Supreme Court of Louisiana

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FROM: CLERK OF SUPREME COURT OF LOUISIANA

The Opinions handed down on the **30th day of June, 2021** are as follows:

BY Griffin, J.:

2019-C-02011 *SUCCESSION OF JAMES CONWAY LINER, III (Parish of Ouachita)*

ORIGINAL DECREE VACATED; COURT OF APPEAL OPINION AFFIRMED; REMANDED TO TRIAL COURT. SEE OPINION.

Weimer, C.J., additionally concurs and assigns reasons.

Hughes, J., dissents and assigns reasons.

Crichton, J., additionally concurs and assigns reasons.

Genovese, J., dissents and assigns reasons.

06/30/2021

SUPREME COURT OF LOUISIANA

No. 2019-C-02011

SUCCESSION OF JAMES CONWAY LINER, III

On Writ of Certiorari to the Court of Appeal, Second Circuit, Parish of Ouachita
On Rehearing

GRIFFIN, J.

We granted rehearing in this matter to consider the direction of our jurisprudence on the interpretative standard applied to notarial wills. Following a careful review of the law, we vacate our original decree, affirm the decision of the court of appeal, and clarify the analytical framework for determining whether a notarial will is in substantial compliance with the provisions of the Civil Code.

FACTS AND PROCEDURAL HISTORY

James Conway Liner, III ("Mr. Liner") executed two notarial testaments: one in 2013 and another in 2015 (purporting to revoke all prior testaments). The 2013 testament, executed pursuant to La. C.C. art. 1577 for testators who are able to read and sign their name, divided Mr. Liner's property equally amongst his three children: James Conway Liner, IV ("Conway"), Jeffrey Liner ("Jeff"), and Laura Liner Centola ("Laura"). The 2015 testament excluded Conway from any inheritance and was executed pursuant to La. C.C. art. 1579 for a testator who is unable to read regardless of whether they can sign their own name. Mr. Liner died in 2018.

Jeff and Laura filed a petition to probate the 2015 testament. Conway intervened and sought to have the 2015 testament declared null under various theories including an allegedly defective attestation clause. In relevant part, the 2015 testament reads:

> IN WITNESS WHEREOF, I have signed this, my Last Will and Testament, in the presence of the witnesses hereinafter named and undersigned.

[signature of testator]

> The foregoing instrument, consisting of eight (8) pages, and read aloud in the presence of the Testator and of each other, such reading having been followed on copies of the Will by Notary and witnesses, and the Testator declared that he had heard the reading of the Will by the Notary, and the Will was signed and declared by JAMES CONWAY LINER, III, Testator and above named, in our presence to be his Last Will and Testament, and in the presence of the Testator and each other we have hereunto subscribed our names on this 3rd day of June, 2015.

[signature of witnesses, notary, and testator]

Despite Mr. Liner's signature appearing on each separate page and at the end of the 2015 testament, the testament only stated that it was "signed" in the presence of the notary and witnesses.

The trial court invalidated the 2015 testament finding that the provisions of the attestation clause were not substantially similar to those set forth in La. C.C. art. 1579(2). The court of appeal reversed concluding that, despite the omission of the language "at the end" and "on each other separate page," the attestation clause does not fail because Mr. Liner's signature actually appears on the bottom of each of the eight pages of the 2015 testament and where the notary and witnesses attested to Mr. Liner signing in their presence. *Succession of Liner*, 53,138, pp. 8-9 (La.App. 2 Cir. 11/20/19), 285 So.3d 63, 67-68. We granted the subsequent writ application to review the appellate court ruling. *Succession of Liner*, 19-2011 (La. 2/26/20), 294 So.3d 476.

On original hearing this Court reversed the court of appeal and reinstated the judgment of the trial court nullifying the 2015 testament. Relying primarily on *Succession of Hanna*, 19-1449 (La. 11/25/19), 283 So.3d 493 (per curiam), we found that a statement verifying that the "[w]ill was signed" only establishes it was signed once and not that it was signed at the end and on each separate page. *Succession of Liner*, 19-2011 (La. 1/27/21), p. 7, --- So.3d ---, 2021 WL 266394 at *4. Specifically, we held that "[a]n attestation clause that fails to state that the testament

was signed at the end and on each other separate page fails to inform the testator and witnesses that the testator has a responsibility to sign every page of a multiple-page testament," thus it is not substantially similar to the language suggested in La. C.C. art. 1579(2). *Id.* (emphasizing this procedure offers heightened protection against fraud in the form of surreptitious page replacement after the execution of the testament).

