

Redd Provides Analysis of In Terrorem Clauses in Wills and Trust Instruments in *The Practical Lawyer*

In the News

03.25.2024

Stinson LLP Partner [Clary Redd](#) authored an article, “In Terrorem Clauses,” for *The Practical Lawyer*, the American Law Institute’s continuing legal education journal, offering a comprehensive, nationwide survey of the use and enforceability of in terrorem clauses in wills and trust instruments.

In terrorem clauses, also known as “no contest” clauses, are sometimes used to discourage beneficiaries from challenging an estate planning document. Redd says if employed effectively, a no contest provision can avoid an illegitimate attack on a will or trust instrument, save vast sums in litigation expenses and maintain family privacy. He highlights reasons why beneficiaries may launch a contest, why some individuals feel it’s important to include provisions to dissuade a contest and why the courts of some states won’t enforce an in terrorem provision if the beneficiary has probable cause to challenge the validity of the document.

Redd also examines multijurisdictional challenges arising in designing and deploying in terrorem clauses, including uncertainty about enforcement as clients are increasingly mobile. He uses the New York case of *Shamash v. Stark* to illustrate how differences in state laws can work to deny beneficiaries their inheritance, despite a valid contest.

In light of the various state laws, interpretive differences and restrictions on in terrorem clauses, Redd says careful drafting is crucial to the enforcement and success of each clause. “Practitioners should discuss with their clients the types of actions that trigger the clause,” Redd writes.

Redd has a preeminent, national reputation for developing and implementing unique solutions to complex problems, resolving intra-family disputes efficiently and sensitively and providing practical advice for current and future generations. He works on complex estates, trusts and estate planning projects and is deeply involved in the intertwined legal and practical aspects of wealth preservation and transmission.

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