



Appointment of a Personal Representative

The Special Master will appoint a Personal Representative only in very limited circumstances. Circumstances where the Special Master has appointed a Personal Representative include when the decedent resided and died internationally, when a state's probate laws did not allow the appointment of the Personal Representative because of residency requirements or time lapse, or other matters of legal impossibility. The Special Master will not appoint a Personal Representative because a probate court's rules are difficult to understand or the court is delayed in processing. You must first attempt to obtain an appointment from the state probate or surrogate court where the decedent lived.

In general, states have procedures for individuals to open a simple or small estate in order to obtain an appointment. To open such a proceeding in New York, you must file a Petition for Letters of Administration (if the decedent did not have a will), Petition for Probate and Letters Testamentary (if the decedent had a will), or Voluntary Administration (if the decedent's estate meets certain requirements). There is a fee for opening these estate proceedings but, in many cases, the fee will be quite low. In New York, if the value of the estate is less than \$10,000, you will have to pay \$45.00 to open the proceeding. Additionally, if the value of the estate is less than \$30,000 (or \$20,000 if the decedent passed away before January 1, 2009), and the estate does not include certain property, you can file a Voluntary Administration in order to be appointed the Personal Representative of the decedent's estate. Please note, the VCF will only accept Letters of Voluntary Administration in very limited circumstances. If you submit Letter of Voluntary Administration, the document must explicitly permit the filing and processing of the VCF claim, and you will be required to petition for Letters of Administration or Letters Testamentary that permit you to collect the VCF award once an award determination is made on your claim. The forms required to open an estate proceeding in New York, as well as additional information on opening an estate proceeding, can be found at the following website:
<https://www.nycourts.gov/COURTS/nyc/surrogates/index.shtml>.

Other states have their own procedures for opening an estate. If the decedent's domicile (permanent residence) was in a location other than New York, you should consult that state's rules regarding opening a probate or surrogate court proceeding.

Sometimes courts will issue Letters of Administration with limitations. For example, the letters might prohibit you from compromising any claim. Follow the instructions [here](#) if you have received Letters of Administration with any limitations.

In limited circumstances, if you are unable to open an estate proceeding, you can request that the Special Master appoint you as the Personal Representative of the decedent for purposes of filing a VCF claim. To do so, you must submit a statement sworn under penalty of perjury to the VCF and provide certain documentation as described below.

I. Prepare a written statement that addresses each of the items listed below and explains the reason you are asking the Special Master to appoint the Personal Representative:

- Your name and relationship to the decedent
- Why you were unable to obtain a court appointment
- Whether the decedent had a will, and:
 - If the decedent had a will, whether you know of anyone else who has been named Executor of the decedent's will
 - If you do not know whether the decedent had a will, whether a diligent search has been conducted for a will, including a search of any safety deposit boxes used by the decedent
- That you have searched the records of the court with proper jurisdiction, and:



- Whether, after searching the records of the court with proper jurisdiction, anyone else has been appointed or has applied to be appointed as Personal Representative or Administrator of the decedent's estate
- Whether any of the individuals below survive the decedent (indicate the individuals' names and locations):
 - Spouse (husband/wife)
 - Children (list all, minor and adult)
 - Descendants of any predeceased children (must include marital, non-marital, and adopted)
 - Any children of the decedent adopted by persons related to the decedent
 - Mother/Father
 - Sisters or brothers, either of whole or half blood, and children of predeceased sisters or brothers
 - Grandmother/Grandfather
 - Aunts or uncles, and children of predeceased aunts and uncles (first cousins)
 - First cousins once removed (children of first cousins)

The statement must include the following sworn statement:

- If signed within the United States, its territories, possessions, or commonwealths, add this language: "I declare under penalty of perjury that the foregoing is true and correct. Executed on [date signed]."
- If signed outside the United States, add this language: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on [date signed]."

The statement must include the printed name of the individual who is submitting it and the individual's signature.

II. Submit the following documentation with the statement:

- The decedent's will, if applicable
- Documentation demonstrating proof of your relationship to the decedent:
 - For a spouse, a copy of the marriage certificate or joint tax return
 - For a child, a copy of the child's birth certificate or the decedent's tax return
 - For a parent, a copy of the decedent's birth certificate
 - For a brother or sister, a copy of the brother's or sister's birth certificate and the decedent's birth certificate