

<b>Matter of Coleman</b>
2017 NY Slip Op 31129(U)
March 30, 2017
Surrogate's Court, Nassau County
Docket Number: 2012-368220/C
Judge: Margaret C. Reilly
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**SURROGATE’S COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU**

**Accounting by Public Administrator of Nassau County  
as the Administrator of the Estate of**

**DECISION AND  
ORDER**

**BRENDA L. COLEMAN a/k/a  
BRENDA COLEMAN,**

**File No. 2012-368220/C  
Dec. No. 32332**

**Deceased.**

**PRESENT: HON. MARGARET C. REILLY**

The following papers were considered in the preparation of this decision:

Amended Petition. . . . .	1
Accounting. . . . .	2
Citations. . . . .	3
Transcript kinship hearing and exhibits. . . . .	4
Reports of the guardian ad litem. . . . .	5
Affidavit of Due Diligence. . . . .	6
Affidavit of Accounting Services (Rispoli). . . . .	7
Affirmation of Services (Kerins). . . . .	8
Affirmation of Services (Harper). . . . .	9

This is a petition to settle the accounts of the Public Administrator.

The petition seeks: 1) allowance of commissions; 2) approval of attorneys’ fees;  
3) approval of accountants’ fees; 4) release of the surety; and 5) payment of the net estate  
to the New York State Comptroller on account of the unknown next of kin.

With respect to that part of the petition regarding unknown distributees, objections  
were filed by four claimants alleged to be distributees on the paternal side. A kinship hearing  
was held on September 29, 2016. A guardian ad litem has filed a detailed report of the  
evidence submitted on this issue.

The decedent died on June 23, 2011. She had no issue surviving. The decedent's father, Clarence Pair had eight siblings all of whom are deceased. The objectants are: George E. Air, Clarence Weston, Marie A. Lee and Diane Chambers as administrator of the estate of Catherine Thompson. The documentary evidence establishes that the first three named persons are surviving first cousins of the decedent and Catherine Thompson is a first cousin who post-deceased.

On the maternal side, the evidence establishes that the decedent's grandparents, Rupert Williams and Minnie Williams, had two children, Ethel Williams (the decedent's mother) and Evelyn Williams. Evelyn Williams, who was born in 1925, married and was divorced. The genealogist testified that he found no records of a re-marriage or any activity after 1975 and no record of her death. The guardian ad litem recommends that the court approve distribution of the net estate to the objectants on the grounds that SCPA 2225 [b] has been satisfied.

Upon a review of the affidavits of due diligence and the transcript of the hearing, the court finds that the objectants are the sole distributees of the estate.

The account indicates that the principal received is \$231,888.46. The Public Administrator seeks attorneys' fees in the amount of \$16,868.75 of which \$3,225.00 has been paid and disbursements in the amount of \$128.00. He also seeks \$2,400.00 for additional anticipated services. The latter sum is not reflected in the citation.

The total time is 48.75 hours for the services of attorneys (\$425.00 per hour) and

paralegals.

In evaluating the cost of legal services, the court may consider a number of factors. These include: the time spent (*see Matter of Kelly*, 187 AD2d 718 [2d Dept 1992]); the complexity of the questions involved (*see Matter of Coughlin*, 221 AD2d 676 [3d Dept 1995]); the nature of the services provided (*see Matter of Von Hofe*, 145 AD2d 424 [2d Dept 1988]); the amount of litigation required (*see Matter of Sabatino*, 66 AD2d 937 [3d Dept 1978]); the amounts involved and the benefit resulting from the execution of such services (*see Matter of Shalman*, 68 AD2d 940 [3d Dept 1979]); the lawyer's experience and reputation (*see Matter of Brehm*, 37 AD2d 95 [4th Dept 1971]); and the customary fee charged by the Bar for similar services (*see Matter of Potts*, 123 Misc 346 [Sur Ct, Columbia County 1924], *affd* 213 App Div 59 [4th Dept 1925], *affd* 241 NY 593 [1925]; *Matter of Freeman*, 34 NY2d 1 [1974]).

The attorneys conducted the investigation to determine the distributees of the estate, collection, valuation, and sale of assets, preparation of the petition for administration and the petition for the accounting and participation in the kinship hearing.

The attorneys' fees are approved in the amount of \$19,268.75 (\$16,868.75 + \$2,400.00) for all services rendered or to be rendered, plus disbursements of \$128.00.

The services of the accountants were not duplicative of the attorneys' services and are approved for the preparation of 2011 and 2016 and prospectively for the 2017 tax returns, in the sum of \$2,500.00.

The commissions of the Public Administrator are approved. The guardian ad litem seeks a fee of \$3,713.00 at the rate of \$395.00 per hour. The guardian ad litem reviewed a significant number of documents on the question of kinship attended the hearing and filed a detailed report. The fee is approved in the amount sought.

The accounting should be brought to date to reflect prospective distribution to the objectants.

Settle decree.

Dated: March 30, 2017  
Mineola, New York

**E N T E R :**

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**HON. MARGARET C. REILLY**  
**Judge of the Surrogate's Court**

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