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Matter of Demirakos

Surrogate's Court of New York, Nassau County

July 17, 2026, Decided

File No. 2023-1577

Reporter

2026 N.Y. Misc. LEXIS 9556 *; 2026 NY Slip Op 51089(U) **; 2026 LX 374085

Ancillary Probate Proceeding, Will of Peter Demirakos, a/k/a PANAGIOTIS DEMIRAKOS, a/k/a PANAGIOTIS DEMOIRAKOS, A domiciliary of the State of New York Deceased.

Notice: THIS OPINION IS UNCORRECTED AND WILL NOT BE PUBLISHED IN THE PRINTED OFFICIAL REPORTS.

Core Terms

the will, decedent, appoint, testator, ancillary, sole beneficiary, domiciliary, probate, administrator's letter, testamentary, nephew, entitled person, carry out, frame, heir

Judges: [*1] HON. DAVID P. SULLIVAN, Judge of the Surrogate's Court.

Opinion by: DAVID P. SULLIVAN

Opinion

David P. Sullivan, S.

[**1] Before the court is a petition by Ioannis Demoirakos (a/k/a John Demirakos) (the petitioner) for ancillary probate of the will dated April 9, 2019 of the decedent, Peter Demirakos (the decedent).

The decedent died on June 24, 2021 in Greece. According to the petitioner, the decedent left a will dated April 9, 2019, which was admitted to probate on July 19, 2021 by the Gythio Civil District Court, County of Gythio, Greece. The decedent was survived by the petitioner, who is his nephew and the sole beneficiary under the will, and fifteen (15) other nieces and nephews, all of whom either signed waivers and consents or were served with citation. The decedent's New York probate estate consists of an account at Sterling Bank with an

approximate value of \$80,000.00.

In support of his petition, the petitioner has submitted the foreign law affirmation of Stella Birbakou, an attorney duly admitted to practice law in Gythio Lakonias, Peloponisos, Greece. According to Ms. Birbakou, there is no general probate process and no routine court appointment of an executor or administrator in Greece comparable to [*2] New York. An executor only exists if expressly named in a will or, in limited cases, by court order. The key document in Greece is the Greek Heirship Certificate issued by the competent court. According to Greek counsel, "[t]his is a judicial act that definitively establishes who the lawful heir(s) are and in what capacity. It does not appoint a representative, but it conclusively establishes status."

"[T]he appointment in New York of an ancillary representative to administer property located in New York is governed solely by the law of New York" (Matter of Gyfteas, 59 Misc 2d 977, 978 [Sur Ct. New York County 1968]). SCPA 1604 lists those entitled to ancillary letters on a foreign will and sets forth the order of priority the court must follow in granting letters. According to SCPA 1604, the order of priority is as follows: (i) the person expressly appointed in the will as executor with respect to property located within this state; (ii) the person to whom domiciliary letters have been issued, or if domiciliary letters are not issued the person appointed in the will to administer all property wherein located; (iii) the person acting in the domiciliary jurisdiction to administer and distribute the testator's estate; and (iv) a person entitled under this act to letters [*3] of administration, c.t.a.. Pursuant to SCPA 1418, a sole beneficiary has priority to receive letters of administration c.t.a. (SCPA 1418 [1][a]).

In Matter of Gyfteas (*Id.*), Surrogate DiFalco stated as follows:

The purpose and intent of the Legislature in framing the text of *section 1604* are plain. It has been the policy of New York to recognize the domiciliary executor with

Robert Solomon

2026 N.Y. Misc. LEXIS 9556, *3; 2026 NY Slip Op 51089(U), **1

respect to the grant of ancillary letters here. (*Matter of Woodworth*, 165 Misc. 770, 772 [*Foley, S.J.*; *Baldwin v. Rice*, 183 NY 55, 61.]) Reference to an executor or to the issuance of letters testamentary is understandable in the frame work of the Anglo-American system of **estate administration**. Other foreign countries, however, have different systems of administering the property of a decedent, and they commit to different individuals the possession of decedent's property and the obligation to carry out decedent's testamentary directions. Our Legislature has attempted to describe the foreign person or officer who would be the equivalent of what we term an executor or an administrator with the will annexed. Thus in *section 1604*, the Legislature gave prime recognition to the person named by the testator in his will to carry out the provisions of his will. If the testator chose a person to handle only New York property, he is to receive first consideration in this [*4] State. If, on the other hand, the testator did not separate his New York administration from administration elsewhere and appointed a general executor without geographical limitation, the person so named is to be preferred. It matters not what his title be at the domicile; it is sufficient if the will appoint him to administer the testator's property without limitation.

Surrogate DiFalco noted that letters testamentary are not issued under the law and practice of Greece (*Id.*).

