

## **The Short Time Period to Contest a Will**

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In most civil litigation in the state of New Jersey, the time to file a cause of action ranges from approximately one year to six years, with some exceptions. Regarding filing a Will Contest, however, that time frame is dramatically shorter. It is crucial that if you are considering contesting a Will, or if you might be responsible for defending a Will, that you are aware of this short statute of limitations. The time frame to commence a Will contest is codified by NJ Court Rules 4:85-1 and 4:85-2.

Pursuant to Court Rule 4:85-1, the time period to commence an action to contest the validity of a Will is within four months after probate of the Will, or of the grant of letters of appointment of an executor. Should the contestant live outside of New Jersey, however, the time would be extended to within six months after probate of the Will, or of the appointment of an executor. There are some exceptions to this Rule, however, for the purposes of this Blog those dates should be adhered to.

Pursuant to Court Rule 4:85-2, the period set forth under Rule 4:85-1 can be extended. This Rule provides that the period to contest a Will may be extended for a period not exceeding 30 days by order of the court upon showing good cause and the absence of prejudice. Typically, the court will grant this 30-day extension, provided there is even the slightest indication of good cause.

An important consideration under both of these Rules, however, is that the time period does not begin running until the Will is probated and/or an executor is appointed. It must be remembered that the clock does not start to run until the occurrence of one of these events. One other issue, which relates to this statutory time period, is the notification of the probate of a Will that must be given to heirs, family members, spouses, next of kin, or beneficiaries under the Will. Should this notice not be given, or should the notice be late, this can also extend the time period to contest a Will. That issue alone, however, is subject to numerous circumstances which might enlarge the time period to contest a Will which will be explored in another blog.

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National Law Review, Volumess XIII, Number 320

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