

New York Trust & Estate Disputes: When a Loved One's Death Becomes a Battlefield

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By Katarina Thallner



When Jane Doe died, her family assumed everything was in order. She had always been organized. She talked openly about “having her papers done.” Her three children gathered a few days after the funeral, expecting a straightforward process.

Instead, two different estate documents surfaced. One was an older will naming all three children equally as beneficiaries to her estate. Another, signed shortly before her death, left most of the estate to one child and excluded the others. Accusations followed, and what should have been a period of mourning quickly turned into conflict that led to years of litigation. This is how estate litigation often begins.

Estate litigation is not just about money. It is about family dynamics, legal rights, fiduciary responsibilities, and the emotional weight of unresolved issues that come to light after someone dies. In New York, these disputes are common, and when they arise, the consequences can be significant, if they are not handled promptly and appropriately.

Will Contests

In New York, a will can be challenged by filing objections in Surrogate's Court during the probate process, a court-supervised proceeding in which a will is submitted for approval and an executor is authorized to administer the estate.

The most common grounds for objecting to the probate of a will are:

Lack of Capacity

The testator must be at least 18 years old and of “sound mind” at the time the will is signed. This means they must understand the nature of making a will, the extent of their assets, and who their natural heirs are. A diagnosis of dementia or other cognitive impairment does not automatically invalidate a will, but it can be used as evidence that capacity was lacking at the time of execution.

Undue Influence

This occurs when someone in a position of trust or power over the testator pressures or manipulates them into changing their will in a way that does not reflect their true wishes. Courts look for evidence of isolation, dependency, and a beneficiary who was heavily involved in the will's preparation or execution.

Improper Execution

New York law has strict and formal requirements for the execution of a valid will. Among other requirements, it must be signed by the testator at the end of the document, in the presence of at least two witnesses, who must also sign and understand they

are witnessing a will. A failure to follow these steps, even a technical one, can be grounds to void the document entirely.

Fraud or Forgery

Fraud occurs when the testator was deceived into signing a will, such as being told they were signing a different document altogether. Forgery involves a signature or document that was fabricated without the testator's knowledge or consent.

Had Jane's family had proper planning and legal guidance, they might have acted sooner and avoided litigation.

Fiduciary Disputes

Will contests are not the only source of conflict. Equally common and damaging are disputes involving fiduciaries. A fiduciary is a person or organization with a legal obligation to act in someone else's best interest. In the context of estates and trusts, this means managing estate funds, real property, and other assets on behalf of the people entitled to benefit. Executors, estate administrators, and trustees all serve in this role, and all carry the same fundamental duty: to put the interests of the beneficiaries first.

Consider what happened to Jane's estate after the will dispute settled. Her son John was appointed executor. Months passed. Then several years. Distributions were delayed. Phone calls went unreturned. When his sisters finally demanded a formal accounting of his actions as executor, they learned that John had been using estate property without paying rent, had sold the property for less than market value, and had made fund transfers that could not be explained.

Disputes arise when there are allegations that a fiduciary is not acting in the best interest of the beneficiaries or trustees, or is breaching their fiduciary duty. Some common disputes include claims that the fiduciary is:

- Self-dealing or has a conflict of interest
- Misusing or mishandling assets
- Not exercising the appropriate care, skill, and caution when managing the assets
- Treating beneficiaries unfairly or unequally
- Not acting transparently or failing to provide beneficiaries or trustees with timely, accurate information, or not complying with formal or informal accountings

In addition to seeking an accounting, a beneficiary or trustee can request the removal of a fiduciary when they can demonstrate that the fiduciary breached their fiduciary duty and acted in a way that was detrimental to the beneficiaries. They can also request that an executor, administrator, or trustee be surcharged, meaning the fiduciary is personally liable for the harm caused and can be required to pay money back to the estate or trust to compensate for financial losses caused by their actions.

When to Speak to an Attorney

Jane's children might never have avoided the conflict entirely, but had they consulted an attorney when the second will surfaced, before accusations hardened into positions and positions hardened into litigation, they would have understood their options. They might have learned whether there were grounds to challenge the document, what evidence would matter, and whether an early demand for information could have clarified the picture before it became a lengthy legal battle. If you are facing uncertainty about a will, concerned about how an estate or trust is being managed, or simply unsure whether something feels wrong, the right time to speak with an attorney is now.