



Glen S. Bagby

Partner
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Glen has enjoyed a traditional wills, trusts and estates practice throughout his career. His practice includes all types of wills, trusts, probate, trust administration, powers of attorney, health care proxies and living wills, as well as more sophisticated revocable "living" trusts, credit-shelter and disclaimer trusts, qualified terminable interest trusts (QTIPs), irrevocable trusts of various types, dynasty trusts, personal residence trusts (QPRTs), grantor retained interest trusts (GRITs), grantor retained annuity trusts (GRATs), grantor retained unitrusts (GRUTs), charitable trusts of various types, asset protection, prenuptial agreements, post-nuptial agreements, buy-sell agreements, sophisticated gifting planning, and family limited partnerships. Since 1995, he has been selected annually for inclusion in the *Best Lawyers* for Trusts and Estates.

In addition, he has litigated cases involving trusts, wills, will contests, will construction, declaratory judgments, prenuptial agreements, post-nuptial agreements and related issues in Lexington and Louisville, and as far east as Ashland, Catlettsburg and Pikeville, and as far west as Hopkinsville and Trigg County, Kentucky. Since 2011, Glen has been included annually in *Best Lawyers* in both the Trusts and Estate area of practice of law, which includes estate planning, and also the Litigation - Trusts and Estates area of practice of law.

For years, he has also focused his practice upon how estate planning techniques may impact upon couples who later divorce. He has accepted select divorce cases primarily involving estate planning steps taken during the marriage and the impact of trusts created and funded during the marriage, in a subsequent divorce. He has been selected by *Best Lawyers* for its publication under the topic Family Law for over two decades.

Services

- Litigation
- Private Client & Family Wealth Planning
- Family Law

Education

- University of Kentucky College of Law (J.D., 1969)
- Transylvania University (B.A., 1966)

Bar Admissions

- Kentucky

Court Admissions

- U.S. Supreme Court
- U.S. Court of Federal Claims
- U.S. Tax Court
- U.S. Court of Appeals for the Sixth Circuit
- U.S. District Court for the Eastern District of Kentucky
- U.S. District Court for the Western District of Kentucky

Affiliations/Memberships

- Kentucky Bar Association
- Kentucky Bar Foundation, fellow
- American College of Trust and Estate Counsel
 - Fellow
 - Regent (2010 - 2016)
 - Nominating Committee (2016 - 2017)
- Magee Christian Education Foundation
 - Board of Directors (1989 - present)
 - President (2002 - 2016)
- Transylvania University, Board of Trustees
- University of Kentucky College of Law
 - Moderator and co-chair of the annual Midwest / Midsouth Estate Planning Institute (1987 - present)
 - Adjunct professor teaching Advanced Estate Planning (2008 - present)
- Kentucky Conference of the United Methodist Church, past chancellor
- Kentucky Bar Association
 - House of Delegates, past member
 - Probate and Trust Law Committee, past chair
- Lexington Fayette Urban County Government, B.O.C.A. Board of Appeals, past chair
- St. Ives Journal Club (26 attorney membership), past chancellor

Distinctions

- Peer Review Rated AV in *Martindale - Hubbell*
- *Best Lawyers*® (1995 - present)
- *Best Lawyers*®
 - "Lawyer of the Year" in Lexington for Trusts and Estates (2014)
 - "Lawyer of the Year" in Lexington for Litigation - Trusts and Estates (2015)
 - Family Law, Litigation - Trusts and Estates, Trusts and Estates
- Transylvania University
 - Distinguished Service Award (2011)
 - Certificate of Appreciation (2006)
 - Morrison Medallion (2017)
- Appointment special justice to write opinion of Supreme Court of Kentucky, in *Haney vs. Transportation Cabinet*, 958 S.W.2d 310 (1997)

Experience

Probate, Estate, and Trust Administration

Represented many executors, administrators and other personal representatives in probate courts and estates in Lexington and central Kentucky, and as far east as Boyd County (Ashland), and as far west as Christian County (Hopkinsville); as far north as Boone County, and as far south as Harlan County (Harlan), Kentucky.

Probate, Estate, and Trust Administration

Represented many heirs in probate courts, estates and trusts in many matters, who were not the executor or administrator for the estate or the trustee for the trust.

Probate, Estate, and Trust Administration

Represented many corporate and individual trustees of revocable and irrevocable trusts, relating to trust creation, funding, administration, interpretation and distributions.

Litigation – For the Defense

Fiduciary Litigation

Defended corporate and individual executors, administrators and trustees against claims of misfeasance, malfeasance, breach of fiduciary duty and surcharge by beneficiaries.

Litigation – For the Defense

Fiduciary Litigation - Statute of Limitations for Claims

Successfully imposed Kentucky's six month claims statute of limitations as a defense to claim by co-

owners of real estate investment with deceased, for contribution to mortgage, where claim was not filed during six month claims period.

Litigation – For the Defense

Fiduciary Litigation - Renunciation of Will

Successful defense of attempt by widow to only partially renounce the Will of her husband.

Litigation – For the Defense

Fiduciary Litigation - Attempt to Partition of Horse Farm

Successfully defended two of five children of deceased, against attempt by other two children to force the sale of a horse farm as a whole, rather than partitioning it among the children.

Litigation – For the Defense

Fiduciary Litigation - Easement Across Shopping Center

Successfully defended trust which owned shopping center against claim by an adjacent gas station owner of a right to an easement or other license to use shopping center roads for ingress and egress.

Litigation – For the Defense

Prenuptial Agreement Litigation - Increase in Husband's Net Worth

Successfully defended attempt by wife to set aside prenuptial agreement, where husband's net worth quadrupled during marriage.

