

SUPREME COURT OF NORTH DAKOTA

In re: The William C. Hansen and Verna Hansen Trust, Dated
December 15, 1997

2025 ND 220 (N.D. 2025) · No. No. 20250206 · Decided December 18, 2025

SUMMARY

The North Dakota Supreme Court held that amendments to the William C. Hansen and Verna Hansen Trust executed by an agent under a power of attorney were invalid. Under N.D.C.C. § 59-14-02(5), an agent must have express authorization in the trust or power of attorney to amend a trust, and the general powers granted to Verna Hansen did not satisfy that requirement. The court reversed and remanded for a declaration of beneficiary rights under the original trust terms.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Jon J. Jensen, Chief Justice; Daniel J. Crothers; Lisa Fair McEvers; Jerod E. Tufte; Douglas A. Bahr
JURISDICTION	Supreme Court of North Dakota
DECIDED	December 18, 2025
DOCKET	No. 20250206
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Catherine Hansen Dietemann and Lauren Dietemann appealed from a summary judgment declaring the beneficiaries' rights under a trust. William Anthony Hansen cross-appealed the determination that amendments to the trust were valid.
STANDARD OF REVIEW	Interpretation and application of the North Dakota Uniform Trust Code present questions of law that are fully reviewable on appeal. The extent of an agent's authority under a power of attorney and the meaning of an unambiguous trust instrument are construed under contract-interpretation principles, subject to fiduciary considerations.
PRECEDENTIAL VALUE	Published and precedential North Dakota Supreme Court opinion.
PARTIES	Catherine Hansen Dietemann, Lauren Dietemann v. William Anthony Hansen

TOPICS

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PRACTICE AREAS

trusts and estates trust administration probate litigation estate planning appellate procedure

QUESTIONS PRESENTED

1. Whether N.D.C.C. § 59-14-02(5)'s requirement of express authorization for an agent acting under a power of attorney to amend a trust applied to this proceeding.
2. Whether the trust agreement or power of attorney expressly authorized Verna Hansen to amend William C. Hansen's separate trust.
3. Whether the court needed to decide the application of the statutory antilapse provision to the amended trust terms after determining that the amendments were invalid.

HOLDINGS

1. N.D.C.C. § 59-14-02(5) applies to this proceeding because N.D.C.C. § 59-19-02(1)(b) makes chapter 59-14 applicable to judicial proceedings concerning trusts commenced after July 31, 2007.
2. The amendments to the trust executed by Verna Hansen as William C. Hansen's agent were invalid because neither the trust nor the power of attorney expressly authorized her to amend William's separate trust.

KEY QUOTATIONS

“A settlor’s powers with respect to revocation, amendment, or distribution of trust property may be exercised by an agent under a power of attorney only to the extent expressly authorized by the terms of the trust or the power, exercised in writing and delivered to the trustee.” (¶ 12)

“The word “express” means: “Clearly and unmistakably communicated; stated with directness and clarity.”” (¶ 16)

“Absent an express written authorization, the amendments are invalid under N.D.C.C. § 59-14-02(5).” (¶ 16)

FACTUAL BACKGROUND

William C. Hansen and Verna Hansen executed a revocable trust agreement in December 1997 that created separate trust shares and expressly waived each settlor's authority to amend or revoke the other settlor's separate trust. On the same day, William executed a durable power of attorney naming Verna as his attorney-in-fact, containing broad general and miscellaneous powers but no express authorization to amend the trust. Verna later amended the trust in 1998 and 1999, changing distributions after her death; after the settlors' deaths, the trustee sought a declaration of beneficiary rights under the original or amended terms.

PROCEDURAL HISTORY

Bravera Wealth, acting as trustee, petitioned the district court for an order declaring the beneficiaries' rights. The parties filed cross-motions for summary judgment. The District Court of Stark County granted summary judgment in favor of Tony Hansen, upheld amendments executed by Verna Hansen as William C. Hansen's agent under a power of attorney, and applied the amended trust terms and an antilapse statute to distribute the trust. The North Dakota Supreme Court reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for a declaration of beneficiary rights according to the original trust terms.

CASES CITED

- Durr v. Volden, 2024 ND 149, ¶ 12, 10 N.W.3d 133
- In re Estate of Vizenor, 2014 ND 143, ¶ 10, 851 N.W.2d 119
- Alerus Fin., N.A. v. W. State Bank, 2008 ND 104, ¶ 20, 750 N.W.2d 412
- In re Michael J. Tharaldson Irrevocable Trust II, 2023 ND 2, ¶ 6, 984 N.W.2d 375
- Langer v. Pender, 2009 ND 51, ¶ 13, 764 N.W.2d 159
- Hecker v. Stark Cnty. Soc. Serv. Bd., 527 N.W.2d 226, 230 (N.D. 1984)
- In re Matthew Larson Tr. Agreement, 2013 ND 85, ¶ 9, 831 N.W.2d 388
- Fahey v. Cook, 2024 ND 138, ¶ 22, 9 N.W.3d 668
- In re Rose Henderson Peterson Min. Tr., 2022 ND 92, ¶ 18, 974 N.W.2d 372
- Warne v. Warne, 275 P.3d 238, 245-49 (Utah 2012)

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