Capacity Evidence In Will and Trust Contests

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Principal Contest Grounds:

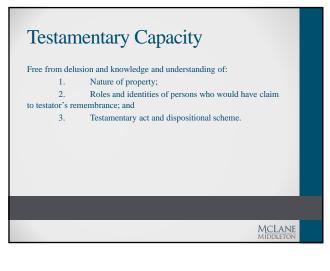
- 1. Incapacity; and
- 2. Undue Influence

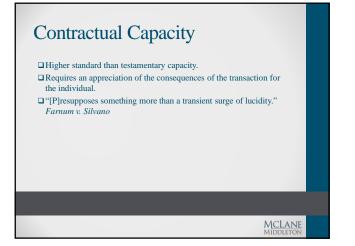
Capacity Standard Applicable

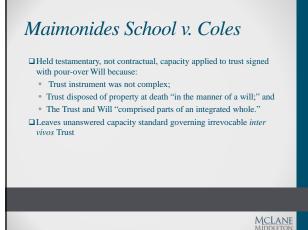
Testamentary Capacity: Wills Inter vivos Trusts signed with Pour Over Wills

Contractual Capacity Irrevocable Trusts?

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Undue Influence

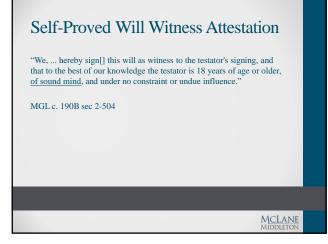
Elements:

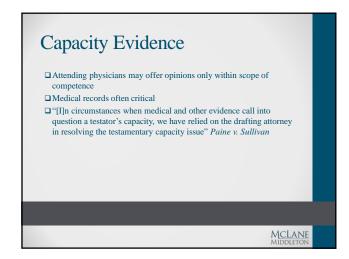
- 1. Unnatural disposition;
- 2. Susceptibility to undue influence;
- 3. Alleged perpetrator had opportunity to exercise undue influence; and
- 4. Alleged perpetrator procured the disposition through improper means.

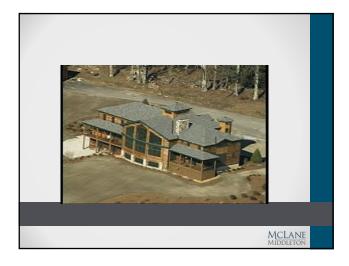
MCLANE MIDDLETON

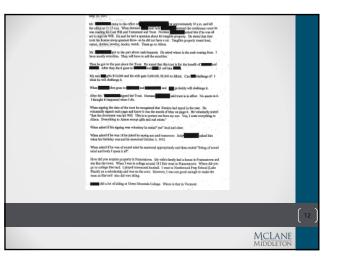
Capacity Opinion Witnesses

- 1. The witnesses to the Will;
- 2. Treating physicians; and
- 3. Witnesses qualified as experts in the knowledge and treatment of mental diseases









MCLANE MIDDLETON

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Medical Record Event			
He asked staff over and over again: Where is his wife? Where is his home and all his furniture? Why was he here? Was he bad? Has he lost his mind?			
He asked about arrival time of his wife (deceased)			
He asked when his wife (deceased) would arrive			
He was up most of the night hollering for help and kept trying to answer his phone when no one was on the phone			Contemporaneous Evaluations
He stored dirty, moldy coffee cups in his drawers			Contemporateous Evaluations
He did not recognize his own furniture and had no idea of the place or date			
He had no insight into his mental problems			
The day after a six-day trip with his daughter, he said, "What trip[?] I've been right here."			
He asked for wife (deceased) often			
He asked for wife (deceased) frequently			
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	 hone and all his furniture? Why was he here? Was he had? Has he lost his mind? He aded about arrival time of his wife (deceased) He aded when his wife (deceased) would arrive He subset of the high holdering for help and kept trying to answer his phone when no one was on the phone He stored dry, modly coffee cups in his drawst He date on tecognize his own farmiture and had no idea of the phace or date. He had not recognize his is mental problems He date of no wife (deceased) with his dungster, he said, "What tryi?". He aded for wife (deceased) frequently. 	Re added staff orer and over again: "Where is his wid?" Where is his hone and all his furniture? Way was he hore? Was he had? Has he how his mind?" We added about arrival time of his wife (deceased) We day how his wife (deceased) would arrive He was up most of the night hollering for help and kept trying to answer has phone when no one was on the phone He day to tropose his own formittee has one for a bottoe of the phone of again. He day there are advect up in his daywer. He day after a six-day trip with his dangker, he said, "What trip!?] He added for wife (deceased) frequently.	He adeal staff or war and rover again: "Where is his wirk?" Where is his home and all his famiture? "Way was he here? Was he had?" Hac he home him man?" He adeal advort arrival time of his wife (deceased) He adeal when his wife (deceased) would arrive He was up most of the night holdering for help and kept trying to answer his plone when no one was on the phone He stared advort, modily coeffice capes his draws He advort hole noise his own firmiture and had no idea of the place or date He had no insight into his mental problems He day after a six-day trip with his daughter, he said, "What trip[?] Le was after a six-day trip with his daughter, he said, "What trip[?] Le was after a six-day trip with his daughter, he said, "What trip[?] Le when right new." He added for wife (deceased) frequently



