RK LAW

GUIDES

To Probate a Will and get Letters Testamentary in NYC

Did your relative die testate, or, with a Will?

STEP 1 Write Down:

a. The names and addresses of all persons / organizations who are mentioned in the Will;

b. The Decedent's next of kin i.e. daughter

Names and address of all organizations:

1. ABC Charity

Decedent's next of kin: Daughter

STEP 2 Gather:

a. The original Will + 1 copy of the Will

STEP 2 Gather:

b. A certified copy of the Death Certificate

Need help obtaining one?
Visit my Resources page at www.rklawny.com

STEP 2 Gather:

c. And, if the Decedent was survived by only one person or by cousins, an Affidavit of Heirship from a disinterested person

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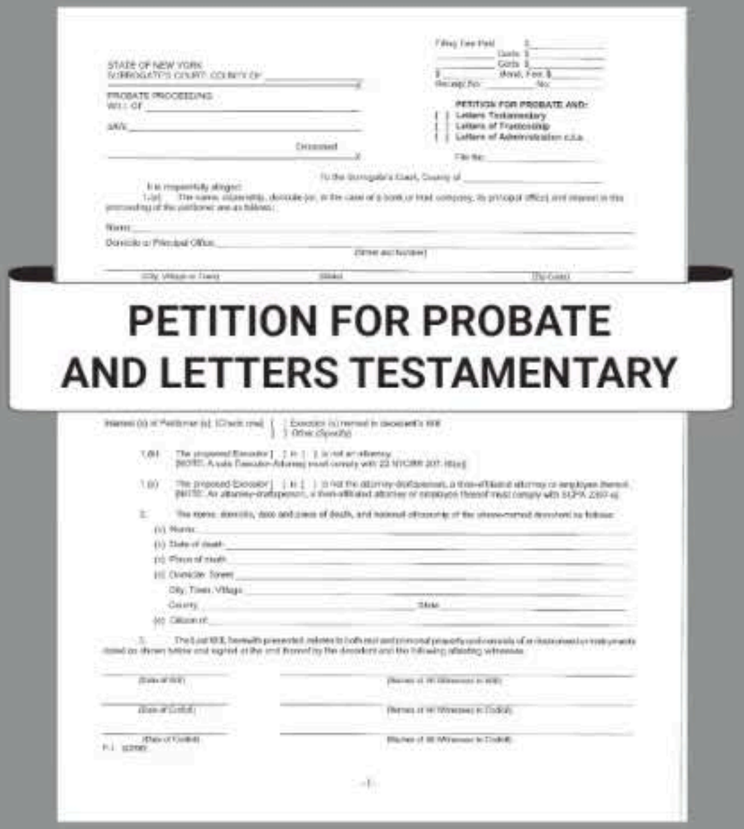
STEP 3 Fill out the Following Forms:

a. Petition for Probate and Letters Testamentary



STATE OF NEW YORK
SURROGATE'S COURT: COUNTY OF _____

PROBATE PROCEEDING
WILL OF _____

AKA: _____

Deceased

Filing Fee Paid $_____
Certs. $_____
Certs. $_____
$_____ Misc. Fee $_____
Receipt No: _____ No: _____

PETITION FOR PROBATE AND:
[ ] Letters Testamentary
[ ] Letters of Trusteeship
[ ] Letters of Administration c.t.a.

File No: _____

To the Surrogate's Court, County of _____

It is respectfully alleged:

1.(a) The name, citizenship, domicile (or, in the case of a bank or trust company, its principal office) and interest in this proceeding of the petitioner are as follows:

Name: _____

Domicile or Principal Office: _____
(Street and Number)

_____
(City, Village or Town) (State) (Zip Code)

PETITION FOR PROBATE AND LETTERS TESTAMENTARY

Interest (s) of Petitioner (s). (Check one) [ ] Executor (s) named in decedent's Will
[ ] Other (Specify)

1.(b) The proposed Executor [ ] is [ ] is not an attorney.
[NOTE: A sole Executor-Attorney must comply with 22 NYCRR 207.16(a)]

1.(c) The proposed Executor [ ] is [ ] is not the attorney-draftsperson, a then-affiliated attorney or employee thereof.
[NOTE: An attorney-draftsperson, a then-affiliated attorney or employee thereof must comply with SCPA 2307-a]