Jeff and Laura filed an application for rehearing which we granted. *Succession of Liner*, 19-2011 (La. 3/23/21), --- So.3d ---, 2021 WL 1113672.

DISCUSSION

As on original hearing, the primary issue presented is whether the attestation clause verifying that Mr. Liner declared he "signed" the testament is substantially similar to the La. C.C. art. 1579 requirement that the attestation clause verify a testator declared he signed his name "at the end" and "on each other separate page" of the testament. We also address Conway's additional arguments as to whether the attestation clause reflects an inconsistency in the notary both following and reading the testament and whether the attestation clause fails to establish that Mr. Liner declared he heard the reading of the will in the presence of the notary and the witnesses.

A testator who is unable to read, including by reason of physical impairment, must follow the requisite formalities detailed in La. C.C. art. 1579 in order to execute a will. An attestation clause, evincing compliance with these formalities, must be included. The required contents of the attestation clause for this type of will is governed by La. C.C. art. 1579(2), which provides:

> In the presence of the testator and each other, the notary and witnesses must sign the following declaration, or one substantially similar: "This testament has been read aloud in our presence and in the presence of the testator, such reading having been followed on copies of the testament by the witnesses [, and the notary if he is not the person who reads it aloud,] and in our presence the testator declared or signified that he heard the reading, and that the instrument is his testament, and

> that he signed his name at the end of the testament and on each other separate page; and in the presence of the testator and each other, we have subscribed our names this ____day of ____, _____."

"The formalities prescribed for the execution of a testament must be observed or the testament is absolutely null." La. C.C. art. 1573.

The plain language of La. C.C. art. 1579(2) establishes that strict compliance with formal requirements is not necessary – an attestation clause need only be "substantially similar" to the language provided by the Civil Code. Our legislature adopted the statutory – now notarial – will from the common law to avoid the rigid formal requirements of the civil law. *Succession of Guezuraga*, 512 So.2d 366, 368 (La. 1987). "In accordance with this legislative intent, courts liberally construe and apply the statute, maintaining the validity of the will if at all possible, as long as it is in substantial compliance with the statute." *Id*. Given this presumption in favor of validity, "proof of the nonobservance of formalities must be exceptionally compelling to rebut that presumption." *Succession of Holbrook*, 13-1181, p. 11 (La. 1/28/14), 144 So.3d 845, 853 (citation omitted). Further, this Court has observed that because the purpose of an attestation clause is merely to "evince the facts and circumstances of the confection and execution" of a will, the form of an attestation clause is not "sacrosanct." *Succession of Morgan*, 257 La. 380, 385, 242 So.2d 551, 552 (1970); *see also Succession of Porche*, 288 So.2d 27, 29-30 (1973).

A cardinal rule of the interpretation of wills is that the intention of the testator as expressed in the will must govern. *Soileau v. Ortego*, 189 La. 713, 718, 180 So. 496, 497 (1938); *see also* La. C.C. arts. 1611 and 1612. In service to this rule, the formalities of a notarial will provide a protective function of guarding the testator against the risk of fraud. *See Soileau*, 189 La. at 718-19, 180 So. at 497; George Holmes, *Testamentary Formalism in Louisiana: Curing Notarial Will Defects through a Likelihood of Fraud Analysis*, 75 La. L. Rev. 511, 517 (2014) ("the protective function is … most directly tied to testamentary intent" as "evidence of

undue fraud or influence indicates that the testator did not truly intend for the document to be his or her will"). However, in guarding against the risk of fraud, courts should not favor the hypothetical over the facts at hand – potentially undermining the very purpose the formalities serve – by "elevating form over function." *Holbrook*, 13-1181, p. 8, 144 So.3d at 851; Ronald J. Scalise, Jr., *Will Formalities in Louisiana: Yesterday, Today, and Tomorrow*, 80 La. L. Rev. 1331, 1434-35 (2020) ("form requirements are not an end in themselves but only a means to an end" and "should always be viewed by courts as a vehicle which protects the testator … from imposition, fraud, and undue influence") (internal quotation omitted); Loretta Garvey Whyte, *Donations-Imperfect Compliance with the Formal Requirements of the Statutory Will*, 15 Loy. L. Rev. 362, 365 (1969) ("[i]t was the intention of the legislature to provide a will form which was not complicated by rigid formalities … and which would be executed without fear that it would be declared null in probate proceedings"). The result for a testator's estate would be the same as if fraud had actually been proven. *See Successions of Toney*, 16-1534, p. 5 (La. 5/3/17), 226 So.3d 397, 411 (Weimer, J., dissenting); John H. Langbein, *Substantial Compliance with the Wills Act*, 88 Harv. L. Rev. 489, 517 (1976) (by forbidding a will's proponents from proving that no fraud had occurred, the law is made to irrebuttably presume that it had). This is contrary to the legislature's adoption of the "substantially similar" language in the Civil Code, the established liberal interpretative standard in favor of a will's validity, and ignores consideration of whether "the instrument as a whole shows that [the] formalities have been satisfied." *Porche*, 288 So.2d at 29.

