

## NEWS & INSIGHTS

---

# How to protect your will from being contested: a guide for estate planning peace of mind

BY: [WALTER A. TILLEY](#) | [INSIGHTS](#) | [ARTICLE](#)

JULY 1, 2025



If you are considering leaving someone out of your will — such as an estranged family member — you may be concerned about a legal challenge after your death. Fortunately, there are practical steps you can take to reduce the risk of your will being contested and ensure your wishes are carried out exactly as intended.

## *Use Video to Document Intentions*

One of the most effective actions to take is to make a video recording when the document is signed. In the video, the testator (the person making the will) can be seen signing the document, explaining the contents of the document, and explaining the reasons for the decision about the distribution of the estate with a direct reference to the person who the testator anticipates will challenge the will.

This not only provides strong evidence of the testator's intentions but also shows they were acting voluntarily and with full understanding.

## *Eliminate Ambiguities in the Will*

Precise wording in a will is essential. Ambiguities open the door to challenges and misinterpretation.

In one recent case, a will stated: "*I leave all my savings bonds, which are currently located at [location], to [name of beneficiary].*" Not all the savings bonds were placed at the location, and at the time of the person's death, none of them were in the safe deposit box at the bank. This raised a major question: does the word "all" apply so that all the savings bonds were to be given to the beneficiary regardless of their location? Or only "all" of the bonds that were at one time in the specified location?

To avoid similar disputes, review the will carefully for vague terms, shifting asset locations, or references that could change over time. A well-drafted will leaves no room for doubt.

## *Get a Medical Evaluation at Time of Signing*

A medical evaluation completed near the time of the will's signing can provide strong evidence that the testator had the mental capacity to make decisions.

Mini-mental state exams (MMSEs), commonly used by doctors, can document mental clarity and decisiveness. This can be crucial if a challenger later claims the testator was confused or impaired.

## *Ensure the Attorney Meets Privately with the Client*

The attorney preparing the estate plan should meet with the client independently, without any beneficiaries present. This allows the attorney to assess the client's level of independence if dependent upon a beneficiary. The attorney may also want assurance that the benefit makes sense under the circumstances. If the attorney sees something that does not seem right, the attorney will investigate it and make careful notes about the investigation and the reasons for the estate plan.

Planning your estate should bring peace of mind, not set the stage for conflict. With thoughtful preparation and

strategic safeguards, you can protect your legacy and reduce the likelihood of legal battles among your heirs. The attorneys at Saxton & Stump have extensive experience drafting wills and estate plans that withstand challenges. The group also includes knowledgeable litigators who will defend proper estate plans in court and challenge estate plans that do not reflect the true intentions of the person who passed away.

If you have any questions about drafting a solid will designed to withstand a contention, please [contact me](#) or any member of the [Saxton & Stump Trusts and Estates Group](#).

## **Related People**

[Walter A. Tilley](#)

## **Related Services and Industries**

[Trusts and Estates](#)