

**SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

Department 2, Honorable Amber Rosen, Presiding
Audrey Nakamoto, Courtroom Clerk

191 North First Street, San Jose, CA 95113
Telephone 408.882-2120

To contest the ruling, call (408) 808-6856 before 4:00 P.M.

PROBATE LAW AND MOTION TENTATIVE RULINGS

DATE: Feb. 13, 2025 TIME: 10:00 A.M.

*****NOTICE*****

**APPEARANCES IN DEPT. 2 ARE PREFERRED IN PERSON
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information from old cookies even after the current week's rulings have been posted.

LINE #	CASE #	CASE TITLE	RULING
LINE 1	22PR193161	<i>Estate of Michael C. Collier</i>	See Tentative Ruling. Petitioner shall submit the final order within 10 days of the hearing.
LINE 2			
LINE 3			
LINE 4			
LINE 5			
LINE 6			
LINE 7			

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LINE 8			
LINE 9			
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Calendar line 1**Case Name:** *The Estate of Michael Christopher Collier***Case No.:** 22PR193161**INTRODUCTION**

Decedent Michael Christopher Collier (“Decedent”) passed away in May 2022. On August 24, 2022, Collette Sweers, a personal representative suggested by Decedent’s heirs, his parents, Michael Howell Collier and Mary Kathleen Collier (“Petitioners”), petitioned for letters of special administration, indicating that Decedent had died intestate. On October 4, 2022, letters of special administration issued to Sweers to expire on March 29, 2023. On October 31, 2022, a purported will of Decedent’s was lodged with the court. On January 21, 2023, Sweers again petitioned for letters of special administration, this time indicating that Decedent died with a will executed on February 4, 2022 but asserting that said will was invalid.

On February 3, 2023, Respondent Juan Sonny Mejia, Jr. (“Respondent”) objected to the issuance of letters of special administration and filed a petition to probate the February 4, 2022 will purportedly signed by Decedent. On April 4, 2023, Petitioners opposed Respondent’s petition for probate contending that the will was invalid because the subscribing witnesses were interested in the estate and the signature did not match Decedent’s and because it was a product of fraud or undue influence by Respondent. The response also alleged that Sweers required renewed letters of administration because Respondent claimed an ownership interest in Decedent’s condominium but that homeowners’ association fees had gone unpaid, resulting in threats of foreclosure.

Currently before the court is Petitioners’ motion for summary judgment. No opposition has been filed and the time in which to do so has long since passed.

DISCUSSION**I. Legal Background**

Any party may move for summary judgment. (Code Civ. Proc., § 437c, subd. (a); *Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 843 (*Aguilar*.) The motion “shall be granted if all the papers submitted show that there is no triable issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” (Code Civ. Proc., 437c, subd. (c); *Aguilar, supra*, at p. 843.) The object of the summary judgment procedure is “to cut through the parties pleading” to determine whether trial is necessary to resolve the dispute. (*Aguilar, supra*, at p. 843.) Summary adjudication works the same way, except it acts on specific causes of action or affirmative defenses, rather than on the entire complaint. (Code Civ. Proc., § 437c, subd. (f).) ... Motions for summary adjudication proceed in all procedural respects as a motion for summary judgment.” (*Hartline v. Kaiser Foundation Hospitals* (2005) 132 Cal.App.4th 458, 464.)

“A defendant or cross-defendant has met his or her burden of showing that a cause of action has no merit if the party has shown that one or more elements of the cause of action, even if not separately pleaded, cannot be established, or that there is a complete defense to the

cause of action. Once the defendant or cross-defendant has met that burden, the burden shifts to the plaintiff or cross-complainant to show that a triable issue of one or more material facts exists as to the cause of action or a defense thereto. The plaintiff or cross-complainant shall not rely upon the allegations or denials of its pleadings to show that a triable issue of material fact exists but, instead, shall set forth the specific facts showing that a triable issue of material fact exists as to the cause of action or a defense thereto.” (Code Civ. Proc., § 437c, subd. (p)(2).)

“A defendant seeking summary judgment must show that at least one element of the cause of action cannot be established, or that there is a complete defense to the cause of action...The burden then shifts to the plaintiff to show there is a triable issue of material fact on that issue.” (*Alex R. Thomas & Co. v. Mutual Service Casualty Ins. Co.* (2002) 98 Cal.App.4th 66, 72, internal citations omitted; emphasis added.)

When a defendant moves for summary judgment, “its declarations and evidence must either establish a complete defense to plaintiff’s action or demonstrate the absence of an essential element of plaintiff’s case. If plaintiff does not counter with opposing declarations showing there are triable issues of fact with respect to that defense or an essential element of its case, the summary judgment must be granted.” (*Gray v. America West Airlines, Inc.* (1989) 209 Cal.App.3d 76, 81.)

If the moving party makes the necessary initial showing, the burden of production shifts to the opposing party to make a prima facie showing of the existence of a triable issue of material fact. (Code of Civ. Proc., 437c, subd. (c); *Aguilar, supra*, 25 Cal.4th at p. 850.) A triable issue of material fact exists “if, and only if, the evidence would allow of reasonable trier of fact to find the underlying facts in favor of the party opposing the motion in accordance with the applicable standard of proof.” (*Aguilar, supra*, at p. 850, fn. omitted.) If the party opposing summary judgment presents evidence demonstrating the existence of a disputed material fact, the motion must be denied. (*Id.* at p. 843.)

