

Matter of Song Cha Yoo

2018 NY Slip Op 34579(U)

December 3, 2018

Surrogate's Court, Queens County

Docket Number: File No. 2013-1638/A

Judge: Peter J. Kelly

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This opinion is uncorrected and not selected for official publication.

Present: HON. PETER J. KELLY
SURROGATE

SURROGATE'S COURT: QUEENS COUNTY

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In the Matter of the Judicial Settlement of the
Account of Proceedings of Song Cha Yoo, as
Administrator of the Estate of

JAMES YOO,

File No: 2013-1638/A

Deceased,

For Leave to distribute the proceeds of a cause
of action for wrongful death and conscious pain
and suffering of the decedent.
-----X

Petitioner's attorney moves for an order sealing the record of this proceeding
to allocate and distribute settlement proceeds of an action for wrongful death and
conscious pain and suffering and to judicially settle petitioner's account.

The settlement of the underlying action was reached with the defendants and
approved by order of the Supreme Court, Queens County (Pineda-Kirwan, J.), dated
July 19, 2018, pursuant to SCPA 5-4.6.

The moving papers consist of the notice of motion, the attorney's affirmation
in support of the motion, a copy of the Supreme Court order, and copies of the
petition and account together with a supporting attorney's affirmation, a proposed

deceit, and waivers and consents. The attorney's affirmation in support of the motion indicates that a condition of the settlement reached among petitioner and the settling defendants was that the details of the payments and the settlement itself be kept confidential. Although a copy of the settlement agreement containing such condition has not been submitted as an exhibit with the motion, the copy of the submitted compromise order entered in the Supreme Court is marked "CONFIDENTIAL - UNDER SEAL - DO NOT E-FILE."

In the Surrogate's Court, all its books and records are open to inspection of any person at reasonable times except those which are sealed (see SCPA 2501[8]). The law in New York favors public disclosure of court records (see *Matter of Twentieth Century Fox Film Corp.*, 190 AD2d 483, 485). Thus, except where otherwise provided by statute or rule, court records are not to be sealed except upon a written finding of good cause (see 22 NYCRR § 216.1[a]).

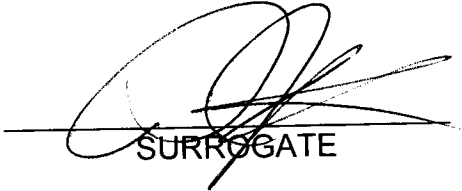
What the court finds from the sparse papers before it, the "good cause" proffered by the movant is that the settling parties have agreed to keep the terms and monetary amounts paid confidential and that an order sealing the records in this proceeding would be consistent with the confidential marking of the Supreme Court's order.

In light of the substantial burden of establishing good cause to seal this court's records, the movant's papers could be more detailed and compelling. Notwithstanding, the court is cognizant that no opposition has been submitted to the within motion and, more importantly, the Supreme Court that independently considered and approved the settlement has seen fit to mark its compromise order confidential and under seal. A contrary ruling from this court would effectively negate the Supreme Court's determination.

Accordingly, the motion is granted to the extent that those portions of the court's file containing the terms of the settlement shall be sealed, and the Clerk of the Court shall deny access to such records to anyone except the settling parties or their counsel of record.

This is the decision and order of the court.

Dated: December 3, 2018


SURROGATE