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**STATE OF MINNESOTA
IN COURT OF APPEALS
A13-1305**

In re the Matter of the
RIJ Revocable Trust Agreement
Dated March 16, 2006,
as Amended by First Amendment
to the RIJ Revocable Trust Agreement
dated September 21, 2007.

**Filed February 24, 2014
Affirmed in part and remanded
Hudson, Judge**

Hennepin County District Court
File No. 27-TR-CV-12-186

Kay Nord Hunt, Robert J. King, Jr., Bryan R. Feldhaus, Lommen, Abdo, Cole, King, Stageberg, P.A., Minneapolis, Minnesota (for appellant Anna MacCormick)

Joseph E. Trojack, West St. Paul, Minnesota (for respondent Elfi Ehrlich Janssen)

Considered and decided by Hooten, Presiding Judge; Hudson, Judge; and Minge, Judge.*

UNPUBLISHED OPINION

HUDSON, Judge

Appellant challenges the district court's orders denying her motion to dismiss respondent's petition in this trust matter, arguing that the district court lacks subject-matter jurisdiction over the damages claims in the petition and personal jurisdiction over

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

appellant. She also argues that respondent lacked standing to assert a claim under the trust for spousal-maintenance-related obligations after the settlor's death. We affirm the district court's exercise of jurisdiction, but remand for the district court to clarify which of respondent's claims are within the scope of this trust proceeding.

FACTS

Robert Janssen, the founder of Padco, Inc., and the settlor of the RIJ Revocable Trust, died on July 21, 2010. He had three adult children: Craig Janssen, Susan Carlson, and appellant Anna MacCormick. Robert Janssen was married to respondent Elfi Janssen from 1992 to 1994. Their dissolution judgment required that, until her death or remarriage, he would pay spousal maintenance of \$3,000 per month, plus a cost-of-living adjustment (COLA) and any associated income-tax liability.

To fund the payment of the monthly maintenance obligation, Robert Janssen established an irrevocable charitable remainder annuity trust, with an annuity payable to him until his death, and then to Elfi Janssen for life. He initially paid the COLA and tax-liability obligations from other sources, but in 2006 he established a second trust, the RIJ Revocable Trust (the RIJ Trust), to pay them. He designated himself as trustee and provided that after his death the trust would become irrevocable, with Anna MacCormick and Elfi Janssen jointly acting as co-trustees. After the deaths of both Robert and Elfi Janssen, the remaining assets would be distributed to Anna MacCormick and her children. The trust was funded with four individual income-generating bonds, collectively valued in 2005 at \$522,361.

In September 2007, Robert Janssen amended the RIJ Trust, removing himself as trustee and designating Elfi Janssen and a named bank as co-trustees, to act jointly; she was granted the power to replace the bank with a new co-trustee. The COLA and tax payments were to be made from income on the bonds, with part of the remaining income distributed to Robert Janssen and the rest retained by the trust. The corporate trustee resigned in November 2007; Elfi Janssen did not appoint another co-trustee.

Robert Janssen had a difficult relationship with his children. Although they all worked at Padco at various times, Craig Janssen and Susan Carlson saw their father only occasionally after they left the company. Anna MacCormick, however, maintained a relationship with Robert Janssen until his death. She started working at Padco in 2001 and has served as its president and board chair since 2007.

Robert Janssen executed a will in 1994 on a self-help legal services form. On January 2, 2008, however, after consulting with estate-planning attorneys, he executed a new professionally drafted will, giving his entire estate to Anna MacCormick, whom he appointed personal representative, and disinheriting his other two children. On January 17, 2008, Robert Janssen fell and broke his hip and underwent surgery, after which he became confused, delirious, and disoriented. On January 21, 2008, he signed a revocation of the RIJ Trust. The four bonds held in the trust account were transferred to a transfer-on-death (TOD) account that he had previously established at RBC Dain Rauscher (RBC) with Anna MacCormick as a named beneficiary. Using her power of attorney, Anna MacCormick sold one of the bonds, asserting that the sale was necessary

to provide for her father's care and support. After his death in 2010, she transferred the remaining TOD assets into a new RBC account in her name.

