

Tentative Ruling

Case Name: *Estate of Susan Jee*

Case No.: 24PR197700

Hearing date, time, and department: February 7, 2025 at 10:00 a.m. in Department 1

INTRODUCTION

Decedent Susan Jee (“Decedent”) executed a will in 2015. On July 22, 2024, Michael Liou (“Petitioner”), Decedent’s nephew, filed a petition seeking to probate the 2015 will and to be named personal representative.

On January 17, 2025, the court held a hearing on the petition. At the hearing, the court learned that there was an objection to the petition for probate from Barry Burr (“Objector”) but it had not yet been filed. The court continued the hearing to allow Objector to file his objection. He did so on January 17, 2025.¹ In it, he asserts that he was Decedent’s boyfriend and that he believes that Decedent executed a later will before her passing. On January 10, 2025, Petitioner filed a reply to the objection.

Currently before the court is Petitioner’s motion to strike the objection.

DISCUSSION

On January 29, 2025, Petitioner filed his motion to strike. The hearing on the motion is set for February 7, 2025. A proof of service, filed January 30, 2025, indicates that the motion was also served on Objector on January 30, 2025, eight calendar days before the hearing. This does not give Objector the full notice period to which he is entitled under Code of Civil Procedure. Code of Civil Procedure section 1005, subdivision (b) provides that a motion must be served and filed 16 court days before the hearing, with additional time depending on the method of service. Thus, the motion is untimely and must be CONTINUED.

CONCLUSION

Counsel for the parties and any unrepresented parties must appear at the hearing on this matter, either in person or remotely, to select a new hearing date for Petitioner’s motion to strike. Petitioner is not required to re-serve the motion but must serve an updated notice of motion with the new hearing date. Objector may serve and file an opposition to the motion, if desired, within the timeframe allowed by Code of Civil Procedure section 1005 based on the new hearing date.

¹ On September 19, 2024, Objector filed a proof of service purporting to show service of an objection but no objection was filed at that time.