

# NEW YORK COUNTY SURROGATE'S COURT

31 CHAMBERS STREET • ADMINISTRATION DEPT - ROOM 505 • NEW YORK, NY 10007  
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## PETITION FOR LETTERS OF ADMINISTRATION WHEN DECEDENT'S DISTRIBUTEES ARE AUNTS, UNCLES, OR COUSINS CHECKLIST

Did the decedent die without a will and the nearest relatives are aunts, uncles, or cousins?  
See the following procedure for the appointment of an administrator in such estates,  
and the items to file in the court to apply.

- Pursuant to SCPA 1001(1)(f)(ii), if decedent's distributees are cousins on one side of the family only, letters of administration shall issue to the Public Administrator. Under such circumstance, instead of filing the petition outlined herein, a [Report of Death](#) may be submitted to the [New York County Public Administrator](#) to take steps to act as administrator of the estate (*see Matter of Giganti*, 158 Misc. 2d 1050; *Matter of Drumheller*, 163 Misc. 2d 760).
- 1. An original certified death certificate** • Uniform Rules for Surrogate's Court ("UR") [207.15\(b\)](#)
- 2. Court fee** • Based on the value of the estate (SCPA 2402). Cash, credit/debit, money order, attorney or bank check (no personal checks) payable to: Surrogate's Court, New York County; or pay when e-filing ([NYSCEF](#)).
- 3. Petition for Letters of Administration** ([Form A-1](#))
  - Who can petition? An eligible distributee, a non-distributee upon the consents of all eligible distributees (SCPA 1001[6]), or a non-domiciliary noncitizen distributee with an eligible NYS resident (*see* SCPA 707).
  - List the necessary parties in #7: Decedent's maternal distributees and paternal distributees (*see* ▼), the New York County Public Administrator (SCPA 1123[2][i][2]), and the New York State Attorney General (SCPA 316).
- 4. Waivers and Consents** ([Form A-8](#)) • To be completed by distributees who consent to petitioner's application.
- 5. Affidavit of Assets and Liabilities** • Required if the estate assets exceed \$50,000.
- 6. Proof of Kinship** ([UR 207.16\[c\]](#)) • Submit family tree/heirship affidavits from persons familiar with the respective maternal and paternal sides of decedent's family to establish how each distributee is related to the decedent (completion of form affidavits may satisfy the above requirement). In addition, submit affidavit(s) of due diligence with any supporting documentation to establish that no other persons of the same or nearer degree of relationship survived the decedent (*see Matter of Morrow*, NYLJ, 4/12/01 at 27, col 5 [Sur Ct, Bx Cty]). Unless otherwise allowed by the court, such affidavits must be from disinterested persons.
- 7. Citation** ([Form A-2](#)) • List the New York County Public Administrator, the New York State Attorney General, and any distributee who has not consented to petitioner's application as parties to be cited.
  - The Public Administrator may submit a written report to convey its position with respect to the proof of kinship filed (SCPA 1123[2][i][4]).
- **Court determination** • The Surrogate decides whether to grant the petition and if the letters issued will restrain the administrator's authority until kinship is established (which may result in a kinship hearing).
- ▼ **Distributees/heirs are the persons within nearest group of relatives who survived the decedent:**<sup>1</sup> 1<sup>st</sup> group: spouse, children, descendants of predeceased children 2<sup>nd</sup>: mother and father 3<sup>rd</sup>: brothers, sisters, descendants of predeceased brothers-sisters [*For the following groups, separately list both the maternal and paternal sides*] 4<sup>th</sup>: grandparents 5<sup>th</sup>: aunts, uncles, children of predeceased aunts-uncles (first cousins) 6<sup>th</sup>: children of predeceased first cousins (first cousins once removed; distributees only if there are no nearer relatives on both sides of the family). (12/23)

<sup>1</sup> See EPTL 4-1.1 (Descent and distribution); 2-1.10 (Issue); 2-1.16 (Representation; *Matter of Schoonmaker*, NYLJ, 1/24/02 at 16, col 4 [Sur Ct, Bx Cty])