

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 05-00349

PRESENT: HURLBUTT, J.P., SCUDDER, KEHOE, GORSKI, AND PINE, JJ.

MATTER OF THE ESTATE OF STEPHANIE M.
TOMAKA, DECEASED.

ORDER

RICHARD H. TOMAKA, AS EXECUTOR OF THE
ESTATE OF STEPHANIE M. TOMAKA, DECEASED,
PETITIONER-RESPONDENT;

DANIEL TOMAKA, OBJECTANT-APPELLANT,
ET AL., OBJECTANT.

BERKOWITZ & PACE, ORCHARD PARK (LEONARD BERKOWITZ OF COUNSEL), FOR
OBJECTANT-APPELLANT.

PETER J. BREVORKA, BUFFALO, AND NORMAN F. WALAWENDER, LACKAWANNA, FOR
PETITIONER-RESPONDENT.

Appeal from an order of the Surrogate's Court, Erie County
(Barbara Howe, S.), entered May 14, 2004. The order granted
petitioner's motion for summary judgment dismissing the objections and
admitting the will to probate and denied objectants' application for
discovery.

It is hereby ORDERED that the order so appealed from be and the
same hereby is unanimously affirmed without costs for reasons stated
in decision at Surrogate's Court.

Entered: July 1, 2005

JOANN M. WAHL
Clerk of the Court