Litigation – For the Defense

Commercial Litigation - Guaranty to Small Business Administration

Successfully defended guarantor of SBA loan, where SBA had extended the loan, after the execution of the Guaranty, to a subsequent buyer of the business.

Litigation - for Heirs and for Claimants

Fiduciary Litigation - Guardianship Funds Recovery

Successfully represented ward against uncle who was appointed as her Guardian years earlier upon death of both parents. Secured judgment and collected against Guardian, individually.

Litigation - for Heirs and for Claimants

Fiduciary Litigation - Non-Qualified Deferred Compensation Plan Recovery

Represented ten former employees of company for recovery of full benefits under non-qualified deferred compensation plan. Case settled, shortly before scheduled deposition of principal of company.

Litigation - for Heirs and for Claimants

Fiduciary Litigation - Owner of Half of Closely Held Corporation

Represented owner of one-half of outstanding shares of closely held corporation, to pursue and

enforce her stockholder's rights in ongoing business operation. Case settled, whereby client sold her one-half interest for value.

Litigation - for Heirs and for Claimants

Fiduciary Litigation - Life Insurance Agent Without Agent of Record Letter

Represented insurance agent who obtained the multiple requirements of insurance company to issue a large rated life policy. Company issued the policy but awarded a different agent the commissions, due to an Agent of Record letter. Prevailed in trial court. Then successfully obtained dismissal of the appeal by the insurance company and collected judgment in full.

Litigation - for Heirs and for Claimants

Fiduciary Litigation - Cy Pres Litigation

Successfully represented village located in Greece, which was the beneficiary of a testamentary trust in Kentucky, established for the express purpose of building and equipping a hospital in village once the value of the accumulating trust assets could pay such cost in full. Final judgment allowed the trust assets to be fully used to build smaller medical facility in village.

Litigation - for Heirs and for Claimants

Fiduciary Litigation - Abuse of Power of Attorney Instrument

Successfully represented widow, where deceased husband's bank account had been re-titled, purportedly pursuant to a power of attorney, by child of prior marriage, who was attorney-in-fact, into a new joint account with another child of the prior marriage.

Litigation - for Heirs and for Claimants

Fiduciary Litigation - Unreleased Prior Mortgage at Refinancing

Successfully represented husband and wife who refinanced home, where the loan company failed to pay off the old mortgage loan with the proceeds of the new mortgage loan. Obtained summary judgment that loan company was the agent of old mortgage holder, for purpose of receiving the first mortgage pay off. Therefore, collection of the loan proceeds at closing by the closing agent was held to be payment to the holder of the old mortgage. Old mortgage holder ordered to release old mortgage lien and to pay attorney fees for failure to timely release old mortgage lien.

Litigation - for Heirs and for Claimants

Fiduciary Litigation - Will Contest

Brought Will Contest for child, challenging Will of deceased parent. Case settled shortly before trial.

Litigation - for Heirs and for Claimants

Fiduciary Litigation - Misrepresentation by Partner In Charge

Represented one of three partners against the third partner who handled the books for a partnership which was in the construction business. Successfully secured judgment at trial for additional undisclosed profits. Also successfully secured a ten percent penalty for second appeal, where the third

partner, after judgment was entered against him, filed a supersedeas bond, when Supreme Court of Kentucky denied discretionary review.

Litigation - for Heirs and for Claimants

Fiduciary Litigation - Misrepresentation by Partner In Charge

Represented the second partner, in the above partnership, who brought claims against the partner in charge after the success of the first partner. Overcame formal Release, signed by client years earlier upon a purported full distribution of profits, before counsel was retained.

Litigation - for Heirs and for Claimants

Fiduciary Litigation - Joinder of Surviving Spouse

Represented widow of decedent who was refused admission as a party by the trial court to litigation regarding a deferred compensation benefit with the employer of the decedent. Obtained appellate reversal, directing widow be added as a party to the litigation.

Declaratory Judgment Proceedings; Actions for Instructions from Court or to Settle Estate; and Related Other Proceedings

Fiduciary Litigation

Represented many executors, administrators, trusts and heirs in such proceedings in the courts of Kentucky.

Declaratory Judgment Proceedings; Actions for Instructions from Court or to Settle Estate; and Related Other Proceedings

Fiduciary Litigation - Noncompete Clause Challenge

Represented physicians employed by medical group, to set aside written noncompete provisions in employment agreements. Settled shortly before hearing set upon motion for summary judgment filed by physicians.

Declaratory Judgment Proceedings; Actions for Instructions from Court or to Settle Estate; and Related Other Proceedings

Fiduciary Litigation - Enforcement of Trust Clause

Successfully represented religious denomination in lawsuit filed by eight remaining members of local church who sought to control over half a million dollars of church assets. Successful recovery of summary judgment and full collection of assets to religious denomination.

Declaratory Judgment Proceedings; Actions for Instructions from Court or to Settle Estate; and Related Other Proceedings

Commercial Litigation - Installment Loan

Successfully recovered balance of installment loan, with interest and most attorney fees, where food service vendor with exclusive contract sold the contract which had been pledged to secure the installment loan, to third party, thus triggering acceleration clause in installment loan note.

Declaratory Judgment Proceedings; Actions for Instructions from Court or to Settle Estate; and Related Other Proceedings

Consumer Fraud - Invention Marketing Company

Represented customer of invention marketing company in consumer fraud claim against company principals. Case settled for multiple of amount paid to company by client, shortly before final pretrial conference.