

Wills may be contested for many reasons; challenges are similar to civil litigation

Many are surprised to learn that the will of a deceased relative or loved one can be challenged in probate court. Given these challenges often involve claims by one side of a family against another, so-called will contest actions can involve strong emotions and be very difficult to resolve.

Although probate administration can be a straightforward process, upwards of 2,300 civil actions that challenge the terms of the will, the conduct of the executor or both, are filed annually in Ohio, according to reports from the Ohio Supreme Court. Claims that challenge the will may include allegations of fraud, undue influence or elder abuse. Claims against an executor can include breach of fiduciary duty, misuse of estate assets and can even include a request that the court appoint a new executor.

Typically, an executor named in an estate plan files a will with the probate court to begin the process of gathering assets, paying debts and distributing what is left in accordance with the wishes of the deceased. Will contest litigation follows the same process as a personal injury lawsuit, which may be familiar to many. The contest is begun by filing a complaint with the probate court and can involve discovery, depositions and even a trial before a judge.

The time limit to file a will contest complaint can be as short as three months, according to [Ohio Revised Code Section 2107.76](#). For this reason, you should consult an attorney soon after you receive notice of the filing of a will with the probate court.

As with any litigation, will contest matters can be expensive and time consuming. Estate planning attorneys at NGC can advise on ways to avoid will contests.

—**Nicholas J. Dertouzos**
dertouzos@nicola.com

—**Brenda L. Wolff**
wolff@nicola.com



Nicola, Gudbranson & Cooper LLC

25 West Prospect Avenue, Suite 1400
Cleveland, Ohio 44115

Tel: (216) 621-7227

Fax: (216) 621-3999

www.nicola.com

Copyright 2019 by Nicola, Gudbranson & Cooper LLC

This article contains general information that should not be considered legal advice or legal opinion concerning individual situations. Legal counsel should be consulted for specific advice.