Initial estate and trust proceeding

In October 2010, Craig Janssen and Susan Carlson filed a petition in Hennepin County probate court challenging the January 2008 will as void due to lack of capacity and undue influence. They also alleged breach of fiduciary duty, conversion, and fraud, seeking damages or the imposition of a constructive trust. Anna MacCormick sought to dismiss the petition and to probate the will.

In June 2011, Elfi Janssen filed an amended petition as an interested person with a property right against Robert Janssen's estate, seeking relief under Minn. Stat. § 524.1-301 (2010) and Minn. Stat. § 524.3-105 (2010). She alleged Robert Janssen's lack of capacity to revoke the RIJ Trust and undue influence by Anna MacCormick and sought the imposition of a constructive trust and damages for conversion of trust assets. Anna MacCormick filed an objection denying the allegations. She moved to dismiss the petition, maintaining that the district court lacked subject-matter jurisdiction to determine Elfi Janssen's claims, or, in the alternative, for summary judgment. Elfi Janssen also moved for summary judgment.

In November 2011, the district court issued an order, concluding that it "has jurisdiction over trust matters pursuant to Minn. Stat. Chapter 501B" and that "all interested parties received notice of the claims in [the] petition and there is no prejudice to any party by proceeding with the issues raised in [the] trust petition as a companion petition [to the estate matter]." The court concluded that genuine issues of material fact

existed on the issues of undue influence and lack of testamentary capacity and denied Anna MacCormick's request to dismiss those claims for lack of subject-matter jurisdiction. The district court also denied the request to dismiss the conversion claim for lack of subject-matter jurisdiction or, alternatively, on summary judgment. The district court scheduled for trial the issues of capacity and undue influence incident to execution of the 2008 will and the revocation of the RIJ Trust, expressly reserving other issues for later determination.

The district court held a trial in February and April 2012. While the matter was pending before the district court, Anna MacCormick formed Sibley Holdings, LLC, an entity that she owns along with her three children. In May and June 2012, she transferred to Sibley Holdings an RBC margin account that held the three remaining bonds, as well as other bonds and cash, all of which originally had been in the RIJ Trust and the RBC TOD account.

In July 2012, the district court set aside Robert Janssen's revocation of the RIJ Trust and ordered Anna MacCormick to return the trust assets. The district court found that Robert Janssen had testamentary capacity to execute the January 2008 will and that the evidence was insufficient to support a finding of undue influence in its execution. But the district court found that Robert Janssen lacked the capacity to revoke the RIJ Trust three weeks later, after his health deteriorated. The district court also found that he was unduly influenced in signing the trust revocation, based on Anna MacCormick's opportunity to exercise influence, her confidential relationship with her father, and her active participation in arranging the revocation. Specifically, the district court found that

a facsimile exchanged between Robert Janssen and his estate-planning attorney on January 17, 2008, indicated that Robert Janssen wanted to make certain modifications to the trust; nothing in the facsimile suggested that he wanted to *revoke* the trust as Anna MacCormick had claimed. In August 2012, Elfi Janssen obtained an ex-parte order temporarily enjoining Sibley Holdings from transferring trust assets after she alleged that Anna MacCormick and Sibley had attempted to evade the district court's order by transferring the bonds.

Elfi Janssen's additional claims in the trust proceeding

In August 2012, by amended petition, Elfi Janssen sought relief as beneficiary and trustee under Minn. Stat. §§ 501B.24 and 501B.81, subd. 28 (2012), relating generally to trust administration. She alleged that: Anna MacCormick had transferred trust assets in fraud of creditors; the corporate veil should be pierced because Sibley Holdings was created to defraud the court; Anna MacCormick, Sibley Holdings, and RBC converted trust assets and had been unjustly enriched by Anna MacCormick's receipt of interest from the bonds; and Anna MacCormick and her attorneys had committed fraud on the court. Elfi Janssen moved to join Sibley Holdings and RBC as parties, for a temporary injunction to freeze Sibley Holdings's assets, for amended findings on the issue of Anna MacCormick's control of trust assets, and for summary judgment.

