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Updated Guidance Regarding the Statute of Limitation for Breach of Fiduciary Duty

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In a recent decision, the Eighth District Court of Appeals for the State of Ohio offered guidance on the statute of limitation set forth within Ohio Revised Code Section 2305.09, which is the four-year statute of limitation applicable to claims for breach of fiduciary duty. Such guidance is instructive for trust beneficiaries, as it may help them identify facts which may give rise to a claim against a trustee for a breach of the trustee's fiduciary duty to the beneficiary. As discussed herein, a trust beneficiary's diligence in identifying such facts is crucial, as their failure to do so and to bring a claim based upon the same in a timely manner may result in such a claim being time-barred.

In *Figgie v. Figgie*, 2025-Ohio-451 (8th Dist.), the plaintiffs brought a fraud claim, subject to the statute of limitation set forth within Ohio Revised Code Section 2305.09, against their family's closely-held company and the trustees of a family trust that held that company's stock shares. In short, the plaintiffs alleged that the defendants engaged in a scheme to create the mirage of a solicited offer under the false premise that the family's trust was insolvent and in urgent need of liquidity to pay its taxes and expenses and, thus, subject to third-party buyers for the purpose of redeeming shares of the family's company at below fair-market value. However, the trial court found that the plaintiffs' claim was time-barred.

On appeal, the plaintiffs claimed that they were not aware of any alleged fraud until 2018, when a plaintiff inquired about an allegedly-fraudulent sale of stock that occurred in 2001. The Eighth District explained that, as interpreted by the Supreme Court of Ohio, the four-year limitation period commences when the complainant discovers, or should have discovered in the exercise of reasonable diligence, the alleged wrongdoing.

The Court held that the plaintiffs should have discovered the alleged fraud in 2001 in the exercise of reasonable diligence, because the plaintiffs: (1) were parties to a lawsuit involving the same shares of stock; (2) were represented by counsel and consented to the same share redemption in 2001; (3) received annual distributions for ten years; and (4) possessed access to all documents governing the trust. The Eighth District reasoned that such facts were sufficient to cause a reasonable person using ordinary care and thoughtfulness to ***investigate the possibility*** that fraud may have occurred. As such, the Eighth District affirmed the trial court's ruling that the fraud claim was barred by the statute of limitation set forth within Ohio Revised Code Section 2305.09.

As claims for breach of fiduciary duty are subject to the same statute of limitation, it is crucial for beneficiaries to remain diligent in monitoring their trust assets. Given the risk of the accrual of the statute of limitation period based upon facts which may seem innocuous at first glance, sophisticated and experienced trust, estate, and probate litigation counsel should be consulted to help trust beneficiaries protect their interests.

This article provides an overview and summary of the matters described therein. It is not intended to be and should not be construed as legal advice on the particular subject.

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