legally binding terms overseen and sanctioned by a court of law.²²⁷ While each judicial release agreement can vary based on the specific circumstances of the trust, they generally include requirements similar to those in non-judicial release agreements and FSAs and are governed by the Texas Property Code.²²⁸ Necessary parties in judicial proceedings in trust disputes are:

222. TEX. PROP. CODE ANN. § 113.019.

223. *Id.*

224. *Id.*; 2 AUSTIN W. SCOTT & WILLIAM F. FRATCHER, *The Law of Trusts* § 177.3 (5ed 2007 & Supp.).

225. TEX. PROP. CODE ANN. § 115.013 (in trust litigation, a court “order binding a trustee binds [the] beneficiaries of the trust”); *Mason v. Mason*, 366 S.W.2d 552, 556 (Tex. 1963) (stating that trust beneficiaries are bound by a judgment in a court action in which the trustee represented trust); *Hendley Feedlot, Inc. v. Weatherly Tr.*, 855 S.W.2d 826, 833 (Tex. App.—Amarillo 1993, writ denied) (regarding suits involving trust property in which trust delegates the power to litigate to the trustee, beneficiaries are not necessary parties but are bound by the judgment).

226. *Davis v. Ward*, 905 S.W.2d 446, 448, 450–51 (Tex. App.—Amarillo 1995, pet. denied) (holding that a trustee of trust “had authority to enter into settlement agreement” with third party and that such settlement was binding upon the trust beneficiary and his assignee); *Cogdell v. Ft. Wor. Nat'l Bank*, 544 S.W.2d 825, 828 (Tex. App.—Eastland 1976, writ ref'd n.r.e.), *cert. denied*, *Cogdell v. Cogdell*, 434 U.S. 923 (1977) (even an objecting beneficiary has no standing to represent the trust or trustee and carry on causes of action settled and released by the trustee); *Armstrong v. Steppes Apartments, Ltd.*, No. 2-97-250-CV, 1998 WL 34202656, at *10 (Tex. App.—Fort Worth Aug. 10, 1998, no pet.) (holding that beneficiaries of a trust are bound by the judgment in which the trustee represented the trust).

227. See TEX. R. CIV. P. 11; *McCray v. McCray*, 584 S.W.2d 279, 281 (Tex. 1979).

228. TEX. PROP. CODE ANN. §§ 114.032, 114.005.

1. A beneficiary of the trust on whose act or obligation the action is predicated;
2. A beneficiary of the trust designated by name, other than a beneficiary whose interest has been distributed, extinguished, terminated, or paid;
3. A person who is actually receiving distributions from the trust estate at the time the action is filed; and
4. The trustee, if a trustee is serving at the time the action is filed.²²⁹

In some instances, a formal judicial discharge is necessary in an adversarial situation.²³⁰ Circumstances can arise when a trustee wants to resign and distribute the trust assets to beneficiaries, but the beneficiaries are unhappy, have concerns or complaints, or simply do not want to cooperate.²³¹ Whatever the case may be, adversarial or not, the trustee can file an application for a judicial discharge and approval of their accounting.²³² The trustee is formally requesting the court's approval of their final account and seeking release from future liability.²³³ The accounting is typically a detailed account of how trust assets were managed and distributed.²³⁴ Upon review, if satisfied, the court will issue a judicial discharge, which releases the trustee from any further obligations related to the trust.²³⁵ This is extremely valuable to a trustee who cannot get a release from the beneficiaries because the judicial discharge in the form of a judgment approving the account and discharging the trustee will bar the beneficiaries from subsequent litigation under the doctrines of *res judicata* or collateral estoppel.²³⁶

While there is a sense of finality when resolving disputes via non-judicial releases and FSAs, judicial release agreements provide parties a greater sense of finality because a judge is signing off on it.²³⁷ Additionally, while there are consequences for breaching an agreement, it is less likely that a party will disobey a court order because they can be found in contempt of court.²³⁸ A person found in contempt of court for violating a court order may be punished by confinement in jail for up to six months, a fine of up to \$500

229. *Id.* § 115.011; *see also id.* § 115.001 (listing proceedings over which the district court has original and exclusive jurisdiction over).

230. *See id.* § 114.008(a)(6).

231. *See discussion supra* Section II.C.2.

232. TEX. PROP. CODE ANN. § 113.081.

233. *See Id.* § 114.008(a)(2).

234. *See discussion supra* Section II.C.1.

235. TEX. PROP. CODE ANN. § 113.152(b).

236. *Id.* § 113.152.

237. *McCray v. McCray*, 584 S.W.2d 279, 281 (Tex. 1979).