In *Guezuraga*, this Court emphasized that deviations from the notarial form are evaluated in relation to their effect on the risk of fraud:

> Where the departure from form has nothing whatsoever to do with fraud, ordinary common sense dictates that such departure should not produce nullity. It was the intent of the legislature to reduce form to the

> minimum necessary to prevent fraud. It is submitted that in keeping with this intent, slight departures from form should be viewed in the light of their probable cause. If they indicate an increased likelihood that fraud may have been perpetrated they would be considered substantial and thus a cause to nullify the will. If not, they should be disregarded.

512 So.2d at 368 (quoting Whyte, *supra*, at 371). Unlike the quantitative analysis undertaken in *Toney*,[1] *Guezuraga* established that whether a deviation is material or slight is a function of, not independent from, the risk of fraud. *Id.*; *see also* Holmes, *supra*, at 538; Scalise, *supra*, at 1349 (commenting that *Toney* "repudiates the broader language in earlier cases that focused on the risk of fraud and the purposes of the formalities, substituting in its place a narrower doctrine that upholds wills only when deviations from the formal requirements are minor or insignificant"). To the extent *Toney* stands for the proposition that an aggregate of slight deviations constitute a material deviation regardless of their cumulative effect on the risk of fraud, it is overruled.

Courts must determine if a notarial will, with all formalities and evidence taken into consideration, reflects the testator was sufficiently protected against the risk of fraud. Holmes, *supra*, at 541. This involves a contextual analysis of the protective function of a will's formalities in light of the document itself. *Id.* at 538; *Guezuraga*, 512 So.2d at 368; *Porche*, 288 So.2d at 29-30 ("[a]ttestation provisions are sufficient which, *in conjunction with the testament itself*, reasonably indicate that the testament was executed in accordance with the [codal] formalities") (emphasis added and citation omitted); *Succession of Bilyeu*, p. 3, 28,701 (La.App. 2 Cir. 9/25/96), 681 So.2d 56, 59 ("when the instrument shows that the formalities have been satisfied, technical deviations in the attestation clause should not defeat the dispositive portions of an otherwise valid will"). If the court's analysis reveals an

[1] *Toney* observed that "notarial wills [are] invalid when they contain **material** deviations, even in the absence of any indication of fraud." 16-1534, p. 15, 226 So.3d at 407 (emphasis in original).

increased likelihood that fraud may have been perpetrated, the deviations are material and cause to nullify the will exists. If not, the deviations are slight and should be disregarded. *Guezuraga*, 512 So.2d at 368. Whether the deviating language sufficiently protects against the risk of fraud is construed liberally in favor of maintaining the validity of the will. *Id.*; *Holbrook*, 13-1181, p. 11, 144 So.3d at 853. Mere allegations of fraud are not outcome determinative. Under the foregoing framework, we review the deviations in the attestation clause of the 2015 testament.

The primary deviation in the attestation clause at issue is the absence of language declaring that Mr. Liner signed the 2015 testament "at the end" and "on each other separate page." We construe the attestation clause liberally to determine whether it sufficiently evinces the requisite formalities to serve the protective function of guarding against the risk of fraud. *See Morgan*, 257 La. at 385, 242 So.2d at 552; *Porche*, 288 So.2d at 29-30; *Guezuraga*, 512 So.2d at 368. The attestation clause contains Mr. Liner's declaration that the "Will was signed" by himself and that "the foregoing instrument, consist[s] of eight (8) pages." Further, the 2015 testament was actually signed at the end and on each of the eight pages comprising it. These contextual circumstances – apparent from the instrument itself – reasonably indicate the language of the 2015 attestation clause sufficiently protected Mr. Liner against the risk of fraud.[2] *See Guezuraga*, 512 So.2d at 368;