2. The name, domicile, date and place of death, and national citizenship of the unrepresented decedent are as follows:

(a) Name: _____
(b) Date of death: _____
(c) Place of death: _____
(d) Domicile: Street _____
City, Town, Village _____
County _____ State _____
(e) Citizen of _____

3. The (Last Will) (Instrument) presented relates to both real and personal property and consists of an interested or instrument dated as shown below and signed at the end thereof by the decedent and the following attesting witnesses:

_____ _____
(Date of Will) (Names of All Witnesses to Will)

_____ _____
(Date of Codicil) (Names of All Witnesses to Codicil)

_____ _____
(Date of Codicil) (Names of All Witnesses to Codicil)

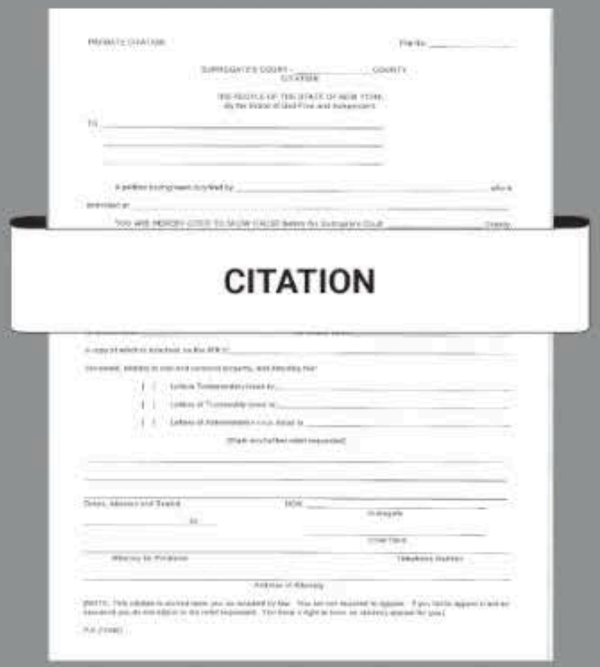
P.C. 1(2/98)

-1-

STEP 3 Fill out the Following Forms:

a. Petition for Probate and Letters Testamentary

b. Either :
   i. "Waiver of Process; Consent to Probate" ("Waiver")
   or
   ii. "Citation" for everybody listed in paragraph 6;



If the Person Agrees to your appointment as Executor, have that person sign a Waiver

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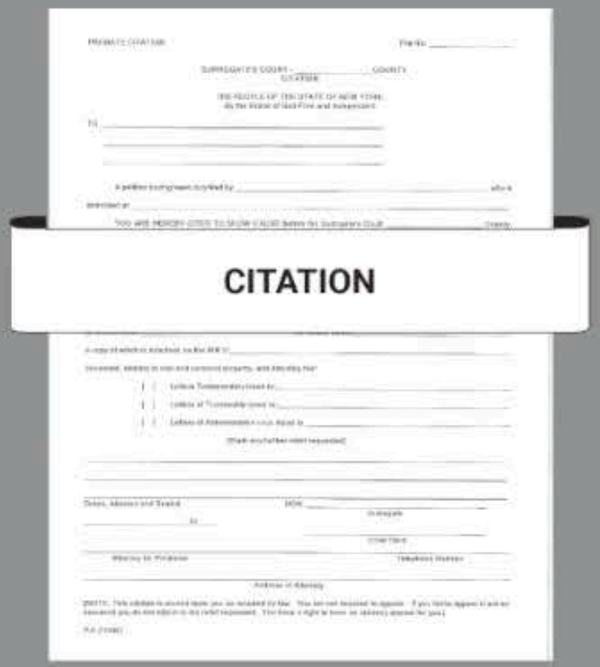
If that person does not sign the Waiver and Consent, then ask the Court to issue a Citation that will then need to serve upon that person.



