

## Publications

### **Client Alert: *Young v. Bellamy*: Ohio Court of Appeals Affirms Summary Judgment in Will Contest, Confirms High Bar to Overturn a Will on Undue Influence or Lack of Testamentary Capacity Grounds**

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Contestants of an Ohio will must overcome a very high threshold to establish that a decedent was unduly influenced or lacked testamentary capacity. *Young v. Bellamy, 2017-Ohio-2994*, decided on May 24, 2017, provides a new example of just how difficult it is to overturn a will. The Court of Appeals upheld the grant of summary judgment against a will contestant on the strength of affidavits of the drafting attorney and witnesses to the signing of the will.

In *Young v. Bellamy*, the will's contestant was written out of the decedent's estate plan in a series of wills executed over a period of about five years while the proponents were incrementally given a larger share of the estate. The contestant alleged that the decedent was unduly influenced and lacked testamentary capacity at the time he executed his last will. In support of summary judgment on the claim, however, the proponents provided three affidavits of disinterested witnesses who were actually with the 96-year-old decedent when he signed the will. All indicated they observed no indication of lack of capacity, susceptibility to undue influence, or actual coercion or duress.

The contestant, in response, submitted her own affidavit describing her relationship with the decedent, alleging that the decedent said he had no memory of executing a prior will, and asserting that the decedent had requested that she contact an attorney to change the will. The trial court found that the will contestant's self-serving affidavit was not sufficient to overcome the presumption of validity of the will and the three affidavits of those who observed the testator on the date of execution of the will. Summary judgment was granted, and the will contestant was not permitted to argue her case to a jury or present additional evidence at a trial. The Court of Appeals affirmed this decision.

Whether you are a beneficiary, executor or administrator of an estate who has questions about the potential for a will contest on the grounds of undue influence or testamentary capacity, or are an attorney with questions about this decision means for your practice and your clients,

contact a Vorys attorney regarding this decision.

