

**SURROGATE’S COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU**

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In the Matter of the Application in the Estate of

ROBERT DELESSIO,

Deceased,

**For the Turnover of Decedent’s Digital Assets in the
Possession of Apple Inc. And Optimum Pursuant to Article
13-A of the EPTL and SCPA §2103**

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PRESENT: HON. RHONDA E. FISCHER

DECISION

File No. 2024-433/D

Dec. No. 43577

The following papers were considered in the preparation of this decision:

Verified Petition	1
Revocable Trust	2
Last Will and Testament (2)	3
Amendment to the Trust	4
Order Granting Preliminary Letters Testamentary	5

Before the court is an unopposed turnover petition jointly filed by Judith Zaza (hereinafter “Judith”) and Vanessa Zaza (hereinafter “Vanessa”) seeking an order for turnover of digital assets of the decedent, Robert Delessio. The petition specifically seeks an order: (1) determining that decedent was the user of the Apple account associated with the Apple ID rdrrdd@optonline.net; (2) determining that decedent was the user of the Optimum email account rdrrdd@optonline.net; (3) determining that no lawful consent is required for disclosure of the catalog of the contents of the electronic communications, and other digital assets that do not constitute as electronic communications under the Store Communications Act (18 USC §§2701 et seq.), or the New York Administration of Digital Assets Law (EPTL Article 13-A); (4) directing Optimum to disclose to Judith, as

preliminary executor of decedent's estate, the contents of decedent's emails and other electronic communications to and from rddrdd@optonline.net; and (5) directing Apple Inc. to disclose to Judith, as preliminary executor of decedent's estate, the contents of decedent's electronic communications, including emails, texts and other correspondence, as well as photos, videos, file, contacts, calendar entries, and notes from decedent's Apple ID: rddrdd@optonline.net; and stored on decedent's iPad and iPhone.

Robert Delessio, the decedent, created the Robert and Diane Delessio Trust dated October 17, 2022 (hereinafter the "Trust") together with his wife, Diane Delessio ("Diane"). The grantors of the Trust appointed themselves co-trustees, with Vanessa to serve as successor trustee and to receive the remaining Trust Estate upon their deaths. Decedent also executed an October 17, 2022 last will and testament (hereinafter the "2022 Will") which left everything to his wife, with Vanessa as the only successor beneficiary and executor. Diane died on November 24, 2022.

An amendment to the Trust, dated December 14, 2023 (hereinafter the "2023 Trust Amendment"). The 2023 Trust Amendment provides that Judith shall receive the Trust Estate and be the successor trustee after decedent's death. There also exists a Last Will and Testament, also dated December 14, 2023 (hereinafter the "2023 Will"). The 2023 Will made Judith Decedent's sole residuary beneficiary and nominated her as executor. Decedent died on January 17, 2024.

Pending before the court is a contested proceeding commenced by Vanessa by petition duly verified on February 8, 2024. Judith has also proffered the 2023 Will for

probate. A citation was issued in the Probate Proceeding, and Vanessa requested pre-objection discovery pursuant to SCPA 1404 (hereinafter collectively the “Estate Litigation”). By Order dated August 29, 2024, this Court appointed Judith as preliminary executor of Decedent’s estate.

Petitioners herein have jointly filed the instant petition seeking turnover of digital assets relevant to the Estate Litigation. The attorneys for the petitioners advise the court that Apple has informed them that it needs a court order to disclose such information. Apple and Optimum were duly served with citations, but have not appeared.

Pursuant to SCPA 509, inasmuch as the jointly filed petition is otherwise uncontroverted, same constitutes proof of the facts alleged therein. Accordingly, the court finds that decedent’s Apple user ID, to wit, rddrdd@optonline.net is correctly identified in the petition and that the decedent was the account owner associated with both that Apple ID and the Optimum email account bearing the same email address. Petitioner Judith is the current fiduciary of the decedent’s estate pursuant to the order of this court dated August 29, 2024. Further, the court finds that no lawful consent is required for disclosure of the catalog of the contents of the electronic communications, and other digital assets that do not constitute electronic communications under the 18 USC 2701 or EPTL Article 13-A.

Based upon the foregoing findings, the court directs Apple and Optimum to assist in the recovery of the decedent’s personal digital data, which may include third-party personally identifiable information/data from decedent’s account (EPTL 13-A-

3.2[d][4][A]; *Matter of Moran*, 2023 NY Slip Op 32004(U)[Sur Ct, New York County 2023]). Specifically, Apple is directed to provide to petitioner access to decedent's Apple account identified by decedent's AppleID: rddrdd@optonline.net including photos, videos, files, contacts, calendar entries, and notes, as well as the contents of decedent's electronic communications in the aforementioned Apple Account. Optimum is directed to provide petitioner access to decedent's Optimum account identified by his email address: rddrdd@optonline.net including photos, videos, files, contacts, calendar entries, and notes as well as the contents of decedent's electronic communications in the aforementioned Optimum Account.

Dated: October 3, 2025
Mineola, New York

E N T E R:


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Acting Judge of the Surrogate's Court

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