

MICHIGAN COURT OF APPEALS

In re Robert W. Ashcraft Trust

No. 372846 (Mich. Ct. App. Mar. 10, 2026) · No. 372846 · Decided March 10, 2026

SUMMARY

The Michigan Court of Appeals affirmed the denial of Susan J. Nazem’s petition for attorney fees and costs from the Robert W. Ashcraft Trust. The court held that MCL 700.7904(1) permits, but does not require, an award of fees when a party enhances, preserves, or protects trust property, and that the probate court acted within its discretion in finding that Nazem’s litigation did not benefit the entire trust. The court also concluded that equity did not require shifting her fees to the Trust.

CASE DETAILS

COURT	Michigan Court of Appeals
WRITING FOR THE COURT	Mariam S. Bazzi; Kathleen A. Feeney, P.J.; Kristina Robinson Garrett, J.; Mariam S. Bazzi, J.
JURISDICTION	Michigan Court of Appeals
DECIDED	March 10, 2026
DOCKET	372846
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appellant appealed as of right from the Wayne Probate Court’s order denying her petition for attorney fees and costs from the trust.
STANDARD OF REVIEW	A probate court’s decision to award attorney fees is reviewed for an abuse of discretion; statutory interpretation is reviewed de novo; and factual findings are reviewed for clear error. An abuse of discretion occurs when the decision falls outside the range of reasonable and principled outcomes.
PRECEDENTIAL VALUE	published
PARTIES	Susan J. Nazem v. William B. Ashcraft, Trustee of the Robert W. Ashcraft Trust

TOPICS

- trust administration
- trustee duties
- remedies
- statutory interpretation
- appellate procedure

PRACTICE AREAS

trust administration

probate

attorney fees

appellate procedure

QUESTIONS PRESENTED

1. Whether the probate court abused its discretion by denying Nazem's request for attorney fees and costs from the trust under MCL 700.7904(1).
2. Whether Nazem's litigation enhanced, preserved, or protected trust property within the meaning of MCL 700.7904(1).
3. Whether justice and equity required an award of attorney fees even if the statutory conditions were satisfied.

HOLDINGS

1. MCL 700.7904(1) authorizes, but does not require, a probate court to award costs and reasonable attorney fees from trust property. The statute's use of the word "may" and the phrase "as justice and equity require" leaves the award within the probate court's discretion.
2. Nazem was not entitled to attorney fees because she failed to establish that her litigation enhanced, preserved, or protected the entire trust or provided a distinct benefit to the trust property.

KEY QUOTATIONS

"A doctrine which permits a decedent's estate to be so charged, should, however, in our opinion, be applied with caution and its operation limited to those cases in which the services performed have not only been distinctly beneficial to the estate, but became necessary either by reason of laches, negligence, or fraud of the legal representative of the estate." (at 3)

FACTUAL BACKGROUND

Susan J. Nazem was formerly a co-trustee of the Robert W. Ashcraft Revocable Living Trust and controlled a cottage that constituted the trust's last physical asset. After the cottage was sold, the trustees proposed reducing Nazem's distribution by charging rent and attorney fees. Following litigation, the probate court found that Nazem had breached her fiduciary duty by using the cottage and permitting her daughter to use it without paying rent, imposed a total surcharge of \$6,350, and denied Nazem's request for attorney fees from the trust.

PROCEDURAL HISTORY

Nazem, a former co-trustee, initially challenged her removal as trustee. After the trust property was sold, she challenged a proposed distribution that included deductions for rent, fees, and attorney fees. Following discovery and an evidentiary hearing, the probate court imposed a reduced surcharge against her and later denied her petition for attorney fees under MCL 700.7904(1). The Michigan Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Temple Marital Trust, 278 Mich App 122, 128, 139, 141; 748 NW2d 265 (2008)
- Maldonado v Ford Motor Co, 476 Mich 372, 388; 719 NW2d 809 (2006)
- In Re Stillwell Trust, 299 Mich App 289, 294; 829 NW2d 353 (2012)
- Becht v Miller, 279 Mich 629, 632-638; 273 NW 294 (1937)
- In re Temple Marital Trust, unpublished per curiam opinion of the Court of Appeals, issued August 9, 2005 (Docket No. 261000), pp 1-2, 5
- Nemeth v Abonmarche Dev Inc, 457 Mich 16, 37-38; 576 NW2d 641 (1998)
- Vaughn, 344 Mich App at 559
- In re Petition of Attorney General for Investigative Subpoenas, 282 Mich App 585, 591; 766 NW2d 675 (2009)
- Walt Disney Co v Eubanks, 345 Mich App 213, 223; 4 NW3d 797 (2023)
- Gentris v State Farm Mut Auto Ins Co, 297 Mich App 354, 364; 824 NW2d 609 (2012)
- In Re Kratzer Revocable Trust, unpublished per curiam opinion of the Court of Appeals, issued March 23, 2023 (Docket No. 357861), p 16
- In Re Edward & Elaine Jaye Trust, unpublished per curiam opinion of the Court of Appeals, issued June 6, 2024 (Docket No. 367580), p 21
- People v Darga, 349 Mich App 1, 13 n 2; 27 NW3d 298 (2023)
- Ewin v Burnham, 272 Mich App 253, 257; 728 NW2d 463 (2006)

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