The Trust Trap: The Risks of Naming One Child Trustee



October 22, 2026
By Candace Dellacona

It appears to be the responsible choice. Encouraged by their adult children to plan ahead, parents agree to establish a revocable trust and name one child to serve as trustee after they are gone, perhaps: the child who lives closest, the one who works in finance, or, in many families, simply the eldest. Estate planning lawyers have heard the reasoning many times from across a conference table: "With one person in charge, there won't be probate or conflict." Unfortunately, the reality is much more complicated and new research suggests that naming only one child as trustee is one of the most reliable ways to land a family in court.

For those of us in the sandwich generation, this is not an abstract concern. You may already be the child who manages your parents' bills and accompanies them to medical appointments, which may make you the one they are considering putting in charge. Alternatively, you may be the sibling on the sidelines, watching a brother or sister handle everything while declining every offer of help. In either case, it is worth understanding what the data shows before your family learns it the hard way, in the midst of grief.

Three law professors, David Horton of UC Davis, Reid Kress Weisbord of Rutgers, and Christopher (CJ) Ryan of Indiana University's Maurer School of Law, have produced what they describe as the first empirical study of trust litigation. Their article, "Trust Litigation," was recently published in the Washington University Law Review.[1]

Until then, there has been little data on trusts and even less on trust disputes. Last wills and testaments (“wills”) pass through probate court, which makes will contests part of the public record and relatively easy to study. Trusts are different; they're designed to bypass probate, so the documents remain private. When a trust does end up in litigation, more than one court may have jurisdiction, which means most of the conflict happens out of public view.

To address that, the authors combed through thousands of civil filings in San Francisco Superior Court and identified every contested trust proceeding filed between 2014 and 2020: 640 cases in all, and what the authors found was striking. The conflicts were *rarely* about the trusts themselves. Instead, each of the conflicts had one thing in common: the person in charge, the trustee. When most envision a fight over an inheritance, we picture a disputed will, a deathbed change in a hospital room, a much younger new partner named as the main beneficiary, or a question of whether an elderly parent was of sound mind at the time of signing.

That's not what the researchers found. Roughly three-quarters of the lawsuits grew out of *how* the trust was administered after the parent died.

The irony is that this is the very feature that makes living trusts attractive. A successor trustee can manage the family's assets for years after death, without probate. But years of only one person having the power to make unilateral decisions about

shared money and legacy can also create years of opportunity for resentment, suspicion, and conflict.

The finding that has drawn the most attention is that nearly a quarter of the disputes involved one child or grandchild suing another who served as both a beneficiary and the trustee. Most of those petitioners were siblings, whether by blood or by marriage.

Consider what that arrangement creates: two siblings are meant to be equals under the trust, yet one of them, trustee, controls the finances. That trustee may determine when distributions are made, whether and when the family home is sold, and who may rent it. In one case reported by CNBC,[2] siblings went to court over whether the trustee brother had the authority to take on a tenant. Ryan observed that granting one child this degree of discretion can exacerbate a long-standing perception that a parent favored one child over another. Neither the trust instrument nor the appointment of one trustee creates the rivalry. Instead, it provided the rivalry a legal framework and built-in an imbalance of power.

Anyone in the sandwich generation who has shared caregiving responsibilities with a sibling will recognize this dynamic. The sibling who provided the most hands-on care may feel entitled to make decisions, while the sibling who lived farther away may feel excluded. These tensions do not end at death. More often, this is where the tension grows, without the guardrail or the conscience of the parent standing watch and putting a stop to it.

None of this suggests that one child should never be named sole trustee. It does suggest that the decision deserves more careful consideration than it typically receives, and that certain questions are worth raising with your parents and their estate planning attorney while everyone is still able to discuss them.

The first is whether one child truly needs to serve alone. Families can instead appoint co-trustees, a neutral professional or corporate trustee, or a family member working alongside a professional. Each option involves trade-offs: co-trustees may reach an impasse, and professional trustees charge fees. A related question is how much discretion the trustee actually requires. When the trust sets out clear terms governing when and how assets are distributed, there is less opportunity for one sibling's judgment to be perceived as favoritism.

Transparency matters: regular, detailed accountings provided to all beneficiaries address suspicion before it develops into litigation. The same is true for communication from the parents, who should share their thought process in creating the trust. A candid family conversation, or a letter explaining why a particular child was chosen, can soften a decision that might otherwise be perceived as a slight.

Finally, families should consider how disagreements will be resolved. Some trusts require mediation before any beneficiary may file suit. No-contest clauses, which penalize beneficiaries who challenge the trust, are another option (although the effectiveness of these clauses vary from state to state).

If you happen to be the child named as sole trustee, two things are most important. First, you should maintain meticulous records of all transactions made in your capacity as trustee, and second, communicate with your siblings and the trust beneficiaries early and often. A lack of communication and transparency only leads to mistrust and confusion.

This study demonstrates that establishing a trust alone cannot eliminate the risk of disputes and litigation. The allocation and exercise of authority by a trustee are as significant as the terms of the governing document.

[1] David Horton, Reid K. Weisbord & Christopher Ryan, "Trust Litigation", 104 Wash. U. L. Rev.

[2] CNBC, "New study reveals the estate-planning choices that are likely to pit heirs against each other", Sept. 25, 2026