

# Administration Proceeding Checklist

(see Surrogate's Court Form A-1, rev. 12/98)

This Checklist is provided for your convenience while completing the petition and the checklist should not be returned to the Court.

**Check All Forms To Make Sure Venue Is Correct - Appropriate County Is Listed**

**Fill In All Areas On All Pages of Petition - Also Mark When Not Applicable Where Necessary**

PET ¶ #	DESCRIPTION	YES	NO
	Is the captioned name exactly the same as it appears on the Death Certificate?		
	If A/K/A's, are they listed in the caption and also under ¶2 of petition?		
	Has the type of Letters been checked?		
<b>1.</b>	<p><b>Is the petitioner eligible to act and qualify pursuant to SCPA §1001?</b></p> <p>(a) surviving adult spouse of decedent                      (b) adult child                      (c) adult grandchild                      (d) parent                      (e) brother or sister                      (f) any other person who is a distributee and who is eligible to qualify                      (g) others as set forth in SCPA §1001(3) to (9)</p>		
	Check citizenship		
<b>NOTE: A Non-domiciliary alien is ineligible to act as a sole fiduciary [see SCPA §707]</b>			
	Has the interest of the petitioner been checked and specified?		
	Is the proposed administrator an attorney?		
	If so, has a statement been provided pursuant to 22NYCRR 207.16(e)?		
<b>NOTE: Latter will need an accounting [see 22NYCRR 207.52]</b>			
<b>2.</b>	<p><b>Does the information under ¶2 of the Petition agree with the death certificate?</b></p> <p>(certified copy of death certificate must be filed with petition)</p> <p>(a) if address on petition does not agree with death certificate, has an explanatory affidavit been filed [see SCPA §206-208]</p> <p>(b) if decedent was a non-domiciliary of the State, has an explanatory affidavit and a request for non-domiciliary treatment been filed setting forth the following:</p> <p style="padding-left: 40px;">(1) statement that no original probate or administration proceeding has been or will be filed in any jurisdiction</p> <p style="padding-left: 40px;">(2) statement that the decedent left estate assets in this jurisdiction</p>		

PET ¶ #	DESCRIPTION	YES	NO
2. cont.	(3) statement listing the distributees in the domiciliary jurisdiction or that they are the same as under New York State Law		
3.	<p><b>Has everything been answered?</b></p> <p>(a) &amp; (b) is all property in decedent's name alone? do not include: jointly held property with right of survivorship; property held in trust for another; assets that have a named beneficiary</p> <p>(c) estimated rent for 18 months has to be included; this amount needs to be considered in determining whether a bond is required and if so, the amount of the bond</p> <p>(d) if there is a pending or contemplated cause of action on behalf of the decedent, has all information requested in petition been provided?</p> <p>(e) has it been checked, if so, is information provided under ¶7 of Petition?</p>		
4.	<b>This paragraph states that a diligent search has been made to find a will.</b>		
5.	<b>Were the court's records searched for a will for safekeeping or an estate/file previously opened? [See SCPA §2507 and §2508]</b>		
6.	<p><b><i>NOTE: Distributee: Any person entitled to take or share in property under EPTL §4-1.1 and 4-1.2. (SUBMIT A FAMILY TREE IF REQUIRED BY THE COURT.)</i></b></p> <p><b>Has the number of survivors been listed?</b></p> <p><b>Has "NO" been inserted in all prior classes?</b></p> <p><b>Has an "X" been inserted in all subsequent classes?</b></p> <p><b><i>NOTE: If alleged that the decedent was survived by no distributee or only one distributee or where the relationship of distributees to the decedent is grandparents, aunts, uncles, first cousins or first cousins once removed, has an Affidavit of Heirship been submitted - see Court Rules 207.16(c). NOTE: If there are any deceased distributees, provide a copy of the death certificate or provide the date of death.</i></b></p>		
7a.	<p><b>Are all distributees or other necessary parties who are of full age and under no disability listed with required information? [see Court Rules §207.16(b)]</b></p> <p><u>Renunciation and Waiver:</u> Renunciation of letters of administration and waiver of process may be submitted from any adult, competent person who has a prior or equal right to letters of administration and must consent to the granting of all relief in the "wherefore clause" of the petition. Waivers must be signed and acknowledged. If letters of administration are to be granted to a designee, the name of such designee must be inserted. (Form A-8 to be used by individuals and Form A-9 from a Corporation [example: funeral director and creditors]).</p>		

