

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

Department 1, Honorable Le Jacqueline Duong, Presiding
Mai Jansson, Courtroom Clerk

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

**To contest the ruling, call (408) 808-6856 Or Email at
Department1@scscourt.org before 4:00 P.M.**

PROBATE LAW AND MOTION TENTATIVE RULINGS
DATE: October 2,2024 TIME: 10:00 A.M.

*****NOTICE*****

**APPEARANCES IN DEPT. 1 MAY BE IN PERSON OR REMOTE
THROUGH MICROSOFT TEAMS**

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**State and local Court Rules prohibit recording of court proceedings without a
Court order. This prohibition applies while on Microsoft Teams.**

**Prevailing party shall prepare the order by e-file, unless stated otherwise below
The court does not provide official court reporters for civil/probate law and motion
hearings. See court website for policy and forms for court reporters at hearing**

TROUBLESHOOTING TENTATIVE RULINGS

If do not see this week's tentative rulings, they have either not yet been posted or
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"REFRESH" or "QUIT" your browser and reopen it, or adjust your internet settings to
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This is NOT Probate Examiner's note. For that please click here

And look for probate advance case status.

**[https://santaclara.courts.ca.gov/divisions/probate-division/probate-advance-case-
status-reports](https://santaclara.courts.ca.gov/divisions/probate-division/probate-advance-case-status-reports)**

LINE #	CASE #	CASE TITLE	RULING
LINE 1	20PR188716	Estate of Michael Bob Garland	Click on LINE 1 or scroll down for attached Tentative Ruling.

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PROBATE LAW AND MOTION TENTATIVE RULINGS

LINE 2	20PR189171		Click on LINE 2 or scroll down for attached Tentative Ruling.
LINE 3			Click on LINE 3 or scroll down for attached Tentative Ruling.
LINE 4			
LINE 5			
LINE 6			

Line 1

Decedent Michael Garland (“Decedent”) died intestate on June 11, 2020. Petitioner Selena Varela (“Petitioner”) sought and received letters of administration appointing her administrator of the estate. On January 24, 2023, Petitioner filed her final accounting and report and petition for approval of statutory compensation, attorney compensation, reimbursement for costs, and final distribution. On March 29, 2023, Objector Patricia Carrasco (“Objector”) filed an objection and an amended objection.

On September 15, 2023, Petitioner filed an amended petition. The hearing on that petition was scheduled for November 3, 2023. On November 2, 2023, Objector attempted to file an objection but the objection was rejected because the proper filing fee was not paid.

On November 3, 2023, the court was scheduled to hear the petition but no one appeared at the hearing and it was ordered off calendar. The minute order from the previous hearing date indicates that the parties had reached an agreement and that an amended petition was filed. On November 8, 2023, the court issued a written order granting the petition.

Confusingly, Objector filed a different version of the objection on November 14, 2023, after the hearing on the petition and after the order granting the petition was filed. That objection was dated November 12, 2023, also after the hearing on the petition.

On December 6, 2023, Objector filed a motion for reconsideration on the ground that the clerk’s office did not process her objection prior to the hearing on the petition and that the court was misled as to certain facts. Petitioner did not oppose the motion.

The motion for reconsideration came on for hearing on January 10, 2024. Thereafter, on February 14, 2024, Objector filed another document titled motion for reconsideration, which appears to be substantially similar to the December 6, 2023 motion. Petitioner filed nothing in response.

On March 7, 2024, the court filed a written order denying the motion without prejudice. The court explained that the petition was ordered off calendar because it was represented to the court that the parties had reached an agreement. However, Objector made no mention of this in her motion for reconsideration. The court also explained that the unfiled objection Petitioner provided with her motion for reconsideration was missing exhibits that were referred to within

the document. The court found the declaration in support of the motion deficient under Code of Civil Procedure section 1008.

On May 21, 2024, Objector filed a substantially similar motion for reconsideration. The motion addressed none of the issues identified by the court. No opposition was filed.¹

On August 21, 2024, the motion again came on for hearing. The court issued its tentative ruling denying the motion with prejudice. Counsel for Objector appeared but no opposition was filed and no other appearances were made. Objector requested that the court continue the hearing so that Petitioner could be properly served. The court did not adopt its tentative ruling at that hearing and continued the hearing to October 2, 2024.

Since the hearing on August 21, 2024, no new briefing has been filed. Objector has not filed a proof of service.

DISCUSSION

Objector misrepresents in the instant motion that the prior motion was denied because it was filed in the wrong department. (See Declaration of Jonathan G. Stein, ¶ 3.) However, the court issued a detailed written order, filed March 7, 2024, denying Objector's motion without prejudice, indicating that the motion was deficient because Objector did not explain: (1) whether the motion is timely, (2) why it was represented to the court that the parties had reached an agreement, and (3) why she did not object to the petition being taken off calendar. Also, Objector failed to provide the declaration required by Code of Civil Procedure section 1008.2. Further, Objector did not address Petitioner's arguments made in her reply to Objector's opposition to Petitioner's original petition and Objector has not provided the court with the exhibits she refers to in her objection attached to the motion for reconsideration.

The instant motion and supporting documents fail to address any of these points. Despite the fact that the hearing on the motion was continued, Objector has filed no new documents addressing these issues. Accordingly, the motion is **DENIED WITH PREJUDICE**.

CONCLUSION

The motion is **DENIED WITH PREJUDICE**.

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