

\$1.6 Million in Fees Sought in Drawn-Out Trust Case

by **Julie Kay**

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Miami attorney Bruce Katzen is suing two financial institutions—Wells Fargo Bank and Coral Gables Trust Co.—seeking \$1.6 million in overdue attorney fees and costs.

The suit, which lists Katzen's client Hunter Wolk as the plaintiff, was filed Tuesday in Miami-Dade Circuit Court. It also seeks unpaid money Katzen alleges Wolk is owed from a 4-year-old family trust case.

"The conduct of the professional fiduciaries is outrageous, especially in light of a Third District Court of Appeal ruling saying they are responsible for breach of fiduciary duty," said Katzen of Kluger, Kaplan, Silverman, Katzen & Levine. "They have not had a conscience from the beginning in this case, and the fiduciaries continue to try to protect each other instead of looking out for the interests of the beneficiary."

Wells Fargo is represented by Thomas Karr at Gunster in Miami, who had no comment by deadline. Coral Gables Trust is represented by J. Eric Virgil of the Virgil Law Firm in Coral Gables, who also did not return calls for comment by deadline.

Katzen is assisted by law partner Josh Rubens.

The lawsuit stems from Katzen's representation of Wolk, then a 20-year-old college student. The complaint alleges Wolk's great-aunt, Coral Gables resident Lola Kritchman, left instructions for her trust to continue paying for Wolk's college education, which she did for two years.

Wells Fargo, the co-trustee overseeing Kritchman's trust along with her son, William Kritchman, refused to pay Wolk, according to Katzen's suit. In April 2011, Katzen sued to compel Wells Fargo to pay his client.

The litigation grew bitter and drawn-out: Katzen filed 13 motions for sanctions against Wells Fargo for allegedly withholding discovery. Miami-Dade Circuit Judge Jorge Cueto ruled Wells Fargo violated rules of procedure and ordered the bank to pay Katzen \$60,000 individually and not out of the trust.



J. ALBERT DIAZ

Miami attorney Bruce Katzen is suing Wells Fargo Bank and Coral Gables Trust Co. for overdue attorney fees and costs.

In 2012, Cueto also found Wells Fargo and William Kritchman breached their fiduciary duty and should have paid Wolk's educational costs from the trust. The trustees appealed to the Third District Court of Appeal, which affirmed Cueto and found the trustees breached the trust and did not act in good faith by refusing to pay Wolk.

The appellate court also granted Wolk's motion for attorney fees and costs, and remanded to the trial court to fix an amount. The panel also denied Kritchman's and Wells Fargo's motions for appellate attorney fees and costs.

Wells Fargo made a partial payment to Wolk several months ago, according to Katzen.

Katzen filed a motion last month for \$1.6 million in attorney fees for the four years of litigation, also requesting the fees be paid by Wells Fargo and not out of the trust. About a month later, Wells Fargo asked to be

dropped from the case and said any attorney fees should be paid from the trust since it is no longer a trustee in the case.

Coral Gables Trust Co. took over as trustee.

Katzen asked the new trustee compel Wells Fargo and William Kritchman to pay both Katzen and Wolk. According to the suit, the bank refused, supporting Wells Fargo's position that the trust should pay the attorney fees.

"Coral Gables Trust's outrageous conduct is in direct conflict with the interests of the beneficiaries of the revocable trust to whom it owes fiduciary duties," the suit states.

The lawsuit lists three counts of breach of trust. It asks to freeze the trust funds and requests that both Kritchman and Coral Gables Trust be removed as trustees and a special fiduciary be appointed to take over.

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