

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

Department 2, Honorable Drew C. Takaichi, 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: September 9, 2024 TIME: 10:00 A.M.

*****NOTICE*****

**APPEARANCES IN DEPT. 2 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.

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Prevailing party shall prepare the order by e-file, unless stated otherwise below

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TROUBLESHOOTING TENTATIVE RULINGS

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LINE #	CASE #	CASE TITLE	RULING
LINE 1	24PR196806	<i>Estate of Stig Thormodsrud</i>	Click or scroll to line 1 for tentative ruling.
LINE 2	24PR196806	<i>Estate of Stig Thormodsrud</i>	Tentative ruling is included in line 1.
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Case Name: *The Estate of Stig Thormodsrud*

Case No.: 24PR196806

Hearing date, time, and department: September 9, 2024 at 10:00 a.m. in Department 2

INTRODUCTION

Decedent Stig Thormodsrud (“Decedent”) passed away intestate in January 2024. The court appointed Hilde Smith (“Personal Representative”) personal representative of Decedent’s estate.

Currently before the court are the Personal Representative’s (1) motion for an order for disclosure or production of Decedent’s Apple ID account and account contents (“Apple motion”) and (2) motion for an order for disclosure or production of Decedent’s Google account contents (“Google motion”). The motions are unopposed.

DISCUSSION

Both the Apple motion and the Google motion request orders of the court for access to accounts held by Decedent.

I. Legal Background

Probate Code section 876 provides:

If a deceased user consented to or a court directs disclosure of the content of electronic communications of the user, the custodian[] shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the personal representative gives to the custodian all of the following:

- (a) A written request for disclosure in physical or electronic form.
- (b) A certified copy of the death certificate of the user.
- (c) A certified copy of the letter of appointment of the representative, a small-estate affidavit under Section 13101, or court order.
- (d) Unless the user provided direction using an online tool, a copy of the user’s will, trust, power of attorney, or other record evidencing the user’s consent to disclosure of the content of electronic communications.
- (e) If requested by the custodian, any of the following:

- (3) An order of the court finding any of the following:
 - (A) That the user had a specific account with the custodian, identifiable by the information specified in paragraph (1).
 - (B) That disclosure of the content of the user’s electronic communications would not violate Chapter 121 (commencing with Section 2701) of Part 1 of Title 18 of, and Section 222 of Title 47 of, the United States Code, or other applicable law.

- (C) Unless the user provided direction using an online tool, that the user consented to disclosure of the content of electronic communications.
- (D) That disclosure of the content of electronic communications of a user is reasonably necessary for estate administration.

Probate Code section 881, subdivision (a) provides, “Not later than 60 days after receipt of the information required under Sections 876 to 879, inclusive, a custodian shall comply with a request under this part from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply with a request, the fiduciary or designated recipient may apply to the court for an order directing compliance.” “An order under subdivision (a) directing compliance shall contain a finding that compliance is not in violation of Section 2702 of Title 18 of the United States Code.” (Prob. Code, § 881, subd. (b).)

II. Apple Motion

Personal Representative seeks an order compelling Apple to provide Personal Representative with access to Decedent’s “Apple ID Account and Account Contents.” (Declaration of Hilde Smith in Support of Apple Motion at ¶ 2.)

Here, the Personal Representative has contacted Apple to attempt to gain access to Decedent’s accounts, but Apple is requesting a court order pursuant to Probate Code section 876, subdivision (e)(3). The Personal Representative has provided a declaration indicating that Decedent possessed an Apple ID Account under the Apple ID sthormod@gmail.com.

Personal Representative has explained that Decedent’s Apple ID Account and Account Contents contain information that will help Personal Representative locate additional assets of the *Stig Thormodsrud Estate*, including digital assets such as Bitcoin(s), other cryptocurrency, applications from financial institutions, and statements for bank and investment accounts. (See Declaration of Hilde Smith in Support of Motion at ¶ 6.) Thus, the court finds that Personal Representative has explained how the disclosure of the content of the electronic communications is reasonably necessary for estate administration. (See Prob. Code, § 876, subd. (e)(3).) Personal Representative has also explained that there is no evidence that Decedent used an electronic tool to consent to or restrict disclosure of the information sought. (See Declaration of Hilde Smith in Support of Motion at ¶ 8.)

Personal Representative has also provided consents of interested parties indicating that they agree to the granting of the motion. As mentioned above, the motion is unopposed.

Accordingly, the motion is GRANTED. The court finds that Decedent had an account with Apple and there is no evidence that the user provided directions using an online tool. The court finds that disclosure of the account information requested is reasonably necessary for estate administration.

III. Google Motion

Personal Representative seeks an order compelling Google to provide Personal Representative with access to Decedent’s “Google Account Contents.” (Declaration of Hilde Smith in Support of Google Motion at ¶ 2.)

Here, the Personal Representative has contacted Google to attempt to gain access to Decedent's accounts, but Google is requesting a court order pursuant to Probate Code section 876, subdivision (e)(3). The Personal Representative has provided a declaration indicating that Decedent possessed a Google account under the Google Account sthormod@gmail.com.

Personal Representative has explained that Decedent's Google Account contains information that will help Personal Representative locate additional assets of the *Stig Thormodsrud Estate*, including digital assets such as Bitcoin(s), other cryptocurrency, applications from financial institutions, and statements for bank and investment accounts. (See Declaration of Hilde Smith in Support of Motion at ¶ 6.) Thus, the court finds that Personal Representative has explained how the disclosure of the content of the electronic communications is reasonably necessary for estate administration. (See Prob. Code, § 876, subd. (e)(3).) Personal Representative has also explained that there is no evidence that Decedent used an electronic tool to consent to or restrict disclosure of the information sought. (See Declaration of Hilde Smith in Support of Motion at ¶ 8.)

Personal Representative has also provided consents of interested parties indicating that they agree to the granting of the motion. As mentioned above, the motion is unopposed.

Accordingly, the motion is GRANTED. The court finds that Decedent had an account with Google and there is no evidence that the user provided directions using an online tool. The court finds that disclosure of the account information requested is reasonably necessary for estate administration.

CONCLUSION

Both motions are GRANTED. The court will sign the proposed orders provided by Personal Representative.

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