

made payments to the builder without the work being done. The Court held that Smith had placed his trust and confidence in the bank with respect to the home construction, and that the bank had violated that trust when it paid the builder. The bank had further breached its fiduciary duties by not disclosing to Smith its knowledge of the builder's pending bankruptcy, which further disrupted construction.

2. Daughter/Mother:

*Shaeffer v Burghardt*³⁰

Here, the decedent mother had only a fourth-grade education and was completely reliant on others to handle her finances. After her husband passed, her daughter assumed the responsibility of handling her mother's checkbook to pay her monthly bills and expenses. Over the years before the mother passed, the daughter took funds from her bank account without permission. The Court found a breach of fiduciary duty because the mother had trusted and relied on her daughter to handle her funds. The Court noted that a fiduciary "relationship and the duties involved are not limited to those imposed by law but may be moral, social, domestic, or merely personal."

3. Longtime Friends:

*Williams v Griffin*³¹

The parties were longtime friends. Williams became infirm, and Griffin "assumed the role of bill collector, real estate salesman, and business advisor" to Williams. In an action resulting from several questionable financial transactions stemming from the parties' new arrangement, the Court held that because of Williams's infirmity and complete reliance on Griffin in all his business matters, Griffin was Williams's fiduciary.

Conclusion

A fiduciary duty may arise when one justifiably reposes trust and confidence in another. Some relationships are settled as imposing fiduciary duties, such as directors or officers and shareholders. In other contexts, the finding of a duty depends on the facts and circumstances at issue. The fiduciary duty demands scrupulous loyalty, honesty, disclosure, and due care. ■



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ENDNOTES

1. Law number 265 provides: "If a herdsman, to whose care cattle or sheep have been entrusted, be guilty of fraud and make false returns of the natural increase, or sell them for money, then shall he be convicted and pay the owner ten times the loss."
2. *Genesis* 1:26–28, 2:15.
3. Seipp, *Trust and Fiduciary Duty in the Early Common Law*, 91 BU L Rev 1011, 1014 (2011), available at <<http://www.bu.edu/law/journals-archive/bulr/documents/seipp.pdf>> [<https://perma.cc/3HJ4-DKZU>] (accessed August 11, 2020).
4. *Bishop of Winchester v Knight*, 24 Eng Rep 447 (1717).
5. *Meinhard v Salmon*, 249 NY 458, 464; 164 NE 545 (1928).
6. *Black's Law Dictionary* (11th ed).
7. *Wallad v Access BIDCO, Inc*, 236 Mich App 303, 307; 600 NW2d 664 (1999).
8. *Prentis Family Foundation v Karmanos Cancer Institute*, 266 Mich App 39, 43; 698 NW2d 900 (2005).
9. *Id.* at 44.
10. *Calhoun Co v Blue Cross Blue Shield Michigan*, 297 Mich App 1, 20; 824 NW2d 202 (2012).
11. *Thomas v Satfield Co*, 363 Mich 111, 118; 108 NW2d 907 (1961).
12. *Veeser v Robinson Hotel Co*, 275 Mich 133, 138; 266 NW 54 (1936).
13. *Taylor v Klahm*, 40 Mich App 255, 264; 198 NW2d 715 (1972).
14. *Prentis*, 266 Mich App at 39, 43.
15. *Id.* at 49.
16. *Highfield Beach at Lake Michigan v Sanderson*, opinion of the Court of Appeals, issued March 24, 2020 (Nos. 343968 and 345177), at 11, n. 13.
17. *Wallad v Access BIDCO, Inc*, 236 Mich App 303, 307; 600 NW2d 664 (1999).
18. *Menhennick Family Trust by Menhennick v Menhennick*, 326 Mich App 504, 507, 512; 927 NW2d 741 (2018). The Court of Appeals affirmed the circuit court's ruling without addressing or disturbing its holding regarding the breach of fiduciary duties.

19. *Thomas v Satfield Co*, 363 Mich 111, 118; 927 NW2d 741 (1961).
20. *Barrett v Breault*, 275 Mich 482; 267 NW 544 (1936) and *Horvath v Langel*, 276 Mich 381; 267 NW 865 (1936).
21. *Barrett*, 275 Mich at 488.
22. *Horvath*, 276 Mich at 385.
23. *Burton Twp of Genesee County v Speck*, 378 Mich 213, 224; 144 NW2d 347 (1966).
24. *Schmude Oil Co v Omar Operating Co*, 184 Mich App 574; 458 NW2d 659 (1990).
25. *Thomas*, 363 Mich at 122–123.
26. See, e.g., MCL 450.4404(1) ("A manager shall discharge the duties of manager in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances...").
27. *In re Messer Trust*, 457 Mich 371, 380; 579 NW2d 73 (1998).
28. *Castle v Shoham*, unpublished per curiam opinion of the Court of Appeals, issued August 7, 2018 (Docket No. 337969), at 11.
29. *Smith v Saginaw Savings & Loan Ass'n*, 94 Mich App 263, 266, 275; 288 NW2d 613 (1979).
30. *Shaeffer v Burghardt*, unpublished per curiam opinion of the Court of Appeals, issued May 15, 2007 (Docket No. 267717), at 1, 7.
31. *Williams v Griffin*, 35 Mich App 179, 181, 184; 192 NW2d 283 (1971).



MONEY JUDGMENT INTEREST RATE

MCL 600.6013 governs how to calculate the interest on a money judgment in a Michigan state court. Interest is calculated at six-month intervals in January and July of each year, from when the complaint was filed, and is compounded annually.

For a complaint filed after December 31, 1986, the rate as of July 1, 2020 is 1.699 percent. This rate includes the statutory 1 percent.

But a different rule applies for a complaint filed after June 30, 2002 that is based on a written instrument with its own specified interest rate. The rate is the lesser of:

- (1) 13 percent a year, compounded annually; or
- (2) the specified rate, if it is fixed—or if it is variable, the variable rate when the complaint was filed if that rate was legal.

For past rates, see <http://courts.mi.gov/Administration/SCAO/Resources/Documents/other/interest.pdf>.

As the application of MCL 600.6013 varies depending on the circumstances, you should review the statute carefully.