In November 2012, the district court temporarily enjoined transfer of three of the bonds previously held by the trust in the RBC account, but otherwise denied the motions, stating that Sibley Holdings was not a party. The district court assigned the trust claims to a separate district court file, stating that Elfi Janssen's petitions "clearly request

additional relief related to trust matters”; and that all issues, except for undue influence and testamentary capacity, had been reserved for later determination, so that there was no longer a need to keep the cases combined. The district court reaffirmed its previous findings, conclusions, and order.

In December 2012, Elfi Janssen filed a second amended petition under Minn. Stat. § 501B.24, with reference to Minn. Stat. § 484.01, subd. 1 (2012). She alleged that Anna MacCormick had transferred trust assets to Sibley Holdings in fraud of creditors in violation of the Minnesota Uniform Fraudulent Transfer Act (MUFTA), Minn. Stat. §§ 513.41-.51 (2012); that to prevent Elfi Janssen from recovering judgments against her, Anna MacCormick had made other transfers in fraud of creditors, including fraudulent mortgages issued in favor of her attorneys; and that Anna MacCormick and Sibley Holdings had converted trust assets and had been unjustly enriched by retaining bond interest from the trust. Elfi Janssen asked the district court to void the transfers; to hold Anna MacCormick and Sibley Holdings liable for damages arising from those transfers, conversion, and “undue influence”; to hold Anna MacCormick’s attorneys liable for damages for assisting in a fraudulent transfer; to declare unenforceable any security interest in the trust’s assets; and to grant judgment in favor of the trust for the value of any unrecovered trust assets, plus penalty interest.

Sibley Holdings, Anna MacCormick, and her attorneys moved to dismiss the second amended petition. Anna MacCormick argued that the court lacked personal jurisdiction to enter a judgment against her because it had only in rem jurisdiction over the trust and because she had never been personally served. The district court granted the

motion to dismiss the attorneys, concluding that it “lacks jurisdiction over these parties and claims.”

After this court dismissed a previous, untimely appeal of the district court’s orders in the estate matter, Anna MacCormick, along with Sibley Holdings, renewed the motion to dismiss the second amended petition. She argued that the probate court lacked subject-matter jurisdiction to adjudicate broad damages claims and lacked in personam jurisdiction over her in relation to those claims and that she did not waive the issue of personal jurisdiction by participating in the earlier estate proceeding. The district court dismissed the petition as to claims against Sibley Holdings, except for jurisdiction over Sibley Holdings pertaining to trust assets and its obligations under the court’s prior orders. But the court ordered that “[a]ll claims against Anna MacCormick . . . remain and shall be heard by the Court.”

Elfi Janssen moved to amend the district court’s order to permit appellate review of the jurisdictional issue, and Anna MacCormick was personally served with a summons and a copy of the petition on April 11, 2013. Elfi Janssen sought leave to proceed as trustee without a co-trustee, which the district court granted. In response, Anna MacCormick then renewed her motion to dismiss, alleging lack of subject-matter jurisdiction, lack of personal jurisdiction, and failure to state a claim. *See* Minn. R. Civ. P. 12.02(a), (b), (e).

The district court ruled that it had subject-matter jurisdiction over Elfi Janssen’s claims and personal jurisdiction over Anna MacCormick. The district court stated that its jurisdiction under Minn. Stat. § 501B.24 was not limited to in rem jurisdiction and that

Minn. Stat. § 524.1-302(b) (2012) and Minn. Stat. § 484.01, subd. 1(1), read together, provided the court with subject-matter jurisdiction over trust matters, including related petitions. The district court also concluded that there was no clear error in the prior analysis and determination of Sibley Holdings’s relationship to the case, but declined to grant Anna MacCormick’s motion to dismiss for failure to state a claim. This appeal follows.

