

## Publications

### *Client Alert: Sigler v. Burk: Ohio Court of Appeals Applies the Presumption of Undue Influence When Assets Left to a Fiduciary*

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The Court of Appeals for the Third Appellate District recognized the strength of the presumption of undue influence in a will contest case, overturning an award of summary judgment because of the presumption. *Sigler v. Burk*, 2017-Ohio-5486, decided on June 26, 2017, demonstrates why, in drafting a will or trust, you should think carefully about any fiduciary role (or roles) assumed by the beneficiaries of the will or trust.

In *Sigler*, Martha Sigler (Ms. Sigler), the decedent, who lived in Alabama, suffered from a fall three months prior to her death. After her fall, Ms. Sigler was unhappy with the care and attention provided by her son, her sole surviving heir. Consequently, Ms. Sigler moved to a rehabilitation center in Ohio, where she relied on her brother and his wife for her personal needs and for financial advice until her death. They also introduced her to the attorney who prepared Ms. Sigler's will, and powers of attorney.

In June 2014, Ms. Sigler executed a power of attorney (POA), naming her brother agent and naming her sister-in-law alternate agent. Ms. Sigler also executed her will leaving her brother and his wife 80% of her estate, and the remaining 20% to her son. After the will was admitted to probate, Ms. Sigler's son filed a complaint contesting the will, alleging that the will was invalid on several grounds, including lack of testamentary capacity and undue influence.

The trial court granted summary judgment in favor of Ms. Sigler's brother and his wife, upholding the will. The Court of Appeals upheld the trial's court's judgment with respect to testamentary capacity, but reversed on the issue of undue influence. In reaching this decision, the court focused on the POA and the fiduciary relationship between Ms. Sigler, the principal, and her brother and sister-in-law, her agents.

The Court of Appeals recognized that the holder of a POA has a fiduciary relationship with the principal that imposes a duty of loyalty on the agent. The Court noted that that fiduciary relationship existed prior to Ms. Sigler's decision to make a new will, and that her brother

and sister-in-law had, in fact, used their authority under the POA prior to Ms. Sigler's death. The Court concluded, "Regardless of the reasons for Robert and Janet's use of the [POA], a presumption of undue influence results under the facts presented." Any transfer to a fiduciary creates a presumption of undue influence. The Court concluded that this presumption gave rise to a genuine issue of material fact—whether Ms. Sigler was unduly influenced to execute her will or whether she voluntarily acted with full knowledge of the consequences of her actions. The Court of Appeals reversed the grant of summary judgment on the undue influence claim and remanded the case to the trial court.

While the final outcome in *Sigler* is still undetermined, this case serves as a reminder that when a fiduciary is also named a beneficiary to a will or trust, the presumption of undue influence makes it difficult for a proponent of the will to defeat the will contest action at the summary judgment stage. Contact your Vorys attorney if you have questions regarding this decision.