Throughout the process, the trial court “must consider all of the evidence and all of the inferences drawn therefrom.” (*Aguilar, supra*, 25 Cal.4th at p. 856.) The moving party’s evidence is strictly construed, while the opponent’s is liberally construed. (*Id.* at p. 843.)

II. Merits of the Motion

Petitioners move for summary judgment asserting that they are entitled to judgment as a matter of law as to their April 4, 2023 opposition to Respondent’s petition for probate. They contend that the will proffered by Respondent is invalid for multiple reasons, that Respondent’s asserted interest in Decedent’s condominium has no legal or equitable basis, and that the administration of the estate should proceed as if Decedent had died intestate.

A. Respondent’s Proffered Will

On February 3, 2023, Respondent filed a petition for probate of a will allegedly executed by Decedent on February 4, 2022, shortly before his death. The will leaves Decedent’s entire estate to Respondent. It is signed by two subscribing witnesses, Respondent and one Krystal Hudson, whom Petitioners assert was romantically linked to Respondent at the time the will was signed. Petitioners assert that this will is invalid because at least one

subscribing witness, Respondent, was not a disinterested person, because the will lacks the date of when the subscribing witnesses signed, and because Respondent admitted that the will was not executed by Decedent.

Probate Code section 6112, subdivision (c) provides, “Unless there are at least two other subscribing witnesses to the will who are disinterested witnesses, the fact that the will makes a devise to a subscribing witness creates a presumption that the witness procured the devise by duress, menace, fraud, or undue influence. This presumption is a presumption affecting the burden of proof. This presumption does not apply where the witness is a person to whom the devise is made solely in a fiduciary capacity.” Here, Respondent, who is one of the signing witnesses, is the sole beneficiary under the terms of the will.¹ Thus, the presumption of duress, menace, fraud, or undue influence arises. As Respondent has not opposed the motion, he does not rebut the presumption.

Additionally, despite being represented by counsel,² Respondent failed to respond to discovery requests, resulting in a court order that the matters stated in Petitioners’ requests for admissions be deemed admitted. (See January 25, 2024 Order, p.4:25-26.) The requests asked Respondent to admit, inter alia, that the will was prepared by Respondent and not Decedent and that Decedent did not sign the will. (See Declaration of Petitioners’ Counsel in Support of Motion for Summary Judgment [], Ex. A [Requests for admission], Nos. 10-12.)

Accordingly, Petitioners have met their initial burden of establishing that Respondent’s request to probate the purported will cannot succeed. As Respondent has failed to oppose the motion, he has not established that there is a triable issue of material fact. Accordingly, the motion is GRANTED as to the request to probate the will.

B. Decedent’s Condominium

¹ Notably, Respondent attempted to cure this deficiency by filing declarations of two other persons who purportedly witnessed Decedent sign the will. (See Respondent’s Petition for Probate, filed February 3, 2023.) Petitioners do not address this. But, the court (Hon. Drew Takaichi) issued an order deeming the facts stated in Petitioners’ requests for admissions admitted and one such request asked Respondent to admit that no other persons witnessed the signing of the will. (January 25, 2024 Order, p.4:25-26; Declaration of Petitioners’ Counsel in Support of Motion for Summary Judgment [], Ex. A [Requests for admission], No. 18.) Even assuming these declarations are sufficient to cure the interested subscribing witness issue, there is another separate basis for concluding that the will is invalid as discussed below.

² It is unclear if Respondent is still represented by counsel. On January 3, 2024, Respondent’s counsel filed a declaration in support of motion to be relieved as counsel (Judicial Council form MC-052). But, no motion or proposed order were filed with the declaration. The declaration listed a hearing date of March 20, 2023, several months before the declaration was filed. No relieving counsel or substitution of counsel form appear in the court file. The motion for summary judgment and supporting documents were served on Respondent personally as well as on his counsel.

In Respondent's petition to probate the February 4, 2022 will, he stated that he was entitled to possess Decedent's condominium under the terms of that will as he was the sole named beneficiary. As discussed above, Petitioners are entitled to summary judgment on the ground that the will is invalid. Petitioners assert that Respondent also claimed an interest in the condominium by virtue of his payment of expenses and the fact that he was listed on the title. But, Respondent admitted that he was never on title for the condominium and never paid expenses for the condominium via his failure to respond to Petitioners' requests for admission and the court's order that the facts stated in the requests for admission be deemed admitted. (See January 25, 2024 Order, p.4:25-26; Declaration of Petitioners' Counsel in Support of Motion for Summary Judgment [], Ex. A [Requests for admission], Nos. 23-24, 26.) The court finds that Petitioners are entitled to summary judgment on the ground that Respondent has no right to the condominium.

C. Intestacy

Petitioners' opposition to Respondent's petition for probate seeks a finding that Decedent died intestate. The court has already determined above that Petitioners are entitled to summary judgment on the ground that the February 4, 2022 will is invalid. No other purported will of Decedent's has been submitted to the court. Under these circumstances, where it cannot be said that any portion of the February 4, 2022 will remains valid and no prior wills appear to exist, Decedent's estate must be distributed under the laws of intestate succession. (See Prob. Code, § 6400 ["Any part of the estate of a decedent not effectively disposed of by will passes to the decedent's heirs as prescribed in this part."].)³ The motion is GRANTED to the extent it seeks a finding that Decedent's estate should be distributed via the laws of intestate succession.

CONCLUSION

Petitioners' motion for summary judgment is GRANTED.

³ Petitioners do not seek a finding as to who qualifies as an intestate heir.