PET #	DESCRIPTION	YES	NO
7a. cont.	<p><b>If non-marital or adopted-out person, has Schedule A and/or B been attached to Petition?</b></p> <p><u>Notice of Application for Letters of Administration:</u> This notice (Form A-3) must be given to all those listed in the petition who have a right to letters inferior to that of the nominated administrator, or persons who share in the decedent's estate as distributees, but are not eligible to receive letters. If any of these have waived, notice to them is not required. An original affidavit of mailing must accompany the filed notice.</p>		
<b><i>NOTE: ALL INTERESTED PARTIES MUST CONSENT THAT BOND BE DISPENSED WITH OR FILING OF BOND WILL BE REQUIRED.</i></b>			
7b.	<p><b>Same as 7a above but are persons under disability</b></p> <p><b>Are infants and persons under disability listed with required information?</b></p> <p>Are Schedules A, B, C and/or D attached?</p> <p><i>NOTE: FOR INFANTS (Attach copy of birth certificate if required by court)</i></p> <p><i>NOTE: IF THERE IS A COURT-APPOINTED GUARDIAN (FIDUCIARY) SUBMIT PROOF OF APPOINTMENT.</i></p> <p><i>NOTE: IF THERE ARE UNKNOWNs, the following proof has to be submitted: affidavit showing that diligent efforts have been made to locate unknown distributees or distributee whose whereabouts are unknown [see Court Rules §207.16(d)]</i></p> <p><i>“DILIGENT SEARCH” requires extensive research, e.g.: cemetery and marriage records; telephone books, conversation with other distributees, neighbors, etc.; records of varied Surrogate’s Courts; military records; Bureau of Immigration &amp; Naturalization; Social Security Administration; Bureau of Vital Statistics; Department of Motor Vehicles; Bureau of the Census; City directories, Internet</i></p> <p><i>NOTE: PURSUANT TO SCPA §1003(4)</i> <i>Jurisdiction over unknown distributees or distributees whose whereabouts are not known need not be secured prior to the issuance of letters, but is required by publication of citation in the accounting proceeding. The Decree granting Administration must so state.</i></p>		
8.	<p><b>Make sure outstanding debts or funeral expenses are listed (attach copy of funeral bill if paid). If no outstanding expenses, so state. If outstanding expenses, use Form A-9.</b></p>		
9.	<p><b>Under WHEREFORE Clause: has all relief requested been checked and completed?</b></p> <p><b>Is petition dated, signed, verified, properly notarized (including proper jurat and expiration date of notary’s commission)?</b></p>		

PET #	DESCRIPTION	YES	NO
9. cont.	<p><b>Is Combined Verification, Oath and Designation signed?</b></p> <p><b>does it set forth proposed fiduciary's physical address?</b></p> <p><b>Is proposed fiduciary a bank? (submit a Consent and Designation)</b></p> <p><b>Is attorney's name, address and phone number listed?</b></p> <p><b>Is Part 130 Certification completed by attorney or self-represented party?</b></p> <p><b>if <u>NOT</u>, has a separate certification as to Part 130 signing requirements been included?</b></p>		
<b>If forms are computer generated, has a certification pursuant to Court Rules §207.4 been attached?</b>			