DECISION

I

Issues of personal and subject-matter jurisdiction present questions of law, which this court reviews de novo. *Johnson v. Murray*, 648 N.W.2d 664, 670 (Minn. 2002). “Once a district court has assumed jurisdiction of a trust, the district court has jurisdiction as a proceeding in rem until jurisdiction is transferred to another court or terminated by court order.” Minn. Stat. § 501B.24. “A court’s jurisdiction over property, its in rem jurisdiction, is its power over a thing so that its judgment is valid as against the rights of every person in the thing.” *In re Trusteeship of Sheridan, Colo.*, 593 N.W.2d 702, 705 (Minn. App. 1999) (quotation omitted). Anna MacCormick argues that the district court, acting as a probate court and exercising in rem jurisdiction pursuant to Minn. Stat. § 501B.24, lacked subject-matter jurisdiction to determine Elfi Janssen’s damages claims. Anna also contends that the district court lacked personal jurisdiction over her.¹

¹ The Minnesota Supreme Court has noted a lack of clarity in its decisions as to whether “in rem jurisdiction should be treated more like subject matter or personal jurisdiction.” *In re Petition for Instructions to Construe Basic Resolution 876 of Port Authority of St. Paul*, 772 N.W.2d 488, 496 (Minn. 2009) (Dietzen, J., concurring). We consider Anna

Subject-matter jurisdiction

“Subject-matter jurisdiction is a court’s power to hear and determine cases of the general class or category to which proceedings in question belong.” *In re Sheridan*, 593 N.W.2d at 705 (quotation omitted). Anna MacCormick maintains that the district court erred by concluding that it had general jurisdiction over all civil disputes. We disagree. Although historically separate, probate courts have “been consolidated into district courts of general jurisdiction.” *In re Estate of Janecek*, 610 N.W.2d 638, 641 (Minn. 2000). “There is no district court which is not also a probate court, and no distinction between the courts.” *In re Estate of Mathews*, 558 N.W.2d 263, 265 (Minn. App. 1997); *see also* Minn. Stat. §§ 484.011 (“The district court shall also be a probate court.”), .86, subd. 1 (2012) (permitting district courts to create divisions, including probate divisions). As a court of general jurisdiction, the district court, acting as probate court, had the power to determine claims relating to this trust matter. *See* Minn. Stat. §§ 524.1-302(a) (providing that the probate court has jurisdiction over “all subject matter relating to estates of decedents”), .1-302(b) (2012) (stating that a probate court “has full power to . . . take all other action necessary and proper to administer justice in the matters which come before it”).

Anna MacCormick points out that she was a stranger to the RIJ Trust as she was neither a trustee nor a beneficiary. She argues that the district court therefore lacked jurisdiction to determine claims against her in this in rem action. *See Leslie v.*

MacCormick’s arguments based both on lack of subject-matter and lack of personal jurisdiction.

Minneapolis Soc’y of Fine Arts, 259 N.W.2d 898, 903 (Minn. 1977) (stating that a probate court lacks jurisdiction to determine controversies involving “strangers claiming adversely” to an estate) (quotation omitted). But *Leslie* predates the 1982 integration of the probate court with the district court and the adoption of the Uniform Probate Code (UPC), Minn. Stat. §§ 524.1-101 - .8-103 (2012), which gives the district court concurrent jurisdiction over all actions to which an estate may be a party. *In re Estate of Sangren*, 504 N.W.2d 786, 788 (Minn. App. 1993), *review denied* (Minn. Oct. 28, 1993). Therefore, *Leslie* is no longer controlling law on this issue. Anna MacCormick also contends that the UPC governs only matters relating to decedent’s estates and therefore does not apply in this trust dispute. But the UPC provides that “[e]state’ includes all of the property of the decedent, *trust*, or other person whose affairs are subject to this chapter as originally constituted and as it exists from time to time.” Minn. Stat. § 524.1-201(17) (2012) (emphasis added). Therefore, by its plain language, the UPC may apply to determine rights relating to a trust. *See* Minn. Stat. § 645.16 (2012) (stating plain-language rule of statutory construction).

