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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

Estate of AZNIV ANA MEGUERIAN,
Deceased.

B278355

(Los Angeles County
Super. Ct. No. LP017183)

LUCINE MEGUERIAN as
Administrator, etc. et al.,

Plaintiffs and Respondents,

v.

ARA HUNANYAN,

Claimant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Mary Thorton House, Judge. Dismissed.
Ara Hunanyan, in pro. per., for Claimant and Appellant.

Law Offices of Rosenthal & Associates, Lisa F. Rosenthal;
Law Offices of Savin & Bursk, Bonnie Bursk, for Plaintiffs and
Respondents.

Claimant and appellant Ara Hunanyan (Hunanyan) appeals an order continuing a hearing on his “Motion for an Evidentiary Hearing for Determining the Standing of Ara Hunanyan As a Creditor and Interested Person for Objections to Accounting and Surcharge Motion.” We are asked to decide whether the probate court’s continuance is an appealable order.

I. BACKGROUND

The record on appeal is comprised of an appellant’s appendix and reporter’s transcripts of two hearings. From our reading of the limited record presented,¹ the pertinent facts are as follows.

Azniv Anna Meguerian, aka Azniv Meguerian, (Meguerian) is Hunanyan’s ex-wife. She died on December 15, 2012, and at the time, she and Hunanyan were in the process of divorcing. Probate proceedings for Meguerian’s estate commenced in 2013.

Hunanyan filed a creditor’s claim in the probate matter stating he had a community property interest in Meguerian’s estate, noting “considerable” property interests had yet to be determined, and asserting a claim in the amount of \$5,000,000. Respondents Lucine Meguerian and John Meguerian—the administrators of the estate (Administrators)—rejected the claim.

¹ The appendix contains conformed caption pages for the motion at issue and related briefing, but it does not include the substance of any of these documents. We would be justified in dismissing the appeal solely in light of the state of the record (Cal. Rules of Court, rule 8.124(b)(1)(B); *Jade Fashion & Co., Inc. v. Harkham Industries, Inc.* (2014) 229 Cal.App.4th 635, 643-644), but we opt to resolve the appealability of the order in question on the merits.

The probate court held a hearing in March 2016, and Hunanyan informed the probate court he intended to file a document seeking an evidentiary hearing to decide his standing as a creditor of Meguerian's estate. The probate court responded, "File whatever you want to file. Get a date upstairs." The court continued the hearing on pending objections to December 2016.²

Hunanyan subsequently filed a document captioned "Notice of Motion and Motion for Evidentiary Hearing for Determining the Standing of Ara Hunanyan As a Creditor and Interested Person for Objections to Accounting and Surcharge Motion; Declaration of Ara Hunanyan; Verification" (the Motion). A hearing on the Motion was held on August 3, 2016, before a different judge than the judge presiding at the March 2016 hearing. Counsel for Administrators argued Hunanyan's claims to ownership of estate property would be determined in the divorce proceedings, and that he was not a creditor of the estate. Hunanyan, in turn, argued he was properly before the probate court as a creditor.

During the hearing, the following exchange occurred:

"The Court: Let me put it this way. Whatever property gets determined to be community property in the divorce, you'll already have those ownership interests assigned to you. And if you are fighting the divorce, that's where you bring in these other properties.

² The probate court explained it was continuing the matter because Hunanyan and Meguerian's divorce case was still pending and the resolution of issues in that case could affect the probate matters to be decided.

“Mr. Hunanyan: Your Honor, we have to decide if I’m a creditor or not.

“The Court: You’re not a creditor. At this point you are not a creditor.

“Mr. Hunanyan: Based on what? Can I know?

“The Court: Based on the fact that what you are seeking to be a creditor for is community property.

“Mr. Hunanyan: No. . . . I followed 9370 in this court. . . . Probate Code 9370 . . . means I am a creditor for this estate because I followed all [of] the steps It’s not about . . . family court.”

After additional discussion, the court stated, “The matter is continued until such time as the family law matter has been concluded.” Hunanyan then asked the court if he would find out whether or not he is a creditor after the family law proceeding was concluded. The court replied, “Yes. That’s how it works.” Following the hearing, the probate court issued a minute order stating: “The Court continues the matter until the family law matter is completed to determine whether Ara Hunanyan is a creditor and has standing.”