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[2] On original hearing, this Court expressed its concern with the possibility of surreptitious page replacement reasoning that the inclusion of "on each other separate page" in the attestation clause would evince the pages were signed by Mr. Liner in front of the notary and witnesses thus offering "more heightened protection" against fraud. *Liner*, 19-2011, p. 7, --- So.3d at ---, 2021 WL 266394 at *4 (quoting *Toney*, 16-1534, p. 10, 226 So.3d at 404). A hypothetical that a testator executing a will under La. C.C. art. 1579 would be susceptible to page replacement ignores the possibility that the testator, who is unable to read, could sign a page in the presence of the notary and witnesses, but still be presented another page to sign (under the misrepresentation that it is a document unrelated to the testament) after-the-fact not being able to discern its contents. Thus, the attestation as to the timing of the testator's signature offers no real functional protection against surreptitious page replacement.

The key protection is the "the assurance of accuracy … achieved by the reading of the testament by the notary to the testator and witnesses, while the latter follow the reading on copies of the testament." La. C.C. art. 1579, Rev. Cmt. (b). "The principal function of the witnesses in the attestation requirement is to supply a [s]ource of proof that the testator signed what he formally indicated to be his testament." *Porche*, 288 So.2d at 29. These witnesses may be produced in

Porche, 288 So.2d at 29-30; *Succession of Dawson*, 51,005, p. 6 (La.App. 2 Cir. 11/16/16), 210 So.3d 421, 425 (testament should not be rendered invalid merely "because the attestation clause does not state [the] obvious fact"). We therefore find the attestation clause of the 2015 testament was executed in substantial compliance with La. C.C. art. 1579(2). Consistent with this ruling, we abandon our reliance on *Hanna*.[3]

While it is doubtless that best practices suggest using the language provided in the Civil Code, strict compliance is not the governing standard. Any dispute as to whether Mr. Liner signed each page of the 2015 testament in the presence of the notary and witnesses, and whether those pages properly reflect his testamentary intent, may be adjudicated at a trial on the merits.

The second deviation argued by Conway is an alleged inconsistency in the attestation clause suggesting the notary both followed and read the testament aloud. Specifically, the attestation clause states: "…such reading having been followed on copies of the Will by Notary and witnesses, and the Testator declared that he had heard the reading of the Will by the Notary…" Conway asserts this amounts to a contradictory statement which calls into question the reliability of the other declarations within the attestation clause. We disagree.

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person or by affidavit at a trial on the merits to prove or contest the contents of the will sought to be probated. *Id.*; *see also* Scalise, *supra*, at 1415 (attestation clauses were not required in the common law and only served to raise a "'rebuttable presumption of the truth of the recitals'" contained therein) (quoting RESTATEMENT (THIRD) OF PROPERTY: WILLS AND OTHER DONATIVE TRANSFERS § 3.1 cmt. q (AM. LAW INST. 1999)).

The concern over surreptitious page replacement discussed in the jurisprudence has focused on wills executed by testators who are able to read in instances where, unlike the matter *sub judice*, no signature appears on individual separate pages. *See, e.g.*, *Succession of Hoyt*, 303 So.2d 189 (La. App. 1st Cir. 1974).

[3] Given the need for contextual analysis, courts must use caution in relying on blanket rules in determining whether a will is in substantial compliance with the Civil Code. *See* Holmes, *supra*, at 535-36 ("[s]ubscribing to precedential rules indicates that the analysis is quantitative" such that a court would mistakenly believe that certain defects always substantially comply with the Civil Code while other defects do not); *see also Liner*, 19-2011, p. 3, --- So.3d at ---; 2021 WL 266394 at *8 (Crichton, J., dissenting) (observing that "as a brief writ grant without reasons, [*Hanna*] has little precedential value to the Court.").

The court of appeal observed, "as the person reading the testament, the notary is literally following the text of the document, albeit out loud, while fulfilling the purpose of La. C.C. art. 1579" – assurance that the document read to Mr. Liner correctly reflects his testamentary intent.[4] *Liner*, 53,138, pp. 7-8, 285 So.3d at 68; *see also Succession of Rogers*, 494 So.2d 546, 549 (La.App. 1st Cir. 1986) ("who reads the will aloud is not so important because the witnesses verify that the correct document was read and the testator advises the notary and the witnesses that what was read to him correctly represents his last will and testament"). Affording a liberal construction to the language of the attestation clause, we find this inconsistency has no effect on the likelihood of fraud and is therefore a slight deviation to be disregarded.

