

The Use of the CUIST in Undue Influence Cases



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What's New in Undue Influence



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What Is Undue Influence?



Probate Code §86 and Welfare & Institutions Code §15610.70

“Undue influence means excessive persuasion that causes another person to act or refrain from acting by overcoming that person’s free will and results in inequity.”

Section 86 is added to the Probate Code to read: 86.

“Undue influence” has the same meaning as defined in §15610.70 the Welfare Institutions Code

Probate Code: Undue Influence



In determining whether a result was produced by undue influence, all of the following shall be considered:

- Vulnerability of the victim
- Influencer's apparent authority
- Actions or tactics used by the influencer
- Equity of the result

The Psychology of Undue Influence



In order to understand undue influence, I began to do research and now I have a presentation on the Psychology of Undue Influence.

- It's long and detailed.
- People usually have lots of questions about UI in their particular cases, either attorneys, APS, or the general public.
- The information can be overwhelming.
- When is it UI and not just excessive generosity?

Undue Influence



Undue Influence can difficult to understand:

- Undue influence is essentially a psychological phenomenon because it requires one person to manipulate the free will of another.
- It's a form of psychological & financial abuse.
- It is not a crime but is often the means of committing a crime.
- Usually takes place behind closed doors.

The CUIST



The CUIST can provide a short-hand view
of UI in a particular case

- I am often hired as an expert witness on cases where capacity is in question
- It is not uncommon for me to alert the attorney that they have a good undue influence case
- The visual representation can be helpful to attorneys who may not be comfortable trying a UI case to see that aspect of the case more clearly.

Undue Influence



- Judges are also very interested in learning more about UI.
- “Gray tsunami”: By 2030 over 20% of the US population will be over the age of 65 (2010 Census)
- Financial elder abuse costs \$36.5 billion annually according to a 2015 study by True Link Financial
- Only 1 in 44 cases of financial abuse is reported
- Persons age 50 and older control 70% of the total net worth in U.S households