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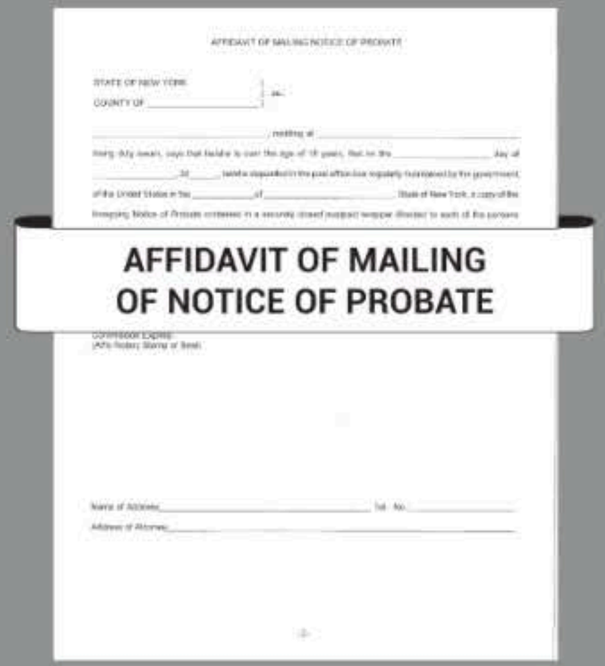
c. NOTICE OF PROBATE for everybody in Paragraph 7 and Affidavit of Mailing of Notice of Probate



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d. Affidavit of Comparison

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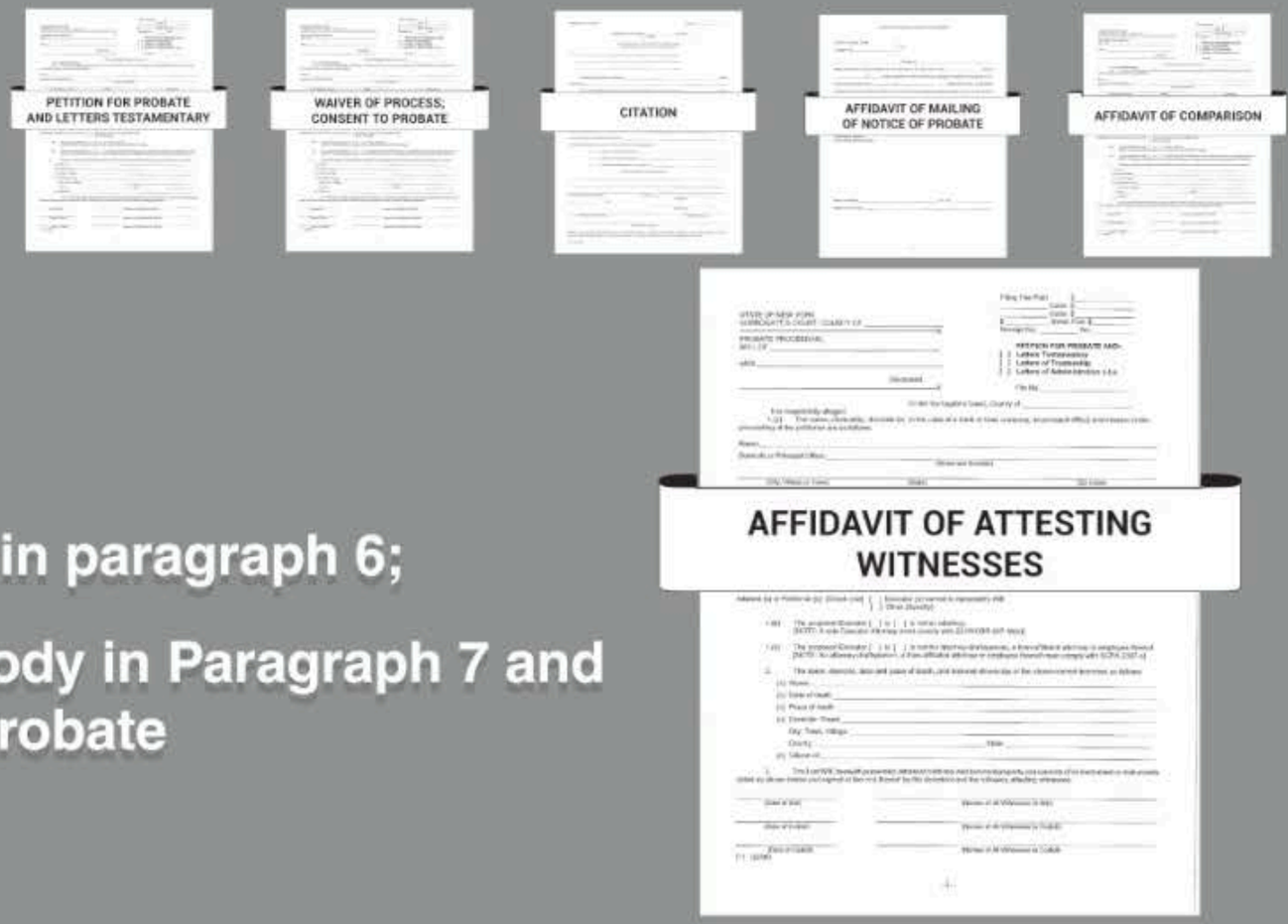
e. Affidavit of Attesting Witnesses when the Will does not contain a Self-Proving Affidavit



