

ERIE COUNTY SURROGATE'S COURT
FIDUCIARY AFFIDAVIT OR ATTORNEY'S AFFIRMATION
INFORMAL CLOSING OF ESTATE
SCPA §2202, 2402

REQUIREMENTS FOR FILING OF AFFIDAVIT OR AFFIRMATION

A Fiduciary's Affidavit or Attorney's Affirmation for the simplified settlement and closing of an estate may be filed with the Court only if the following requirements are met.

1. More than seven months have elapsed since letters were first issued.
2. All individual parties entitled to share of the residuary estate are adult and competent.
3. If a religious, charitable, educational or benevolent organization is entitled to a share of the residuary estate, a written consent or waiver from the New York Attorney General approving the disposition to each such organization is filed with the Court. [Note: before signing a waiver, the staff attorney in the Attorney General's office will need to see a copy of the account and copies of full Releases of fiduciary signed the charitable organizations.]
4. A List of Assets or Inventory of Assets was filed with the Court or is filed with the Informal Closing Affidavit and any additional filing fees paid.
5. For persons dying before May 26, 1990, either a Resident Affidavit (TT102) has been filed with the New York State Tax Commission and a copy thereof plus a copy of the Closing Letter are filed with the Court, or an Estate Tax Petition (TT86.5), a tax order and the final receipt of payment of an order of exemption are on file with the Court.

For persons dying after May 26, 1990 but before February 1, 2001, a New York State Estate Tax Return (ET-90) was filed with the Commissioner of Taxation, a copy thereof has been filed with the Court, and a New York Estate Tax Discharge from liability letter was filed with the Court or is attached to the affidavit.

For persons dying after February 1, 2001, where a New York Estate Tax Return has been filed with the Commissioner of Taxation, a copy of the Discharge from Liability letter was filed with the Court or is attached to the affidavit. In no state tax return was required to be filed, the affidavit should so state.

6. A copy of the account has been rendered to all parties sharing in the residuary estate. The total amounts paid or to be paid for fiduciary commissions, legal services and disbursements is set forth therein. These items are shown in schedules I and J of the account. The account shall not be filed with the Court unless you are seeking a Decree of Judicial Settlement or Decree of Discharge, and file the appropriate petition and fee.
7. A Receipt and Release, for full payment of each general cash or specific legacy and each residuary legacy made in the Will, for each distributee named in the Petition for Letters of Administration (if the decedent died intestate) and for all other interested persons and parties (other than the fiduciary) is on file with the Court or filed with the affirmation

HON. ACEA M. MOSEY, Surrogate Judge
92 Franklin Street
Buffalo, NY 14202
(716) 845 - 2560

**SURROGATE'S COURT OF THE STATE OF NEW YORK
ERIE COUNTY**

IN THE MATTER OF THE CLOSING OF THE ESTATE
OF

_____, Deceased

AFFIRMATION BY ATTORNEY

File Number: _____

_____, an attorney admitted to practice in the courts of the state, affirms pursuant to CPLR §2106 as follows:

1. I am the attorney (a member of the firm of _____ attorneys) representing the fiduciary or fiduciaries of the above-captioned estate.
2. I am familiar with the fact and circumstances concerning the administration of the above estate.
3. Letters were first issued by the court on _____.
4. The filing fee initially paid was \$_____. All filing fees have been paid in full. A list of Assets was filed with the court on _____ or is attached hereto. Any additional filing fees due is submitted herewith
5. An investigation has been made into all taxable transfers made by the deceased and the value of all assets in which the deceased has an interest, and
 - [] An estate tax proceeding or return was filed, all taxes assessed against the estate were paid and a tax receipt or discharge from liability letter is on file with the court.
 - [] No tax proceeding or return was filed. The value of non-probate property plus the value of the probate property is less than the applicable threshold for filing an estate tax return.
6. All debts, claims, funeral and administration expenses have been paid and a final distribution of all estate assets has been made to the persons or organizations entitled thereto.
7. All individual parties entitled to a share of the residuary estate are adult and competent. A receipt and release, from every non-residuary legatee, residuary legatee, distributee (in cases of intestacy) and every other interested person (other than the executor or administrator) has been filed, is filed herewith, or is not filed for the following reasons:
8. To my knowledge all matters involving the administration of the estate have been lawfully completed.
9. I have complied with the requirements of this court for the filing of this affirmation.

Dated:

Attorney at Law

Attorney Name:
Address: