

AFFIDAVITS

An Affidavit of Surviving Spouse or Next of Kin can only be used when the decedent died without a Will. The rules for the affidavit are similar, however, the amounts vary. In the case of a Surviving Spouse, when the date of death is prior to 1-12-16; the limit for an affidavit is \$20,000.00, and for the Next of Kin it is \$10,000.00. If the Date of death is after 1-12-16 the Surviving Spouse is limited to \$50,000.00 and the Next of Kin is \$20,000.00. You cannot obtain an Affidavit if the decedent had a Last Will & Testament. In that case, you must probate the Will.

In both cases the Affiants will be swearing under oath that there is no Last Will and Testament of the deceased and that they are the closest next of kin. All degrees of kinship should be listed (in the case of a spouse) children of the decedent will be listed.

For Next of Kin, you should include the relationship to the deceased. All consents must be signed in front of a Notary Public and acknowledged with the expiration date of commission and the seal of the Notary.

Union County Court House
2 Broad Street Elizabeth, NJ 07207

Phone: (908) 527-4280
Fax: (908) 351-9212

ADMINISTRATION AD PROSEQUENDUM

Administration Ad Prosequendum means that the decedent died a victim of neglect or wrongful death. This usually occurs in medical situations, car accidents or work-place injury.

The application process is the same as for General Administration. The difference is that you must obtain this type of Administration before you begin your lawsuit.

In order to process the paperwork, we will need to know the names and addresses of the defendants whom you wish to prosecute for the death of the individual.

An application for this type of Administration may be made in the County where the decedent was a resident at the time of death or in the County in which the accident occurred.

No Administrator Ad Prosequendum will be appointed to an estate where the decedent died "testate". If the decedent died with a valid Last Will and Testament, he or she is considered to have died "Testate" (in possession of a Will). The named Executor is able to prosecute for any wrongful death.

Minors who will inherit from an estate will need to have a guardian appointed to protect their right to inheritance. In most cases the assets for the minor will be held by the Surrogate in an intermingled trust fund. Please call the office for more information.

James S. LaCorte
Surrogate of Union County

Administration & Estates

GENERAL
ADMINISTRATION

ADMINISTRATION
AD PROSEQUENDUM

CREDITOR'S
ADMINISTRATION

AFFIDAVITS



Union County Courthouse

The Surrogate's Court is located in the
Union County Courthouse,
2 Broad Street, 2nd floor Old Annex.
Elizabeth, NJ 07207

TEL: (908) 527-4280

**WWW.UCNJ.ORG/
SURROGATE**

ADMINISTRATION

The Laws in the State of New Jersey define who has the first right to apply for Administration of an estate.

General administration is used when a resident of New Jersey dies intestate (without a will). It is the duty of the heir or the person desiring original letters of administration to make application to the Surrogate of the county in which the decedent **resided** at the time of death.

For intestate estates, heirs at law defined by the state statute have priority in the following order:

- (a) spouse or registered domestic partner or civil union partner.
- (b) adult children of the decedent
- (c) guardian of minor issue first entitled, if no surviving spouse or adult children
- (d) decedent's parents
- (e) brothers and sisters
- (f) grandparents
- (g) aunts and uncles
- (h) stepchildren
- (i) creditors (after 40 days)



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WHAT YOU WILL NEED TO BRING TO THE SURROGATE

The applicant should appear in the Surrogate's Office with:

- ◇ Certified Death Certificate (certified translations)
- ◇ A detailed list of the assets in the deceased's name.
- ◇ An estimate of the amount owing for debts and taxes.
- ◇ Names & addresses of next of kin (*heirs at law*).

You will be interviewed by a probate clerk to obtain the necessary information on the estate and determine who is entitled to appointment.

*A surety bond may be required on the estate; this is like an insurance policy. The bond will be set by the Surrogate when the assets of the estate are determined.

The list of assets will determine how many certificates will be issued for the estate. These assets should be in the name of the decedent. You will receive only one certificate for every asset.

If renunciations are required from other persons having an equal right to be appointed administrator, the clerk will prepare the renunciations for each person.

If the relatives with the same degree of kinship cannot agree on who should act, or the renunciations have not been returned, the applicant may ask that a hearing be set up on the Surrogate's level (fee \$10.00) to determine who will act as Administrator. If the parties cannot agree and the Judge feels it's necessary he will issue a certificate of dispute and the applicants will have hire an attorney and go to Superior Court.

CREDITOR COMPLAINTS

When the applicant(s) do not know the amount of assets in the estate, we cannot issue an Administration for the estate. If your attorney has advised you to come in and get Administration to settle an "existing" law suit for the decedent we cannot give that to you unless we know the amount of the settlement. In order for someone to obtain information from Banks, Credit Unions or Insurance companies we will give them an "Affidavit of Next of Kin" or "Surviving Spouse" They may use this to obtain information about the assets; financial institutions will not disclose account numbers or balances without a letter or affidavit from our office. You will not be able to recover anything of value.

CREDITOR COMPLAINTS

If there are no next of kin, any fit person or anyone who is owed a debt from the estate has the right to apply after 40 days have passed. The person who paid for the funeral expenses or the landlord who is owed back rent would have a right to apply for Administration as a Creditor of the Estate.

When a Creditor applies for Administration, the known next of kin must be noticed, this is a requirement for a hearing on the Surrogate's level. The Surrogate will conduct a hearing to determine if the estate is one that can be settled on his level or if it becomes a matter of dispute. The Surrogate also retains the right to appoint a suitable attorney to handle the matters of the estate.