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STEP 4 Calculate the Filing Fee:

The Fee depends on the value of the gross estate

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Here's a quick cheat sheet chart from SCPA §2402

www.rklawny.com/resources

Value of Estate or Subject Matter Fee	Fee Rate
Less than $ 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

STEP 5 Go to the Surrogates Court:

in the County where your Decedent died, or had property, to submit all the forms

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Go to the Probate Department

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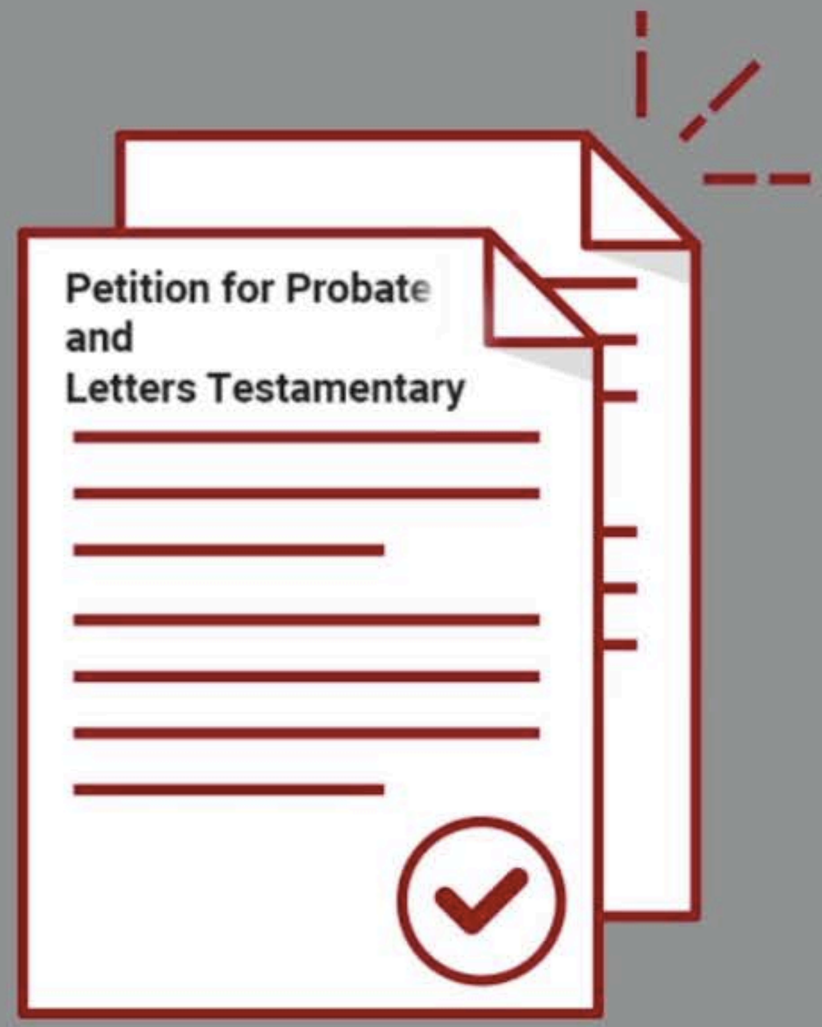
Go to the Probate Department

Submit the Forms



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Go to the Probate Department

Submit the Forms

Pay the Fee

STEP 5 Go to the Surrogates Court:

If Court issued a Citation, attend Court on the return date listed on the Citation

Facts and circumstances may vary. If you have nuances, consider contacting an estate attorney familiar with the local county rules. I practice mostly in Brooklyn, Manhattan, and Queens.

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