238. Violating a court order can result in contempt proceedings, in which the court has the inherent power to find parties in contempt and impose penalties. *Ex parte Chambers*, 898 S.W.2d 257, 268 (1995) (citing TEX. GOV'T CODE ANN. § 21.001). Contempt can be classified as either civil or criminal. Criminal contempt is punitive, aimed at punishing past disobedience that affronts the court's dignity and authority. *In re Fountain*, 433 S.W.3d 1, 12 (2012). Civil contempt is remedial and coercive, intended to compel compliance with the court's order. *In re Houston*, 92 SW.3d 870, 877 (2002).

for each violation, and a money judgment for the payment of attorney's fees and court costs.²³⁹ If a beneficiary were to disregard a release agreement against a trustee, they may face legal action from the trustee, including sanctions for pursuing released claims, but the main consequence is being barred from pursuing claims against the trustee and from enforcing the agreement.²⁴⁰

7. *Contingent Beneficiaries, Unborn Children, and Unascertained Beneficiaries*

While contingent beneficiaries are not technically necessary parties, they may be necessary when designated as a class (e.g., children, grandchildren, or descendants).²⁴¹ Another party having a "substantially identical interest in the proceeding" may virtually represent unborn and unascertained beneficiaries.²⁴² In certain situations, courts should give consideration to requesting the appointment of an attorney or guardian *ad litem* for the minor or unborn to clarify whether any claims belong (or do not belong) to them or whether they are being impacted by the settlement.²⁴³

Under Section 115.015 of the Texas Property Code, notice shall be given either to a person who will be bound by the judgment or to one who can bind that person under this section, and notice may be given to both.²⁴⁴ Notice may be given to unborn or unascertained persons who are not represented under subdivision (1) or (2) of subsection (C) by giving notice to all known persons whose interests in the proceedings are substantially identical to those of the unborn or unascertained persons.²⁴⁵

Plaintiffs in an action on a contract executed by the trustee or in an action against the trustee of the trust for a tort committed during the trustee's administration should be sure to provide the notice set forth in Section 115.015.²⁴⁶

239. *In re Fountain*, 433 S.W.3d at 7.

240. *Harrison v. Harrison Ints., Ltd.*, No. 14-15-00348-CV, 2017 WL 830504 (Tex. App.—Houston [14th Dist.] Feb. 28, 2017, pet. denied).

241. TEX. PROP. CODE ANN. § 115.011.

242. *Id.* § 115.011(c)(4).

243. *Id.* §§ 115.011, 114.006.

244. *Id.* § 115.013.

245. *Id.*

246. *Id.* § 115.015.

IV. CONCLUSION

Release agreements play a critical role in resolving trust disputes between trustees and beneficiaries.²⁴⁷ These agreements offer a structured, consensual approach to resolving conflicts, thereby preserving the integrity and purpose of the trust.²⁴⁸ By meticulously crafting these accords, trustees and beneficiaries can ensure that their respective rights and interests are adequately protected while also upholding the fiduciary duties that form the cornerstone of trust management.²⁴⁹ On the other hand, release agreements can provide an opportunity to end tumultuous relationships and resolve damaging legal disputes.²⁵⁰ Releases allow trustees to move forward without the shadow of ongoing accusations, legal challenges, and difficult clients.²⁵¹

In an ideal world, the strategic use of release agreements, complemented by alternative dispute resolution methods like mediation, fosters a cooperative environment that mitigates the adversarial nature of legal battles.²⁵² This approach not only safeguards the trust's assets but also supports the harmonious fulfillment of its objectives.²⁵³ Trustees and beneficiaries, by embracing open communication and mutual understanding, can transform potential conflicts into opportunities to strengthen the trust's framework and achieve long-term stability.²⁵⁴ However, disputes can turn adversarial, involve complex negotiations, and may require concessions from both parties.²⁵⁵ In the end, the judicial system may be the only venue to resolve the issues.²⁵⁶ Trustees must protect themselves by adhering to their fiduciary duties under the trust, applicable statutes, and common law.²⁵⁷ By doing so, trustees can minimize their liability.²⁵⁸

It is also important to consider the broader implications of trust management and dispute resolution.²⁵⁹ Trustees must remain vigilant in their fiduciary duties, ensuring transparency and communication with beneficiaries.²⁶⁰ Regular updates and clear explanations regarding the trust's management can prevent misunderstandings and build trust.²⁶¹ Beneficiaries, in turn, should engage in open dialogue with trustees expressing their

247. See discussion *supra* Part I.

248. See discussion *supra* Part I.

249. See discussion *supra* Section III.B.

250. See discussion *supra* Section III.B.

251. See discussion *supra* Section III.B.

252. See discussion *supra* Section III.A.

253. See discussion *supra* Section III.A.

254. See discussion *supra* Section II.C.2.

255. See discussion *supra* Section II.B.

256. See discussion *supra* Section III.D.6.

257. See discussion *supra* Section II.B.1.

258. See discussion *supra* Section II.B.1.

259. See discussion *supra* Section II.B.1.

260. See discussion *supra* Section II.B.1.

261. See discussion *supra* Section II.C.2.

concerns and expectations.²⁶² Beneficiaries, however, are not always proactive with trust operations.²⁶³ Therefore, it is important for the trustee to remain proactive, communicate regularly with the beneficiaries, and, if needed, educate them on the trust and their interests in it.²⁶⁴

The effective resolution of trust disputes through release agreements and alternative dispute resolution is crucial for the sustainable management of trusts.²⁶⁵ However, if the judicial system is the only path to resolution, trustees need to be proactive by keeping detailed records of their actions to limit potential liability and ensure that a release agreement is ordered.²⁶⁶ Therefore, it is imperative that parties involved in the dispute carefully consider and craft release agreements to ensure comprehensive protection of everyone's rights and interests, thereby paving the way for a just resolution, ensuring peace of mind for the beneficiaries, and an exit plan for the trustee.²⁶⁷

262. See discussion *supra* Section II.A.

263. See discussion *supra* Section II.A.

264. See discussion *supra* Section II.A.

265. See discussion *supra* Section III.A.

266. See discussion *supra* Section III.D.6.

267. See discussion *supra* Section III.B.