

What is a Will Challenge?

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When beneficiaries, or anyone interested in an estate questions the validity of a will, s/he may make a will challenge. A will challenge is made through the court. The person questioning the validity of the will must file a claim in court stating why they believe the will is invalid. The person making the claim is the Plaintiff. The Plaintiff must have some evidence or will most likely lose the case. The court hears evidence as to whether another will is in existence which may have been created after the will being followed, or as to whether a testator was under undue influence at the time the will was signed.

An estate cannot be settled while a challenge to the will is being heard in court. All the beneficiaries of the estate must wait to receive the inheritance being passed in the will until the court decides whether the challenge is justified or the challenge is thrown out of court. The best way to avoid a challenge to your will is to talk to loved ones and relatives about your intentions. When people know what to expect, they are less likely to question the will when it is finally disclosed.

When a will is challenged, it is the personal representative's job to defend the will. The estate typically pays the attorney fees associated with defending the will which means the value of the estate can be diminished by a long court process. If someone has perpetrated fraud against the estate though, that individual would likely be responsible for paying all costs associated with defending the estate.

About Attorney David Pastor

Experienced California Estate Planning and Probate Attorney David Pastor has helped many people protect loved ones and distribute estate assets. We can protect you and your family's interests in probate and trust administration. Contact us today for personalized help at 925-932-3346.