

**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 before 4:00 P.M.

PROBATE LAW AND MOTION TENTATIVE RULINGS

DATE: August 14, 2024 TIME: 10:00 A.M.

*****NOTICE*****

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

PLEASE GO TO:

https://www.scsccourt.org/general_info/ra_teams/video_hearings_teams.shtml to find the appropriate link.

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

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LINE #	CASE #	CASE TITLE	RULING
LINE 1	19PR185997	Estate of Nancy M. Sibley	Click on LINE 1 or scroll down for attached Tentative Ruling.
LINE 2	22PR192739	Estate of Francisco Ramiro Perez Juarez	Parties to appear
LINE 3	22PR192739	Estate of Francisco Ramiro Perez Juarez	Parties to appear
LINE 4			
LINE 5			

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PROBATE LAW AND MOTION TENTATIVE RULINGS

[LINE 6](#)

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Line 1

Case Name: The Estate of Nancy Sibley

Case No.: 19PR185997

Hearing date, time, and department: August 14, 2024 at 10:00 a.m. in Department 1

INTRODUCTION

In May 2019, Perice Sibley (“Perice”) initiated this case by filing a petition for probate of the estate of her mother, Decedent Nancy Sibley (“Decedent”), who died testate in 2019. The will was allegedly executed on March 19, 2019. Decedent’s husband Hiram Sibley predeceased her in 2017.¹ On December 11, 2019, another of Decedent’s daughters, Carrie Elias (“Elias”), filed will contest challenging Decedent’s will which purportedly left Decedent’s entire estate to Austin Cody, Perice’s son. On May 5, 2020, Elias filed a competing petition for probate proffering a pourover will which left Decedent’s estate to the Hiram & Nancy Sibley Living Trust. On March 8, 2022, Elias filed a petition for return of property, claiming that Perice had committed elder abuse against Decedent and breached her duty as Decedent’s attorney-in-fact.

On January 8, 2021, Perice’s counsel, Hopkins & Carley, filed a petition for extraordinary fees to be paid from the estate. The petition alleged that the fees were incurred while Perice served as administrator of Decedent’s estate.

On June, 7, 2024, the court filed its written order following trial on the will contest. The court found that Perice procured the will via undue influence and that Decedent lacked the capacity to execute the will at the time it was signed.

Currently before the court is the petition for extraordinary fees filed by Hopkins & Carley. Elias has objected to the petition. Hopkins & Carley and Elias have both filed supplemental documents.

DISCUSSION

Hopkins & Carley filed the instant petition for extraordinary fees in 2021. At that time, no determination had been made regarding the validity of the will. Notably, some of the fees requested are for defense of the will. However, as mentioned above, on June 7, 2024 the court filed its written order determining that the will was invalid. One of the items the court contemplates in determining whether to award attorney fees for litigation is the success of that litigation. (See, e.g., *Estate of Schuster* (1984) 163 Cal.App.3d 337, 344.)

Accordingly, the court requests supplemental briefing from the parties regarding whether and how the court's order invalidating the will affects the outcome of the petition for

extraordinary fees. The hearing on this matter is hereby continued to _____. Elias and Hopkins & Carley are ordered to meet and confer regarding whether and how the court's order impacts the request for extraordinary fees. After meeting and conferring, Elias and Hopkins & Carley are ordered to provide supplemental briefing on this issue no later than 20 days before the continued hearing.

CONCLUSION

The hearing on this matter is hereby continued to _____. Elias and Hopkins & Carley are ordered to meet and confer regarding whether and how the court's order impacts the request for extraordinary fees. Elias and Hopkins & Carley are ordered to provide supplemental briefing on this issue no later than 20 days before the continued hearing.

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