

Superior Court of the State of California
County of Orange
TENTATIVE RULINGS FOR DEPARTMENT CM05
HON. Judge Ebrahim Baytieh

Date: 03/11/2024

Court Room Rules and Notices

#	Case Name	Tentative
1	Gaskill – Probate (2023-01317672)	<p style="text-align:center">MOTION TO COMPEL ARBITRATION</p> <p>The motion to compel arbitration by Trustee William Gaskill (“Trustee”) is DENIED without prejudice.</p> <p><u>Background</u></p> <p>On April 5, 2023, Petitioner Tamara Gaskill (“Petitioner”) opened a probate proceeding as a creditor of the Estate of John Gaskill (“Estate”). (ROA 2.) Petitioner alleges she is a creditor of the Estate pursuant to a Prenuptial Agreement entered between John Gaskill (“Decedent”) and Petitioner in 2007. The Prenuptial Agreement provides for certain “Support Payments” to be made to Petitioner upon Decedent’s passing. It further provides that Decedent’s “estate/trustee” will pay off the mortgage on Petitioner’s home. The Prenuptial Agreement does not have an arbitration clause.</p> <p>Section 4 of the Prenuptial Agreement provides that the parties reserve the right to convey real and personal property to each other during their lifetime or by will or trust upon death. Accordingly, in 2009 Decedent created the John R. Gaskill Trust (“Trust”) of which Petitioner is a beneficiary. Decedent also created a <i>pour over</i> will leaving his entire estate to the Trust. The Third Amendment to the Trust has an arbitration clause which is the subject of this motion to compel arbitration.</p> <p>On April 10, 2023, Petitioner filed a subsequent petition in this probate proceeding alleging causes of action for Breach of Contract, Breach of Fiduciary Duty, Elder Abuse, and Removal of Trustee (“Probate Petition”). (ROA 8.) The Breach of Contract cause of action pertains solely to the Prenuptial Agreement and is brought against the Estate and against the Trustee. The Elder Abuse Cause of Action is brought against the Estate and against the Trustee for “taking” property belonging to Petitioner pursuant to both the Prenuptial Agreement and the Trust. The causes of action for Breach of Fiduciary Duty and for Removal of Trustee are brought only against the Trustee.</p> <p><u>Motion to Compel Arbitration</u></p> <p>It is the practice of the Orange County Probate / Mental Health Division that all petitions filed under a single case number must invoke the court’s subject matter jurisdiction over a single trust or estate (e.g. a decedent’s estate or guardianship/conservatorship of the estate). Exceptions exist for certain trust matters (e.g. where a single trust has split into sub-trusts following the death of one or all settlors), but even those exceptions contemplate a single, master trust. The evidence before the court does not reflect that any such exception exists here. Thus, all trust claims that Petitioner has against the Trustee must be brought in a separate Trust action.</p>

		<p>The arbitration clause that the Trustee seeks to enforce is contained in the Trust. There is no arbitration clause in the Prenuptial Agreement which is the basis of Petitioner's claims against Decedent's Estate. For this reason, the motion to compel arbitration is DENIED without prejudice to the Trustee's right to raise such arguments in any subsequently filed trust proceeding.</p> <p><u>Further Orders</u></p> <p>Pursuant to Code of Civil Procedure section 436, the court on its own motion strikes the Probate Petition as to any claims made against the Trustee. This motion/order is without prejudice to Petitioner's right to seek such relief in any subsequently filed Trust Petition.</p> <p>To the extent it is appropriate and/or relevant, any subsequently filed Trust Petition shall "relate back" to the filing date of the Probate Petition. (<i>Quiroz v. Seventh Ave. Center</i> (2006) 140 Cal.App.4th 1256, 1278.)</p>
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