

# Brody Wilkinson Trusts & Estates Services

## **BRODY WILKINSON'S TRUSTS & ESTATES GROUP**

is one of the most sophisticated and extensive practices of its kind in Fairfield County. The Group provides diverse and highly personalized services to individual clients and family offices throughout Connecticut in the areas of estate and tax planning, estate and trust administration, wealth preservation and transmission, charitable giving, business succession planning, conservatorships and guardianships, family foundations and elder law. In addition, when complex probate disputes arise related to will and trust contests, fiduciary management controversies, accounting matters, guardianship and conservatorship issues and fee debates, we are well equipped to resolve these disputes through negotiation and, when necessary, litigation. The value we add to this process is substantial given the fact that we not only understand the substantive nature of these issues but also possess the strategic and tactical skills necessary to bring such cases to trial. We represent a substantial base of senior executives, entrepreneurs, wealthy individuals and "the family next door." In addition, the Group counsels many charitable organizations on tax planning.

Brody Wilkinson's depth in the trusts and estates area extends beyond the capabilities and experience of the eleven attorneys who practice within the Group. Our work is facilitated by a team of four paralegals and a fiduciary accountant as well as through the use of a unique and proprietary document management system. In addition, with support from the firm's Business and Real Estate & Land Use Groups, we are qualified to address the complex business and real estate issues which often arise with respect to planning. This cross-disciplinary approach enables the firm to coordinate and manage the needs and goals of these clients, both personal and business, in a seamless manner. We also counsel these clients with respect to business succession planning.

Brody Wilkinson maintains a strategic affiliation with the law firm of Jeck, Harris, Raynor & Jones, PA in Juno Beach, Florida, to serve the estate and tax planning needs of clients who divide their time living between Connecticut and Florida. While this relationship facilitates the cooperation between our two firms, both remain independent. The collaboration enables us to assist our clients and preserve valued long-term relationships.



**BRODY WILKINSON PC** represents individuals, businesses, and non-profit organizations in Fairfield County and throughout Connecticut. The firm serves a diverse base of clients including closely held and family businesses, financial institutions, real estate developers, public companies with specialized needs, health care providers, entrepreneurs and charitable organizations. Our experienced and talented business attorneys represent clients in areas such as entity formation, purchases and sales, lending, workouts and reorganizations, taxation, business disputes and litigation, commercial real estate investment and development, environmental, land use and zoning, employment and employee benefits.

In addition, Brody Wilkinson provides sophisticated and highly personalized service to individuals in the areas of estate and tax planning, estate and trust administration, charitable giving, business succession planning, family foundations, and residential real estate. The firm has 20 attorneys who work closely with clients to identify and evaluate their legal needs and create tailored solutions to address their specific circumstances.

Brody Wilkinson enjoys an "AV" rating by Martindale-Hubbell, the highest rating awarded by this respected legal directory. The firm is a member of the International Society of Primerus Law Firms, an alliance of small- to mid-sized firms committed to excellence in the practice of law. Through Primerus, we often serve as local counsel to out-of-state law firms and companies with business interests in Connecticut.

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Fiduciary  
Services

## Choosing a family fiduciary:

Choosing a fiduciary, most often a trustee or executor, for your family's long term financial plans is an important decision that should be given careful consideration. Individuals or institutions who act in this capacity have wide-ranging powers and responsibilities that may have an impact on your family's financial future and well being. These responsibilities may include investment decisions, distribution decisions, dealing with the local courts, handling tax requirements, taking control of assets, paying debts and expenses and communicating with family members.

