



Practice

Estate Litigation

Tactfully solving family disputes with solid legal counsel.

In times of loss, the prospect of estate litigation is often daunting. The attorneys of Jaspán Schlesinger LLP's estate litigation practice group provide our clients with support, thoughtful guidance and skilled counsel in order to achieve a positive outcome.

Estate Litigation Attorneys with Experience at Every Level

When it comes to estate litigation, our attorneys bring stellar reputations and decades of experience to the fore. The practice group includes seasoned attorneys and former Surrogate's Court court-attorney referees, all of whom have handled virtually every type of trusts and estates matter, including:

- Contested probate and administration proceedings
- Will and trust construction proceedings
- Accounting proceedings
- Discovery and turnover proceedings
- Matters concerning fiduciary suspension and/or removal
- Litigation concerning lifetime gifts
- Breach of fiduciary duty claims
- Kinship proceedings
- Prosecution and defense of creditors' claims against estates and trusts
- Guardianship proceedings

We Treat Our Clients the Way Family Should

Because of the sensitivities surrounding estate litigation, we understand your situation may need an abundance of patience and consideration. Our attorneys have a history of working as delicately as needed to arrive at the best possible outcome for our clients. Our reputation in estate litigation precedes us and is the reason we've been involved in

momentous cases throughout our firm's 70-year history and are recognized as a leading law firm in Garden City and Suffern, NY.

Attorneys



Michael P. Ryan
Of Counsel



Stephen B. Hand
Of Counsel



Sally M. Donahue
Partner



Jessica M. Baquet
Partner

Case studies

Elder Abuse/Predatory Marriage

In what has become known as New York's predatory marriage case, Jessica Baquet of Jaspan Schlesinger LLP and co-counsel successfully reversed a Surrogate's Court ruling that a surviving spouse was entitled to share in her late husband's estate even though she married him surreptitiously and when he was incapacitated. The case shone a spotlight on the ever-increasing problem of elder abuse and the need for the courts to fashion appropriate remedies.

In *Matter of Berk*, the 99-year old decedent's live-in caretaker, who was nearly 50 years younger, married the decedent in secret and only disclosed the nuptials to his family members after he died one year later. At the time of the wedding, the decedent was suffering from a number of physical and mental ailments. A loophole in the law allowed the caretaker to take her spousal share of the decedent's estate regardless of whether her conduct was wrongful—that is, until Jaspan Schlesinger obtained a landmark decision from an appellate court, which held that, if wrongdoing could be proven, the caretaker would be disqualified from receiving her inheritance.

After succeeding on appeal, the case was litigated over nearly a decade and resulted in an unprecedented 37-day trial before the Kings County Surrogate's Court. Jessica was one of two lead attorneys representing the decedent's sons, also the executors of his estate, during these hard-fought proceedings. The end result was a ruling that the decedent had been mentally incapable of consenting to a marriage, that his caretaker had unduly influenced him to wed her, and that she would not be permitted to inherit from the decedent's estate.

Trust Litigation

Jaspan Schlesinger LLP successfully argued that a trust should be interpreted in a manner that resulted in our client receiving over \$5 million. The client presented us with a trust that his father created many years before his death, and was now frozen due to a disagreement among its beneficiaries. The trust provided for a certain outcome if the father's will did not address what should happen to the trust. Although the will did make such a provision, the firm successfully argued that it did so in an ambiguous manner and was, therefore, insufficient to result in the trust remainder passing to anyone other than our client, the decedent's son.

Multistate Family Dispute

Jaspan Schlesinger LLP acted as counsel in a nasty family dispute involving properties and litigation in New York, Connecticut, and Maine. Our attorneys were engaged to represent one of the beneficiaries in the New York litigation and, after successfully defending against voluminous motion practice, secured the appointment of a referee by the Surrogate's Court to supervise discovery disputes. The appointed referee was a retired Surrogate and, as we knew from the outset, would quickly move from her role as referee to mediator to negotiate a global settlement of all disputes in all jurisdictions. The various litigations were all resolved in a fashion that was much more efficient than continuing the litigation.

Representing Minors in Estates

Jaspan Schlesinger LLP attorneys have been appointed to represent the interests of minors, unknowns and incapacitated persons in estates valued at as much as one billion dollars. Since these matters are sensitive and, in some cases, still active, we cannot comment further other than to note with pride that judges of the Surrogate's Courts have trusted our experience and legal abilities for such complex and important roles.