



Trust Industry Brief

[Hardy v. Hardy, et. al., C.A. No. 7531-VCP, n. 119 \(Del. Ch. July 29, 2014\)](#)

In July of this year, the Delaware Chancery Court decided a case involving a claim against two individual trustees for breach of their fiduciary duties. The case involved two individual trustees who authorized the expenditure of a majority of the trust's corpus in less than five months. Included in these expenditures were a number of self-interested transactions, including the purchases of luxury vehicles for each of the trustees as well as the renovation of one trustee's residence where the beneficiary no longer lived. The Vice Chancellor found the trustees' actions to be "grossly inconsistent with ordinary prudence" and in violation of their fiduciary duty of loyalty. The beneficiary was awarded damages in the amount of the funds expended as well as his reasonable attorneys' fees.

Also of significance in the opinion was the Vice Chancellor's definition of the term "gross negligence," a previously undefined term in the context of trustee liability. The Vice Chancellor's definition offers trustees their first clear understanding of what will be deemed to constitute gross negligence under Delaware trust law.

This definition is: *Gross negligence... is defined as a higher level of negligence representing an extreme departure from the ordinary standard of care. In other words, a finding of gross negligence requires more than ordinary inadvertence or inattention.*¹

¹ [See Hardy v. Hardy, C.A. No. 7531-VCP, n. 119 \(Del. Chancery Court July 29, 2014\).](#)