PARTIAL FEE SCHEDULE	SCPA/EPTL § or Rule #														
<p><b>Have the proper fees been included with petition?</b></p> <p>Fees per schedule; \$6.00 for each Certificate of Appointment.</p> <p>Filing fee is based upon the values of the estate owned individually by the decedent or payable to the Estate - see SCPA §2402(8)</p> <table> <tr> <td>0 but under 10,000</td> <td>\$ 45.00</td> </tr> <tr> <td>10,000 but under 20,000</td> <td>75.00</td> </tr> <tr> <td>20,000 but under 50,000</td> <td>215.00</td> </tr> <tr> <td>50,000 but under 100,000</td> <td>280.00</td> </tr> <tr> <td>100,000 but under 250,000</td> <td>420.00</td> </tr> <tr> <td>250,000 but under 500,000</td> <td>625.00</td> </tr> <tr> <td>500,000 and over</td> <td>1,250.00</td> </tr> </table>	0 but under 10,000	\$ 45.00	10,000 but under 20,000	75.00	20,000 but under 50,000	215.00	50,000 but under 100,000	280.00	100,000 but under 250,000	420.00	250,000 but under 500,000	625.00	500,000 and over	1,250.00	2402
0 but under 10,000	\$ 45.00														
10,000 but under 20,000	75.00														
20,000 but under 50,000	215.00														
50,000 but under 100,000	280.00														
100,000 but under 250,000	420.00														
250,000 but under 500,000	625.00														
500,000 and over	1,250.00														

COMMENTS AND COURT NOTES		Form Number	SCPA/EPTL § or Rule #
When Permitted	Whenever decedent dies without a Will, <u>OR</u> Will filed with Court is not offered for Probate.		1001-1004
Forms Always Required	<ul style="list-style-type: none"> <li>•Petition for Administration</li> <li>•Oath and Designation</li> <li>•Death Certificate</li> <li>•Copy of paid funeral bill or Waiver from funeral director</li> <li>•Self-addressed stamped envelope (if court requires)</li> </ul>	A-1 A-1 A-9	1402 207.15(b)

COMMENTS AND COURT NOTES (continued)		Form Number	SCPA/EPTL § or Rule #
Forms or Documents Sometimes Required	•Administration Citation	A-2	1003
	•Waiver, Renunciation & Consent:		1003(3)
	Individual	A-8	
	Corporation	A-9	
	•Notice of Application for Letters Administration	A-3	1005
	•Affidavit of Mailing Notice of Application	A-4	
	•Notice to Consul General	A-5	207.21
	•Affidavit of Regularity	A-7	
	•Attorney/Fiduciary Affidavit		207.16(e)
	•Affidavit of Due Diligence for Publication		207.16(c)
	•Affidavit of Service	A-10	307
	•Bond		801-805
	•Family Tree Chart	FT-1	207.16(d)
•Affidavit of Sole Heirship		207.16(c)	
•Death Certificate of deceased spouse, distributee		207.15(c)	
•Obituary Notice (if court requires)			

If the assets exceed \$30,000 and one or more distributees refuse to consent that the Administrator serve without bond (or are unable to consent by reason of their being under disability) it may be necessary to obtain a fiduciary bond. See SCPA Article 8.

Proofs of Service of Citation must be filed with the Court at least two (2) working days before the return date.

Guardian Ad Litem will be appointed on or before the return day of process for all unknowns and persons under disability (SCPA §403).

Letters will not be delivered until Notice of Application (*if required*) and Mailing Affidavit are filed.

Review carefully instructions to paragraphs 6 and 7 of the Petition and be sure interested parties are listed in the correct places.

Documents signed by Power of Attorney (Provide certified copy of POA and comply with Section 13-2.3 EPTL and 207.48 Uniform Rules).

Check to be certain all documents are properly acknowledged.

**THIS MATERIAL IS PROVIDED FOR INFORMATIONAL/TRAINING PURPOSES ONLY.** – It is intended for use in conjunction with review of the applicable statutes and rules of the Surrogate’s Court and the Surrogate’s Court Operations Manual.