

# VOLUNTARY ADMINISTRATION FILES:

## PRIORITY FOR APPOINTMENT

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### IF DECEDENT DIES TESTATE (WITH A WILL) ~ SCPA §1303(b)

#### #1 EXECUTOR(S)

#### #2 SUCCESSOR EXECUTOR

**NOTE:** Executor and Successor Executor cannot co-petition to be appointed co-VAs together. Executor has priority right to be appointed.

- **RENUNCIATION:** Executor/Successor Executor **MAY RENOUNCE** in favor of distributee with highest priority right to serve as VA instead.
- **30 DAY RULE:** If the Executor and/or Successor Executor do **NOT** file a Voluntary Administration Affidavit **within 30 days from the date the Will is filed** with the Court, then distributee with priority right may be appointed.
  - If an individual named as a beneficiary (but not as executor/successor executor) applies, they may still be appointed if SCPA §1418 is triggered → *send to Legal Department for review.*

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### IF DECEDENT DIES INTTESTATE (WITHOUT A WILL) ~ SCPA §1303(a)

#### #3 SURVIVING SPOUSE

**NOTE:** If spouse would otherwise be disqualified under EPTL §5-1.2 then they would not be considered a distributee and serve as VA.

- **RENUNCIATION:** Surviving Spouse **MAY RENOUNCE** in favor of distributee with next highest priority right to serve as VA instead.

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Distributees listed below this line **MAY NOT** renounce in favor of a distributee with a **lower priority right to be appointed.**

(Ex: Decedent's Mother **CANNOT** renounce in favor of Decedent's Sibling)

Distributees listed below this line **MAY** renounce in favor of distributees with an equal/higher priority right, but it is **NOT** necessary for them to do so.

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#### #4 CHILD OF DECEDENT

- **NON-MARITAL CHILDREN OF MALE DECEDENT:** If child is non-marital, the **FIRST THING** the petitioner must do is establish the child's status under EPTL §4-1.2(2). **MUST** provide Acknowledgement of Paternity, or Order of Filiation, and Birth Certificate.
  - *Please note that this does **NOT** apply to non-marital children of **female** decedents!*
- **MINOR CHILDREN:** If child is a minor, petitioner **MUST** petition to be appointed as their property guardian **FIRST** in order to have standing to petition/be appointed to serve as VA (SCPA Article 10).

## #5 GRANDCHILD OF DECEDENT

- **NON-MARITAL GRANDCHILDREN OF DECEDENT:** If grandchild is non-marital, the **FIRST THING** the petitioner must do is establish the grandchild's status under EPTL §4-1.2(2). **MUST** provide Acknowledgement of Paternity, or Order of Filiation, and Birth Certificate.
    - *Please note that this does **NOT** apply to non-marital grandchildren of daughters!*
  - **MINOR GRANDCHILDREN:** If grandchild is a minor, petitioner **MUST** petition to be appointed as their property guardian **FIRST** in order to have standing to petition/be appointed to serve as VA (SCPA Article 10).
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## #6 MOTHER/FATHER OF DECEDENT

## #7 BROTHER/SISTER OF DECEDENT

## #8 NIECE/NEPHEW OF DECEDENT

## #9 AUNT/UNCLE OF DECEDENT

## #10 PUBLIC ADMINISTRATOR

- If no distributee (or representative of a disabled distributee) qualifies to act the Public Administrator may be appointed as VA (SCPA §1303(a)).
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***"No person other than one hereinbefore mentioned can become a voluntary administrator." SCPA §1303(c)***



## GRANDPARENTS, FIRST COUSINS, & MORE REMOTE RELATIVES

- **NOT QUALIFIED TO BE APPOINTED:** Grandparents, first cousins or persons more remote are not able to be appointed as VA of an estate (unless they are the executor/successor executor or are named in the Will as a beneficiary and the SCPA §1418 exception noted above may apply – *send to Legal Department for review.*)
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## GENERAL NOTES

- The **FIRST** distributee (within the class of persons entitled/highest priority) to file a Voluntary Administration Affidavit is authorized to act as the voluntary administrator.
- If it appears that the Petitioner may not be qualified to act as VA, they still may be entitled to reimbursement for their payment of funeral expenses. They may be able to file a **SCPA §1310 Affidavit** for reimbursement.