The general function of the district court in trust matters is “to preserve [trusts] and to secure their administration according to their terms.” *In re Trusts of Campbell*, 258 N.W.2d 856, 868 (Minn. 1977). “Once an express trust has been created, the trustee is subject to the jurisdiction of the court and . . . can be compelled to render to the court an account of [the] administration of the trust, and no act on his part, such as a dissipation or a conveyance of the trust res, can divest the court of its jurisdiction.” *In re Bush’s Trust*, 249 Minn. 36, 49, 81 N.W.2d 615, 623–24 (1957). The Minnesota Supreme Court

has stated in a trust action that, “[w]hen a court of equity assumes jurisdiction of a controversy, it has jurisdiction to determine all relevant issues.” *Doerr v. Warner*, 247 Minn. 98, 108, 76 N.W.2d 505, 513 (1956). Anna MacCormick allegedly participated in removing assets from the trust to the detriment of the trust and Elfi Janssen, who was co-trustee and beneficiary. Anna MacCormick’s removal as successor co-trustee four months before Robert Janssen’s attempted trust revocation does not insulate her from claims, including tort claims, based on her alleged wrongdoing in relation to the trust. *See Uselman v. Uselman*, 464 N.W.2d 130, 137 (Minn. 1990) (“If a third person commits a tort against trust property, the trustee has a duty to take reasonable steps to compel the tortfeasor to redress the injury.”), *superseded by statute on other grounds*; *King v. Johnston*, 101 Cal. Rptr. 3d 269, 281 (Cal. Ct. App. 2009) (holding that a beneficiary may maintain an action against a third party who assisted a former trustee in committing a breach of trust).

Anna MacCormick also argues that the governing trust statutes do not permit the exercise of jurisdiction over the damages claims alleged here because they are not specifically designated in a list of remedies under Minn. Stat. § 501B.16 (2012). Under that statute, a trustee or any person interested in a trust may petition the court for instructions regarding administration of the trust and the discharge of the trustee’s duties, which may include orders “to determine the persons having an interest in the income or principal of the trust and the nature and extent of their interests” and “to redress a breach of trust” *See id.*, (3), (19). After a hearing, the court issues an order “it considers appropriate.” Minn. Stat. § 501B.21 (2012). An order is appropriate if it is legally

justified. *See In re Trusts Created by Hormel*, 504 N.W.2d 505, 512 (Minn. App. 1993), *review denied* (Minn. Oct. 19, 1993).

We conclude that the listed remedies in Minn. Stat. § 501B.16 do not limit the district court's broad jurisdiction to order appropriate relief in matters involving trusts. *See* Minn. Stat. § 501B.24 (stating that “[t]his chapter does not limit or abridge the power or jurisdiction of the district court over trusts and trustees”); *In re Sheridan*, 593 N.W.2d at 705 (stating that under Minn. Stat. § 501B.16, “district courts have subject-matter jurisdiction over issues involving trusts”). Therefore, we affirm the district court's assertion of subject-matter jurisdiction over all claims, including those for recovery of trust assets based on Anna MacCormick's alleged conversion of those assets.

We recognize that the probate division of the district court not only has subject-matter jurisdiction to hear a broad range of claims in a probate matter, but it also retains discretion to address all claims raised in this trust proceeding and that, in the alternative, it has jurisdiction to order that some claims be considered in a separate action in the district court's civil division. In its scheduling order, the district court identified triable issues as not only the return of trust assets and compensation for their value, but also (1) Anna MacCormick's personal liability on those issues, and (2) whether any liens, transfers, or other trust encumbrances should be declared void. In the original estate and trust proceeding, Elfi Janssen sought damages from Anna MacCormick for conversion of trust assets. In the second amended petition, she asserted additional fraud and conversion claims against Sibley Holdings, Anna MacCormick, and her attorneys, including MUFTA violations based on allegedly fraudulent mortgages issued in favor of those

attorneys to hinder Elfi Janssen’s ability to collect judgments. Sibley Holdings and the attorneys are no longer parties to this lawsuit, but we may take judicial notice that Elfi Janssen has now filed a separate civil action asserting broad damages claims against Anna MacCormick and her children; the attorneys; Sibley Holdings; Padco; and RBC.² That action alleges fraudulent transfers by Anna MacCormick to Sibley, unjust enrichment, civil theft, conspiracy and collusion to fraudulently transfer assets, and aiding and abetting fraudulent transfers. In light of the additional pending action, which involves all necessary parties to these claims, we remand to the district court to determine which of the issues it has identified for trial in this trust matter are more appropriately considered in the related civil action.³