The final deviation argued by Conway is that the attestation clause does not state that Mr. Liner declared he heard the reading of the will in the presence of the notary and witnesses. The language provided by La. C.C. art. 1579(2) reads: "and in our presence the testator declared or signified that he heard the reading." Conway asserts the 2015 testament merely states "and the testator declared that he had heard the reading of the will by the Notary," thus suggesting the attestation clause is unclear as to whether the notary and witnesses are declaring Mr. Liner's declaration was made in their presence. This argument is without merit. Conway omits reference to the language immediately following that states "and the Will was signed *and declared* by [Mr. Liner], Testator and above named, *in our presence to be his Last Will and Testament*" (emphasis added). A liberal construction of these contiguous clauses readily conveys an understanding that the notary and witnesses are attesting that Mr. Liner declared, in their presence, the instrument was his will.

[4] In remarks from the bench, the trial court made a similar observation in stating "I'm reading this and I'm following not only what I'm reading, I'm following what it's saying."

DECREE

For the foregoing reasons, our original decree is vacated and the decision of the court of appeal reversing the trial court's nullification of the 2015 testament is affirmed. The matter is remanded to the trial court for further proceedings consistent with this opinion.

ORIGINAL DECREE VACATED; COURT OF APPEAL AFFIRMED; REMANDED TO TRIAL COURT

SUPREME COURT OF LOUISIANA

No. 2019-C-02011

SUCCESSION OF JAMES CONWAY LINER, III

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL, SECOND CIRCUIT,
PARISH OF OUACHITA
On Rehearing

WEIMER, C.J., additionally concurring.

I write to commend my colleague for the precise and concise opinion in this matter, which redirects the jurisprudence regarding attestation clauses to its historical roots, after a detour to overly strict construction.

The historical jurisprudence, which refused to elevate form over substance and sought to uphold a testator's wishes in a will, is consistent with the codal provisions that require the attestation clause need only be "substantially similar" to the recommended codal language. See La. C.C. arts. 1577-1580.1. The codal provisions have not changed; it was only the court's analysis that changed beginning with the decision in **Successions of Toney**, 16-1534 (La. 5/3/17), 226 So.3d 397. Returning to this court's historical analysis of attestation clauses is appropriate.

06/30/2021

SUPREME COURT OF LOUISIANA

No. 2019-C-2011

SUCCESSION OF JAMES CONWAY LINER, III

On Writ of Certiorari to the Court of Appeal, Second Circuit, Parish of Ouachita on Rehearing

Hughes, J., dissents for the following reasons.

I respectfully dissent. The law requires that the testator sign, and declare to the notary and witnesses that he signed, each page of the testament, and also that the notary and witnesses sign a declaration that he in fact did so.

There is no more substantial requirement than the testator actually sign each page of a testament.

If the courts are going to make a factual determination of whether the testator actually signed each page, then the requirement that the notary and witnesses sign a declaration to that effect can be written out of the law and ignored, and each case can be litigated on the merits of what actually happened, thus defeating the very purpose of the law.

06/30/2021

SUPREME COURT OF LOUISIANA

No. 2019-C-02011

SUCCESSION OF JAMES CONWAY LINER, III

On Writ of Certiorari to the Court of Appeal, Second Circuit, Parish of Ouachita

On Rehearing

CRICHTON, J., additionally concurs and assigns reasons:

I write separately to commend Tulane Law Professor Ronald J. Scalise, Jr. for his significant contribution to this area of law, which is made clear by citations to his legal scholarship not only by two of the dissents to the original opinion but also by the majority opinion on rehearing. *In re Liner*, 2019-02011 (La. 6/30/21), -- So. 3d -- (quoting Ronald J. Scalise, Jr., *Will Formalities in Louisiana: Yesterday, Today, and Tomorrow*, 80 La. L. Rev. 1331, 1414 (2020)); *Liner*, 2019-02011, p. 6 (La. 1/27/21), 2021 WL 266394, *reh'g granted sub nom*. *In re Liner*, 2019-02011 (La. 3/23/21) (Weimer, J., dissenting) (same); *Id*. (Crichton, J., dissenting) (same). Professor Scalise has aptly noted that the Court's analysis in recent decisions lost sight of the purpose of the attestation clause – to provide *a source* of proof that the testator's will complied with the formality requirements thereof – and that an otherwise formally compliant will should not necessarily be invalidated due to technical variations in an attestation clause. Scalise, *supra* at 1414. In line with this reasoning, I agree with the majority ruling that the subject variations of the attestation clause in the 2015 Will substantially comply with the attestation clause set forth in C.C. art. 1579(2) and should not nullify a will that otherwise meets the formal requirements set forth by our Civil Code. *See* C.C. art. 1579(1). A clarification of the law on substantial compliance with respect to notarial wills has been warranted.

