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## Contesting a Will

Sometimes I'm asked, "How easy is it to contest a will?" The answer is...really not that hard. There are a couple of issues to be determined before beginning. Those are standing and grounds.

### Standing

In order to contest a will, a person must either be a devisee (someone who is a named beneficiary) in the will or would have inherited if the deceased had died without a will (intestate). Michigan considers spouses, children, grandchildren, parents and in certain circumstances, siblings, to be interested persons should the deceased person die intestate.

### Grounds

In addition to legal standing, a person must be able to produce some kind of evidence of impropriety surrounding the will. The most common grounds for contesting a will are:

- lack of capacity
- undue influence by another person
- fraud
- the existence of a more recent will
- the will was not signed or witnessed properly

Lack of capacity means the person who signed the will was not mentally sound at the time the will was created.

Undue influence means the person was pressured into signing the will by a person who would benefit from the provisions of the will. Undue influence could include the use of threats, withholding medication, or separating the person from other members of the family.

Fraud means the person making the will relied on a false statement or fraudulent misrepresentation by someone else. This might mean the person signs a document not knowing that it's a will.

Whenever a will is contested, the probate court investigates the claim prior to admitting the will for probate. The evidence that supports a will contest must be provided by the party contesting the will.

Whether you wish to contest a will or someone else is contesting a loved one's will, you should consult an experienced probate attorney.