Personal jurisdiction

Anna MacCormick also challenges the district court’s exercise of personal jurisdiction over her. The concept of personal jurisdiction “delineate[s] . . . the persons . . . falling within a court’s adjudicatory authority.” *In re Civil Commitment of Giem*, 742 N.W.2d 422, 427 n.6 (Minn. 2007) (quotations omitted). “Jurisdiction over a trust involves both in personam and in rem jurisdiction.” *In re Sheridan*, 593 N.W.2d at 705.

² See *Eagan Econ. Dev. Auth. v. U-Haul Co. of Minn.*, 787 N.W.2d 523, 530 (Minn. 2010) (stating that an appellate court has inherent power to take judicial notice of public records when the orderly administration of justice commends it).

³We take no position on the merits of the additional civil action, or on a pending motion to consolidate it with this probate matter.

As discussed above, the district court's in rem jurisdiction over the trust extends to resolving disputes over actions taken with respect to the trust assets.⁴

Anna MacCormick argues that the district court lacked in personam jurisdiction over her because she was not personally served with the second amended petition in a timely manner. Whether service of process was properly made presents a legal issue, subject to de novo review. *Shamrock Dev., Inc. v. Smith*, 754 N.W.2d 377, 382 (Minn. 2008). A trust action, as an in rem proceeding, may be commenced by the filing of a petition pursuant to Minn. Stat. § 501B.16, which gives notice to interested parties of the claims against them. *See Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314, 70 S. Ct. 652, 657 (1950) (establishing that a fundamental prerequisite of due process in any proceeding is “notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections”). But commencement of a civil action generally requires service of the summons and complaint on the defendant. Minn. R. Civ. P. 3.01. Anna MacCormick acknowledges that she was served and knew of the claims in the second amended petition, but she argues that service was untimely because it did not occur until April 2013. *See Doerr*, 247 Minn. at 103, 76 N.W.2d at 511 (stating that “[a]s a general rule a civil action is commenced, and the court thereby acquires jurisdiction, when personal service upon the defendant is actually made as prescribed by statute or rule”).

⁴ Anna MacCormick, a Minnesota resident, does not contest that she has sufficient minimum contacts with the state, which supports the district court's exercise of personal jurisdiction over her. *Cf. In re Sheridan*, 593 N.W.2d at 705 (noting factors examined to determine the exercise of jurisdiction in a particular forum).

The district court implicitly found that Anna MacCormick had waived the defense of lack of personal jurisdiction by participating in the estate matter. A personal-jurisdiction defense is deemed waived if it is not raised in a responsive pleading or by motion prior to responsive pleading. Minn. R. Civ. P. 12.02; Minn. R. Civ. P. 12.08(a); *Comm'r of Natural Res. v. Nicollet Cnty. Pub. Water/Wetlands Hearings Unit*, 633 N.W.2d 25, 31 (Minn. App. 2001), *review denied* (Minn. Nov. 13, 2001). And personal jurisdiction “may be waived . . . through participation in a proceeding.” *Majestic Inc. v. Berry*, 593 N.W.2d 251, 258 (Minn. App. 1999) (quotation omitted), *review denied* (Minn. Aug. 18, 1999). Whether a party has waived the right to argue that the district court lacks personal jurisdiction, however, typically presents a question of fact. *See Valspar Refinish, Inc. v. Gaylord’s, Inc.*, 764 N.W.2d 359, 367 (Minn. 2009) (stating that “[w]aiver generally is a question of fact, and it is rarely to be inferred as a matter of law” (quotation omitted)).

