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Will Dispute Checklist

TO CONTEST Will: (Will Disputes)

Most common legal grounds to contest a Will are:

1. **Decedent lacked "testamentary capacity"**
2. **Undue influence or coercion by beneficiary over decedent**
3. **Failure to comply with legal formalities of properly signed, witnessed and notarized Will**

Will contest procedure:

- If the Will has not yet been probated, file a "caveat" with the County Surrogate (in New Jersey) or the County Register of Wills (in Pennsylvania).
- If the Will has been probated, file a Verified Complaint and Order to Show Cause seeking to set aside the Will based on the legal grounds listed above within four months of the probate date (if the Will contestant is a New Jersey resident) or within six months (if the Will contestant is not a New Jersey resident).
- If either a Caveat or Verified Complaint is filed, the proposed executor of the Will in question must file court documents seeking to reject the Will challenge and move forward with the Will and administer the estate.
- The case Will be heard in county Probate Court and be resolved through settlement or by court ruling following a trial.

Key facts that often determine strength of Will contest case:

- ☑ Who prepared the Will? An attorney for the decedent? An attorney for the primary Will beneficiary?
- ☑ Was the Will signed in the presence of two disinterested witnesses and a notary?
- ☑ Were the attorney, witnesses and notary present for any discussions about the Will's contents with the decedent at the time of the Will signing?
- ☑ Was the primary beneficiary of the Will present at the Will signing?
- ☑ Was this Will a substantial departure from the decedent's prior Wills, if any?
- ☑ What was the decedent's physical and mental condition at the time the Will was signed? Medical records and testimony of witnesses are relevant.