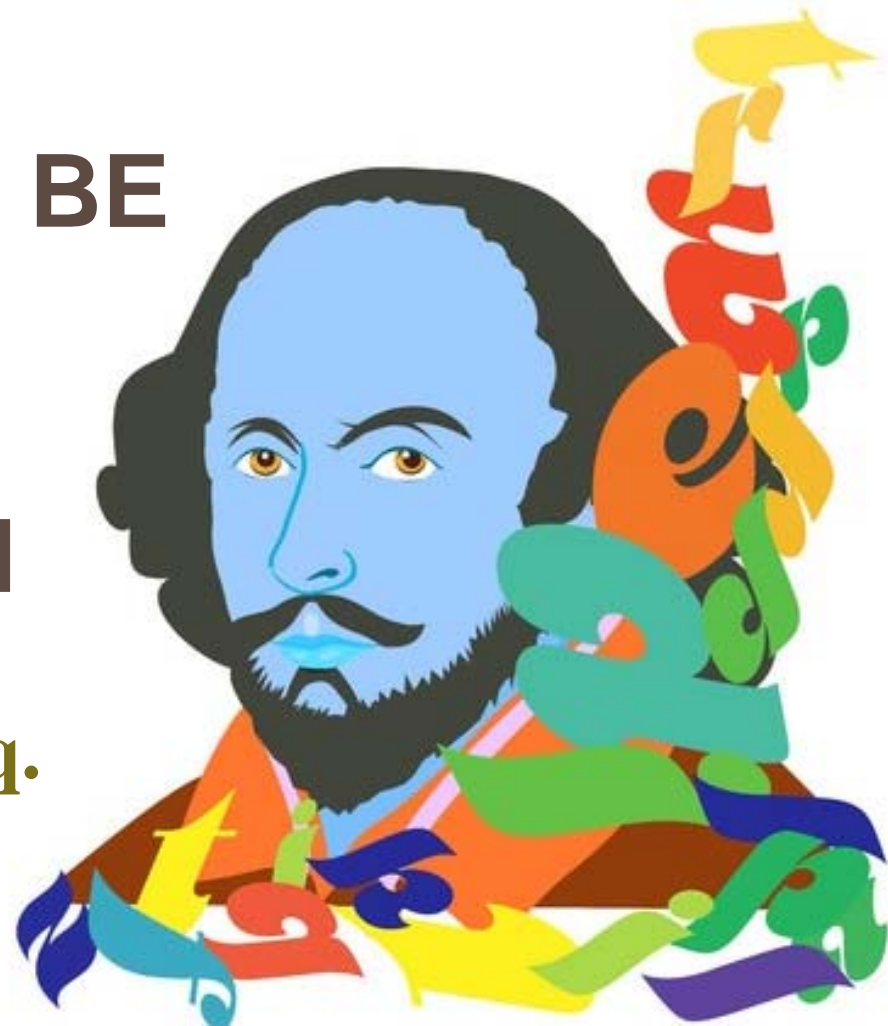


**TO BE OR NOT TO BE
(A TRUSTEE)
THAT IS
THE QUESTION**

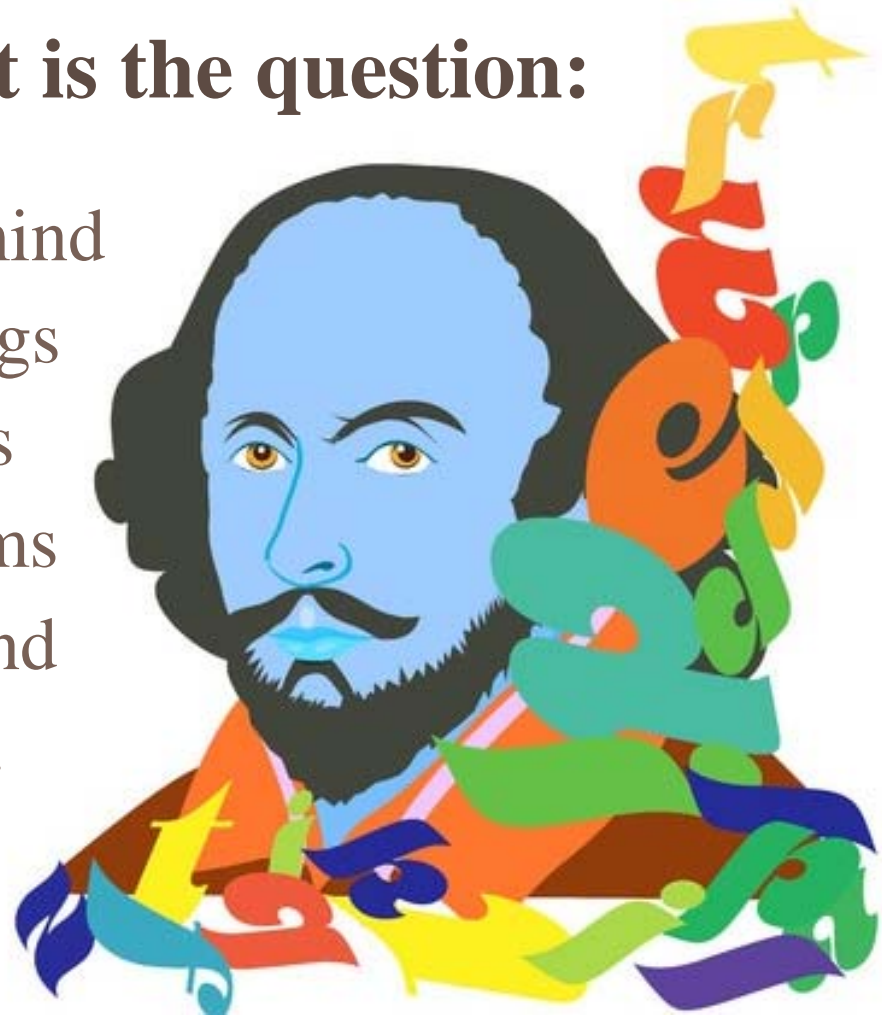
Robert D. Kaplow, Esq.