II. DISCUSSION

Hunanyan argues the probate court’s order constituted an erroneous denial of his request for an evidentiary hearing, deprived him of due process, and exceeded the probate court’s authority. We dismiss the appeal without need to address each of

these arguments because Hunanyan challenges a non-appealable order.³

“Appellate courts have jurisdiction over a direct appeal, like the present one, only where there is an appealable order or judgment.” (*Katzenstein v. Chabad of Poway* (2015) 237 Cal.App.4th 759, 765.) “The right to appeal is wholly statutory.” (*Dana Point Safe Harbor Collective v. Superior Court* (2010) 51 Cal.4th 1, 5.) Thus, “[a] trial court’s order is appealable when it is made so by statute.” (*Griset v. Fair Political Practices Com.* (2001) 25 Cal.4th 688, 696.)

The only orders that are appealable in probate matters are those enumerated by the relevant sections of the Probate Code. (*Kalenian v. Insen* (2014) 225 Cal.App.4th 569, 576; *In re Estate of Stoddart* (2004) 115 Cal.App.4th 1118, 1125-1126 [“It is well established that ‘[a]ppeals which may be taken from orders in probate proceedings are set forth in . . . the Probate Code, and its provisions are exclusive’”]; see also 9 Witkin, Cal. Procedure (5th ed. 2008) Appeal, § 203, p. 279 [“Prob[ate Code section] 1300 et seq. list appealable orders in probate

³ Hunanyan’s notice of appeal states he appeals an August 19, 2016 order. The only order dated August 19 included in the record on appeal concerns a peremptory challenge and reassignment of the matter to a different judge. Hunanyan’s appellate briefing, however, challenges only the probate court’s August 3, 2016, ruling continuing the hearing on the Motion. The notice of appeal is therefore at least arguably defective (*Shiver, McGrane & Martin v. Littell* (1990) 217 Cal.App.3d 1041, 1045), but Administrators do not challenge its adequacy. Because we dismiss the appeal for lack of jurisdiction on other grounds, we need not address the adequacy of the notice.

proceedings. The statutory list is much narrower in scope than [Code of Civil Procedure section] 904.1 . . . , and it has long been settled that the statutory list is exclusive. Thus, there is no right to appeal from orders in probate except those specified in the Probate Code”].) The pertinent sections here are Probate Code section 1300, which enumerates orders that are appealable in all proceedings governed by the Probate Code, and section 1303, which enumerates those orders relating to a decedent’s estate that are appealable. The order challenged on appeal, one continuing a hearing pending the determination of another action, is not listed in Probate Code section 1300 or 1303. (Prob. Code, §§ 1300, 1303.) It is accordingly a non-appealable order.

Hunanyan argues, however, the order is appealable because he believes it constituted a final determination regarding his status as a creditor. Even assuming for argument’s sake that such a final determination would be appealable,⁴ the record, including the reporter’s transcript of the relevant hearing, demonstrates there was no final determination: the probate

⁴ We note, however, that as a general matter “an order approving or rejecting a probate creditor’s claim is not appealable because it is not one of the statutorily enumerated probate orders that may be appealed.” (*McDonald v. Structured Asset Sales, LLC* (2007) 154 Cal.App.4th 1068, 1074.) Instead, “[t]he appropriate course of action when a creditor’s claim is rejected is for the creditor to commence a separate action on the rejected claim challenging rejection of the creditor’s claim. [Citations.] This is the exclusive method of enforcing a claim which has been rejected by the court.” (*Ibid.*; see also 14 Witkin, Summary of Cal. Law (11th ed. 2017) Wills and Probate, § 440, p. 510 “[a]n order rejecting a creditor’s claim is not an appealable order under Prob[ate Code section] 1300(d)”).

court's order continuing the hearing on the Motion is obviously
“preliminary to future proceedings’ and, therefore, not
appealable. [Citation.]” (*Harshad & Nasir Corporation v. Global
Sign Systems, Inc.* (2017) 14 Cal.App.5th 523, 549.)

DISPOSITION

The appeal is dismissed. Respondents Lucine Meguerian and John Meguerian are entitled to their costs on appeal.

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BAKER, J.

We concur:

KRIEGLER, Acting P.J.

RAPHAEL, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.