In the original estate matter, Anna MacCormick responded to Craig Janssen’s and Susan Carlson’s claims by denying their allegations; she did not assert a lack of personal jurisdiction. She now argues that her participation in the estate matter did not waive a personal-jurisdiction defense as to Elfi Janssen’s claims later asserted in the trust matter, in which she is not acting as a trustee or beneficiary. But even assuming this argument has merit, our remand to the district court renders consideration of this issue premature. As discussed above, a related civil action is pending, involving numerous claims as to which Anna MacCormick has now been personally served. And our remand directs the district court to determine which claims are appropriately litigated in each action.

Moreover, we note that the applicable statutes of limitations on the claims in the second amended petition have not yet run. *See, e.g., Finn v. Alliance Bank*, 838 N.W.2d 585, 591 (Minn. App. 2013) (outlining limitation periods for MUFTA claims predicated, respectively, on actual fraud and constructive fraud), *review granted* (Minn. Nov. 12, 2013). We therefore decline to reverse for lack of personal jurisdiction.

II

Anna MacCormick argues that Elfi Janssen lacks standing to proceed in this action. Standing will be acquired “either [when] the plaintiff has suffered some ‘injury-in-fact’ or the plaintiff is the beneficiary of some legislative enactment granting standing.” *State by Humphrey v. Philip Morris Inc.*, 551 N.W.2d 490, 493 (Minn. 1996). The question of standing may be raised at any time. *In re Horton Irrevocable Trust*, 668 N.W.2d 208, 212 (Minn. App. 2003).

Anna MacCormick argues that Elfi Janssen lacks standing to assert claims relating to the trust because the dissolution judgment did not provide that Robert Janssen’s obligation to pay her maintenance and associated liabilities extended beyond his death. *See Witt v. Witt*, 350 N.W.2d 380, 382 (Minn. App. 1984) (stating that, under Minnesota law, unless agreed in writing or expressly provided in dissolution judgment, obligation to pay maintenance terminates on death of either party). Anna MacCormick’s reliance on *Witt* is misplaced because we examine Elfi Janssen’s standing based not only on the provisions of the dissolution judgment, but also on the trust’s language as an expression of Robert Janssen’s intent. “The guiding principle of trust interpretation is to give effect to the settlor’s or testator’s intent.” *In re Sheridan*, 593 N.W.2d at 708. When the

language of a trust is clear, the district court must determine the settlor's intent from its plain language. *In re Mayo*, 259 Minn. 91, 95, 105 N.W.2d 900, 903 (1960). The trust references the maintenance, COLA, and tax payments and expressly provides that at Robert Janssen's death, the trust will become irrevocable, and "[p]rincipal and income shall be held and distributed for the sole benefit of Elfi Janssen during her lifetime." This language unambiguously demonstrates that Robert Janssen intended that after his death Elfi Janssen receive principal and income from the trust to assure continued payment of COLA and of Elfi Janssen's tax obligations.

Under chapter 501B, a "trustee" or a "person interested in the trust" is permitted to petition the district court for an order concerning the trust. Minn. Stat. § 501B.16.; *see also* Minn. Stat. § 524.1-201(32) (2012) (defining an "interested person" under UPC to include "heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against the estate of a decedent"). Because the trust unambiguously provides Elfi Janssen with the right to receive payment from the trust after Robert Janssen's death, she is an "interested person" with standing in the trust proceeding to assert claims based on violations of that right.

In summary, we conclude that the district court did not err in assuming subject-matter jurisdiction over this matter, but that on remand, it should exercise its discretion to clarify which claims lie within the scope of this trust proceeding and which may be more appropriately considered in the related civil action. We also conclude that, even if Anna MacCormick's challenge to personal jurisdiction based on lack of personal service has merit, given the pending civil proceeding, it is premature to address it in this appeal.

Finally, Elfi Janssen has standing to assert claims in this matter based on her claim to be an interested person with a property right in the RIJ Trust.

Affirmed in part and remanded.