SUPREME COURT OF LOUISIANA

No. 2019-C-02011

SUCCESSION OF JAMES CONWAY LINER, III

On Writ of Certiorari to the Court of Appeal, Second Circuit, Parish of Ouachita
On Rehearing

Genovese, J., dissents for the following reasons:

I respectfully, but vehemently, dissent from the majority opinion on rehearing, vacating this court's original opinion in this case. On rehearing, the majority ignores, negates, neuters and rewrites the provisions of La.Civ.Code art. 1579 in a stunning exercise of judicial activism. It allows an allegedly proven subjective and purported intent of a decedent, post mortem, by disgruntled heirs, to circumvent the mandates of La.Civ.Code arts. 1579 and 1573. In so doing, it discards legally correct precepts in favor of some perceived intent of a testator long after the execution of his or her will and erroneously overrules the holding expressed by this court in *Successions of Toney*, 16-1534 (La. 5/3/17), 226 So.3d 397. Far from clarifying the analytical framework for determining whether a notarial will is in substantial compliance with the provisions of the Civil Code, as the majority purports to do, the majority turns a blind eye to the mandates of La.Civ.Code art. 1579 in favor of an amorphous "contextual analysis." While the codal provisions governing an attestation clause within a notarial testament state that the mandated attestation clause need only be "substantially similar" to the model declaration provided therein, substantial compliance is required nonetheless. La.Civ.Code arts. 1577-79. The majority's holding herein, therefore, not only ignores the requirements of La.Civ.Code art. 1579, but also the mandatory language found in La.Civ.Code art. 1573 ("The formalities prescribed for the execution of a testament must be observed or the testament is absolutely null.").

Our jurisprudence requires that courts liberally construe and apply the provisions governing notarial testaments, maintaining the validity of a testament if possible, as long it is in substantial compliance with the codal provisions. *In re Succession of Holbrook*, 13-1181, p. 8 (La. 1/28/14), 144 So.3d 845, 851; *Succession of Guezuraga*, 512 So.2d 366, 368 (La.1987). Certainly, this court has acknowledged that fraud prevention is a consideration, and "[t]he primary purpose of the kind of notarial testament authorized [by La.Civ.Code art. 1579] is to provide safeguards to protect persons who are illiterate or otherwise unable to read[.]" La.Civ.Code art. 1579, 1997 Revision Comment (c). However, the analytical framework espoused by the majority elevates fraud prevention to such an extent that the likelihood of fraud *itself* compels the determination of whether a deviation is material or minimal. According to the majority, "[i]f the court's analysis reveals an increased likelihood that fraud may have been perpetrated, the deviations are material and cause to nullify the will exists. If not, the deviations are slight and should be disregarded."

Obviously reasonable minds may disagree as to whether there has been substantial compliance with the requisite formalities of a will; however, requiring a determination of the likelihood that fraud may have been perpetrated to then dictate the degree of the deviation provides no constant, no guidance, whatsoever. Although the majority expresses concern about elevating form over the substance of what the testator intended, notably, the testator's intent will be examined after his death, leaving the trial court to attempt such a determination after the fact. To the contrary, as we have recognized, the purpose of the attestation clause is to emphasize that the legal formalities are satisfied at the time the testament is executed. I wholeheartedly agree that relative to attestation clauses, the best practice is to reproduce the language provided in the Civil Code, and I agree with the majority that strict compliance is not the standard. However, I fervently disagree with the majority's approach, which

prioritizes the likelihood of fraud over the codally-provided formal requirements, as this will undoubtedly create uncertainty, precipitating an unnecessary and preventable flood of litigation.

Consistent with our prior jurisprudence, the relevant inquiry is whether the language of the attestation clause is substantially similar to the language of La.Civ.Code art. 1579(2). If so, the testament is valid. If not, the testament is rendered invalid and absolutely null under La.Civ.Code art. 1573. In my view, the attestation clause in the 2015 Liner testament was not substantially similar for the reasons set forth in our original opinion. Therefore, the trial court correctly found the 2015 testament to be invalid and absolutely null. For these reasons, I would reverse the appellate court ruling to the contrary and reinstate the judgment of the trial court nullifying the 2015 testament.