

Successful Litigation Defends Trustees Against Property Partition

FEATURED ATTORNEYS



Melanie I. Wiener

Partner



Amanda Small

Associate

Abrams Fensterman Partner, [Melanie Wiener](#), and Associate, [Amanda Small](#), successfully defended their client denying the plaintiff's motion for summary judgment in a case involving the partition of a property. The plaintiff had sued her siblings, our clients, as trustees of their mother's trust, seeking to partition and sell a property that is co-owned 50/50 by the plaintiff and the trust. The plaintiff filed for summary judgment immediately, aiming to have the property partitioned and sold before discovery.

Wiener and Small argued that the property was subject to the Uniform Partition of Heirs Property Act (UPHPA). They demonstrated that the property met all the criteria for heirs property under the UPHPA. During oral arguments, the judge initially leaned towards the plaintiff but requested additional briefs on whether the UPHPA applies to mixed-use properties, as this property includes both commercial and residential elements.

Ultimately, the court denied the plaintiff's motion and the partition request, ruling that the UPHPA does not require the property to be exclusively residential and can apply to mixed-use properties. This significant

decision prevents the forced sale of the property, which is a substantial win for our clients who wish to retain their property.