

# DAILY BUSINESS REVIEW

## Uptick in Trust and Estate Litigation as Florida’s Population Booms

**“Tax planners in the big northeastern states advised their clients to move their residences to Florida, not just because it’s a nice place to retire, but because it’s beneficial for tax reasons. As a result, South Florida is the appropriate jurisdiction for the dispute,” attorney Bruce Katzen said.**

By **Jasmine Floyd**

Bruce Katzen, chair of Miami-based law firm Kluger Kaplan’s Trust & Estates Litigation Practice Group, is seeing an uptick in demand for trust and estate litigation, amid Florida’s population boom.

South Florida has become a hot spot for probate litigation, with its aging and wealthy population finding themselves more and more at risk for intense estate disputes. Katzen has been running Kluger Kaplan’s Trust and Estate Practice for more than 30 years—and says he’s never seen more demand.

In this conversation with the Daily Business Review, Katzen discusses different factors impacting his trust and estate litigation practice growth, why the elderly and Florida’s population in particular are vulnerable, common types of cases

he’s seeing, hurdles trust and estate lawyers and their clients might face, and why South Florida became a hot spot for trust and estate litigation. His answers have been edited for length and news style.

### Who’s moving here?

Over the past 10 years, I’ve seen many north-easterners focusing on changing their residence for income-tax planning to take advantage of our state’s lack of income tax. To do so they have been buying residences in South Florida. COVID-19 certainly accelerated that trend.

Wealthy people in their more senior years are now able to move down here and change their lifestyle. It’s a very financially enabled class that are moving to Florida for either retirement or for tax reasons. We’ve also seen a large num-



Courtesy photo

Bruce A. Katzen, partner of Miami-based litigation firm Kluger, Kaplan, Silverman, Katzen & Levine

ber of young professionals, as well as wealthy entrepreneurs and people in tech, moving to South Florida because it’s a great place to live—especially in the winter. They can live in a great place and work remotely.

**What are clients’ needs when it comes to trusts and estate litigation? What types of cases are you seeing?**

Most of my cases involve alleged fraud and taking advantage of elderly people.

For example, ‘My mother died, I thought we had a lot of money but there’s nothing left. What happened?’ That’s one category of cases that exists.

Another common scenario is one sibling taking advantage of a parent when they did not have mental capacity. We also see caretakers taking advantage of them by taking funds from one account and transferring to their account name, taking their jewelry, etc.

Every case is a bit different. It’s a combination of the legal and academic parts, but also very fact-intensive and emotional. You are often dealing with raw emotion, in disputes between family members. If you think of divorce cases, some of these cases are even nastier because of the hatred among siblings that have hated each other their entire life. It can be more emotional than a divorce in that regard.

**What are the different factors impacting your practice, and what trends are you seeing as of now?**

There are two factors here.

First, I think we have seen a growth in the numbers of upper-middle class and upper-class families. I know this is true because the homes in the area are rapidly going up in price, since those people are looking for housing and pushing up the demand for housing. I see changes in the population pattern, which foretell that when there’s deaths,

there’s going to be fights over bigger estates.

I’ve also have seen that medical science has done a tremendous job extending the life of people in regard to their physical health. However, there have not been similar advances in science with regard to Alzheimer’s and dementia. I see a lot of cases involving elderly people who can physically get around, but mentally, they have deteriorated substantially. Often, when there are older people who do live to see their 90s or 100s, there are situations where people take advantage.

**What are some hurdles trust and estate lawyers and their clients face?**

There is a definite group of many elderly people who know they’re losing their capacity, and sadly they are struggling with their own loss of capacity. They don’t want to admit this, and try to conceal it from others. It’s difficult, it’s sad, it’s frustrating. There needs to be this ability to put a plan in place so that when the elderly person is on that decline, the control of their assets does not fall into the hands of someone who is not completely trustworthy.

**In the broader perspective, how might the Great Migration affect Florida’s economic and litigation landscapes?**

Tax planners in the big north-eastern states advised their clients to move their residences



Credit: Chris Nicholls/ALM

to Florida, not just because it’s a nice place to retire, but because it’s beneficial for tax reasons. As a result, South Florida is the appropriate jurisdiction for the dispute. Rather than the litigation taking place in New York, Connecticut or New Jersey, where they might have been domiciled before, Florida will be the jurisdiction for the estate disputes. The obvious result is more estate, trust and guardianship disputes here.

If you go back to the 1940s when people started moving to South Florida after World War II, it was a great place to settle after retirement. We have a higher percentage of elderly people in Florida and there are a lot of wealthy elderly people in Southeast Florida. It’s an environment where there are more elderly and more wealthy elderly, so there are going to be more large disputes here.

It’s a really interesting and important area of practice, because we do have a graying of the community in South Florida. I think it’s probably true to some extent in other areas of the country, but these issues are really magnified here.