## What is a fiduciary?

A fiduciary is an individual or an institution (such as a trust company) that acts on behalf of an individual or individuals concerning financial decisions subject to rules established by a document (such as a Will) or by state statutes. The following is a list of some of the more common fiduciary roles:

- **EXECUTOR** – Acts on behalf of a decedent subject to terms of a Will. An executor is responsible for settling a decedent's Estate which includes paying debts and taxes, valuing and collecting all assets and distributing those assets according to the terms of the Will. This is typically a role of shorter duration than a trustee, lasting 1-3 years.
- **TRUSTEE** – Acts on behalf of an individual or group of individuals by direction of a trust document. This may be a trust that has been established during one's life, or after one's death under the terms of a Will. This role may continue for multiple generations, if so planned.
- **GUARDIAN** – Acts on behalf of a minor and subject to local probate court jurisdiction. Typically, a guardian makes decisions concerning payments made for the benefit of a minor until he or she reaches the age of 18, at which time any assets on hand are distributed.
- **CONSERVATOR** – Acts on behalf of an individual who has requested assistance in handling or who has been adjudicated incapable of handling his or her own financial or personal affairs. This role is also subject to local probate court jurisdiction.

## Who can serve as a fiduciary?

- **FAMILY MEMBER/FRIEND** – A family member or close family friend is often selected to act in a fiduciary capacity. They are obviously familiar with the family dynamics and often elect to forgo fees, though they are not required to do so.
- **INSTITUTION** – Traditionally, institutional trustees have been bank trust departments. However, in the past several years, brokerage firms and investment companies have established trust companies to service their clients.
- **PROFESSIONALS** – Many professional firms, such as law firms and accounting firms, have partners who serve in these important roles for clients and their families.

## Considerations:

There are many factors to consider when designating a fiduciary. Many families choose to name more than one fiduciary such as a family member and a professional to spread the responsibilities and reap the benefits each is able to provide. Reliability and trustworthiness are the critical measures by which to evaluate fiduciary candidates in addition to experience and fees. The size and complexity of both the assets being managed and family dynamics should also be considered.

**Family members/friends** – The clear advantage of having a family member or friend as a fiduciary is his or her knowledge and familiarity with the family. There is also the possibility that a family member will charge only a modest fee or no fee at all for this service. (Fiduciaries are allowed by statute to charge reasonable trustee fees if they wish.) When choosing a family member or friend for this role, it is important to consider their financial experience since he or she will be involved in many decisions that may affect family financial matters. Succession planning is also important when considering family or friends as fiduciaries as estate plans may cover multiple generations.

**Institutions** – Corporate fiduciaries offer many advantages. Generally, they are able to provide most of the services required by a fiduciary in-house, including investment expertise, tax planning and administration. However, corporate fiduciaries will charge fees for these services. In many cases, the fee will

be less than the cost of obtaining separate services from different providers. Many institutions now consolidate their fiduciary services in a central location and therefore your contacts within the company may not be based in your state of residence. One should also understand the level of experience of the company as many have only recently added fiduciary services to their business portfolios.

**Professionals** – Professionals acting as fiduciaries offer many advantages, too. Lawyers and accountants have experience and in-house expertise in fiduciary management and planning. Most firms with significant trusts and estates practices regularly handle accounting and tax matters related to fiduciary appointments. They are experienced in explaining trust terms to beneficiaries, dealing with complex family problems and handling conflict. One should understand the fees for this service at the outset. And, it is important to note that a professional may retain an investment firm to manage a client's assets.

## Brody Wilkinson Fiduciary Services

**OUR TRUSTS & ESTATES GROUP** attorneys have years of experience acting as executors and trustees. Many of our clients are second- or third-generation beneficiaries who rely on us for counsel and advice, and who have entrusted us to continue offering advice to their children. We provide the proper care and attention our clients deserve.

Our service as executor or trustee goes beyond adherence to the terms of the governing documents. We often have personal connections to the grantor and the beneficiaries, enabling us to take into account letters of instruction from the grantor, address special needs or circumstances of the beneficiaries, and add legal and tax expertise to the relationship.

Our attorneys do not provide investment advice to the trustees. We work collaboratively with a client's investment advisor or a selected investment platform on asset custody and investments.

To learn more about our fiduciary capabilities, please contact your Brody Wilkinson advisor.