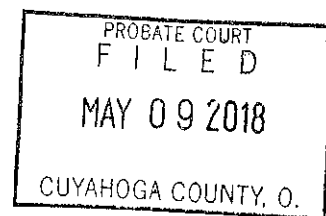


IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO  
PROBATE DIVISION



DONNA LEE

CASE NO. 2017ADV 223094

Plaintiff

vs.

JAI HOON LEE, et al.,

Defendants

**JUDGMENT ENTRY**

This matter is before the Court upon, Plaintiff Donna Lee's Motion for Summary Judgment on her Will Contest Complaint filed March 2, 2018, Defendant's Brief in Opposition filed March 30, 2018 and Plaintiff's Reply Brief filed April 9, 2018.

Plaintiff moves this Court to enter summary judgment on her Will Contest Complaint, finding as a matter of law that the Last Will and Testament of Choo Hong Lee dated 1/29/11 is invalid for the reason that the challenged will was not executed with the requisite statutory formalities.

The Court finds that the witnesses to Choo's signing of the will, Seong Shim and Young Shim, both admitted at deposition that they did not do anything to evaluate whether Choo was of sound mind and memory to sign her will, nor did they hear Choo acknowledge, nor did they see her sign the challenged will. The testimony of the witnesses as to how the signing took place falls far short of the requirements set forth in R.C. 2107.03.

Defendants admit in their reply brief that there was conflicting testimony by everyone present at the purported signing on January 29, 2011. The Court finds, however, that the testimony of the two persons responsible for attesting to the validity of the will are consistent in

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their testimony and further finds that their testimony conclusively determines that the formal requirements for a valid will were not met.

Defendants assert that summary judgment is not appropriate because R.C. 2107.24 requires the Court to conduct a hearing to determine whether a non-complying will may be deemed valid. The Court finds that R.C. 2107.24 does not **require** a hearing and further finds that the proponents of the will have never asked this Court for a hearing to validate the will admitted to Probate in November 2016.

The Court finds that Defendants have failed to set forth any material facts to show that reasonable minds could conclude Choo's purported Last Will and Testament was properly witnessed pursuant to R.C. 2107.03. It is undisputed that the witnesses to the Will did not see Choo sign the Will and Choo did not acknowledge her signature to the witnesses and in their presence.

The Court finds and **Orders** that the Plaintiff's Motion for Summary Judgment on her Will Contest Complaint is well taken and is granted. The Court finds that the Last Will and Testament of Choo Hong Lee executed 1/29/11 is invalid as a matter of law.

**IT IS SO ORDERED.**

  
**JUDGE LAURA J. GALLAGHER**