

Interested Parties in Probate Litigation

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During a Will contest, a question may rise as to who is an interested party with regard to an estate. This question is not quite as simple as it may appear at first sight. In fact, the interested parties may be substantially greater than the party initiating the Will contest might have anticipated. As discussed below, interested parties are not merely those who are listed under the Last Will and Testament.

In general, all of the Decedent's family members are either interested parties or actual parties during a Will contest whether they are named as beneficiaries under the Last Will and Testament or not. As such, all surviving family members are potentially interested parties. In addition to these parties, all parties who are listed under the current Last Will and Testament, which has been offered for probate, are also interested parties to the litigation.

This group is easy to define as they are listed in the Will that is being challenged, and thus, are directly interested parties. In addition to the parties listed under the Last Will and Testament which has been offered for probate, if a previous Will exists than the individuals listed under the previous Will could also be interested parties who would have standing to participate in the litigation. As such, when initiating a Will contest, the Petitioner must determine who the interested parties are under any previous Last Will and Testament aside from family members, as they may also be interested parties.

It is important in the context of Probate litigation that the person contesting a Will, as well as the person defending a Will, determine who the interested parties are. This is because these parties have to be placed on notice and given an opportunity to participate in the litigation should they choose to do so.

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