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WANT TO CHALLENGE A WILL? HERE'S WHAT YOU SHOULD KNOW

If you are upset or disagree with the provisions of a will, you may be wondering if you should challenge it. In this article, we discuss a few grounds for challenging a will and what may happen if your challenge is successful.

A will may be challenged for several reasons. However, being upset or disagreeing with the provisions of a will is not enough. Instead, here are a few grounds for challenging a will:

- Lack of Formalities: The will wasn't executed pursuant to the formalities required under Wisconsin law. For example, the will was not signed by the testator (the person making the will) or witnessed by two non-relative and disinterested witnesses.
- Lack of Capacity: The testator lacked the requisite level of mental capacity to execute the will. For example, the testator suffered from dementia or a mental illness that prevented the testator from fully understanding his or her assets and the effect of the document.
- Undue Influence: The testator was unduly influenced by a relative, friend, care giver, or other third party to execute the will. Undue influence includes fraud, force, and coercion. To read more about undue influence, click here.

Upon a successful challenge, the will may be reformed or set aside completely depending on the circumstances.

Sometimes a will may contain a "no contest" provision that prescribes a penalty against an interested person for contesting the will. In these circumstances, a court may find that the no contest provision is unenforceable if the court determines that the interested person had probable cause for instituting the proceedings. *See* Wis. Stat. § 854.19.

The attorneys in the inheritance litigation team at O'Neil Cannon have extensive experience with will contests and other disputes relating to inheritance litigation. Because the rules for will contests are complex, we encourage you to reach out to the authors of this article or any other attorney in our inheritance litigation team with any questions or concerns you may have related to a will contest.