To be or not to be – that is the question:

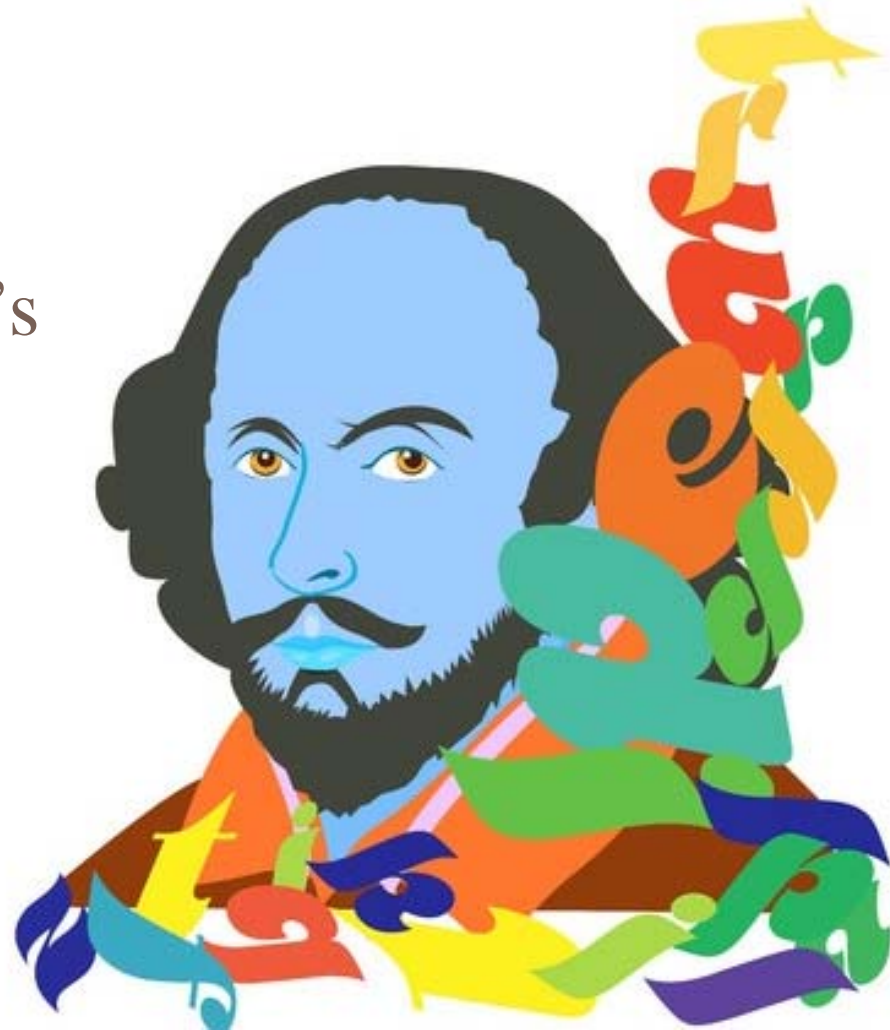
Whether 'tis nobler in the mind
to suffer as trustee the slings
and arrows of outrageous
beneficiaries or to take arms
against a sea of troubles and
oppose the beneficiaries.

Hamlet



The first thing we do, let's
kill all the lawyers.

Henry the Sixth, Part 2



Why you should be a trustee

- Client confidence
- Honor
- Fees
- Loss of client



Why you shouldn't be a trustee

- Aggravation
- Liability, liability, liability



Trustee Duties – Fiduciary Obligations

- Administer the Trust
- Care and Performance
- Loyalty
- Keep Records and Furnish Accounts
- Take control of trust property
- Enforce claims/defend claims



Trustee Duties – Fiduciary Obligations

- Pay expenses
- Keep trust property separate
- Make trust property productive
- Follow trust terms regarding distributions
- Furnish information
- Exercise reasonable care

Trustee Powers

- Broad powers
- Michigan Trust Code
- Uniform Principal and Income Act
- Uniform Prudent Investor Act

Trustee Liability

- Breach of fiduciary duty
- Bad administration
- Environmental issues



Protect Against Liability

- Trustee Liability Insurance
- Personal umbrella policy
- Language in trust indemnifying the trustee
- Good relationship with the beneficiaries
- Transparency
- Check with your Maddin Hauser attorney

Protect Against Liability

- Avoid certain trusts
- Review the trust terms
- Grantor side letter
- Don't agree to be the trustee!!



Irrevocable Life Insurance Trust

- More dangerous than you think
- Review life insurance periodically
- Crummey letters

