

**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.

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

ORDER

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

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

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

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

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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