

Gallner v. Larson

Case Number

S-14-0240

Case Audio

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April 30, 2015

Court Number

Douglas

Case Summary

S-14-0240 Michael Gallner, as Personal Representative of the Estate of Judy Hoffman; and Jordan Gallner, individually and guardian and next friend of Makenzie Gallner (Appellants) v. C. Gregg Larson

Douglas County District Court, Judge Leigh Ann Retelsdorf

Attorneys: Theodore R. Boecker Jr. (Appellants)-- Joshua Dickinson/Shilee Mullin (Spencer Fane)

Civil: declaratory judgment; conversion

Proceedings below: The trial court dismissed the Appellants' complaint.

Issues: (1) The court erred in its determination that an express trust needed to be created in order to find Larson liable and in placing the burden of proof on Appellants. (2) Whether the court erred in failing to conclude that the funds Larson received were subject to a constructive trust and that he was liable for conversion to the extent that he used the funds. (3) Whether the court erred in failing to find that Larson violated a duty of care or committed malpractice by accepting her death benefits when he was acting as decedent's attorney and without giving informed disclosure of potential conflict of interest and waiver by the decedent and/or recommendation to seek independent counsel. (4) Whether the court erred in receipt of evidence over objection of the PR and beneficiaries.