The first place the court must look is the will of the testator to see if the will gives anyone the authority to administer the estate (*Id.*). In the instant proceeding, the decedent's will here does not appoint a fiduciary. The will simply provides as follows: "I bequeath all my movable and immovable properties to my beloved nephew, Ioannis Demoirakos, son of Dimitrios and Thaleia, as my sole heir." The will does not name anyone to administer the decedent's estate, whether in New York or otherwise.

Here, the petitioner is the sole beneficiary under the will. He, therefore, would be entitled to letters of administration, c.t.a. (*SCPA 1418 [1][a]*). Accordingly, under *SCPA 1604*, in view of the fact that there is no one qualified under *SCPA 1604 [1][a]*, [b] [*5] or [c], ancillary letters of administration shall issue to the petitioner under *SCPA 1604 [1][d]* as a person entitled to letters of administration, c.t.a. as the sole beneficiary of the estate.

Submit decree within sixty (60) days of the date of this decision.

This constitutes the decision and order of the court.

Dated: July 17, 2026

Mineola, New York

ENTER:

HON. DAVID P. SULLIVAN

Judge of the Surrogate's Court

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Document (1)

1. Matter of Demirakos

Client/Matter: -None-

Search Terms: estate administration for peter demirakos 2023-1577

Search Type: Natural Language

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Content Type

Narrowed by
-None-

Opinion

Petitioner Ioannis Demoirakos, known as John **Demirakos**, sought ancillary probate in Nassau County of the April 9, 2019 will of **Peter Demirakos**, who died in Greece on June 24, 2021. The will had been admitted to probate by the Gythio Civil District Court, Greece, and left all movable and immovable property to petitioner, decedent's nephew and sole beneficiary. The New York estate consisted of a Sterling Bank account worth approximately \$80,000. Greek counsel explained that Greece has no routine executor appointment comparable to New York and that heirship certificates establish heir status without appointing a representative. The court held ancillary letters of administration c.t.a. should be issued to petitioner. It reasoned that New York law governs appointment of an ancillary representative for New York property, and SCPA 1604 controls priority. Because the will named no executor or administrator and no domiciliary fiduciary existed, petitioner qualified under SCPA 1604(1)(d) and SCPA 1418(1)(a) as sole beneficiary. The court directed submission of a decree within 60 days.

Full Case Digest Text

DECISION & ORDER Before the court is a petition by Ioannis Demoirakos (a/k/a John **Demirakos**) (the [*2] petitioner) for ancillary probate of the will dated April 9, 2019 of the decedent, **Peter Demirakos** (the decedent). The decedent died on June 24, 2021 in Greece. According to the petitioner, the decedent left a will dated April 9, 2019, which was admitted to probate on July 19, 2021 by the Gythio Civil District Court, County of Gythio, Greece. The decedent was survived by the petitioner, who is his nephew and the sole beneficiary under the will, and fifteen (15) other nieces and nephews, all of whom either signed waivers and consents or were served with citation. The decedent's New York probate estate consists of an account at Sterling Bank with an approximate value of \$80,000.00.

In support of his petition, the petitioner has submitted the foreign law affirmation of Stella Birbakou, an attorney duly admitted to practice law in Gythio Lakonias, Peloponisos, Greece. According to Ms. Birbakou, there is no general probate process and no routine court appointment of an executor or administrator in Greece comparable to New York. An executor only exists if expressly named in a will or, in limited cases, by court order. The key document in Greece is the Greek Heirship Certificate issued by [*3] the competent court. According to Greek counsel, "[t]his is a judicial act that definitively establishes who the lawful heir(s) are and in what capacity. It does not appoint a representative, but it conclusively establishes status."

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In Matter of Gyfteas (Id.), Surrogate DiFalco stated [*4] as follows:

The purpose and intent of the Legislature in framing the text of section 1604 are plain. It has been the policy of New York to recognize the domiciliary executor with respect to the grant of ancillary letters here. (Matter of Woodworth, 165 Misc. 770, 772 [Foley, S.]; Baldwin v. Rice, 183 N.Y. 55, 61.) Reference to an executor or to the issuance of letters testamentary is understandable in the framework of the Anglo-American system of estate administration. Other foreign countries, however, have different systems of administering the property of a decedent, and they commit to different individuals the possession of decedent's property and the obligation to carry out decedent's testamentary directions. Our Legislature has attempted to describe the foreign person or officer who would be the equivalent of what we term an executor or an administrator with the will annexed. Thus in section 1604, the Legislature gave prime recognition to the person named by the testator in his will to carry out the provisions of his will. If the testator chose a person to handle only New York property, he is to receive first consideration in this State. If, on the other hand, the testator did not

separate his New York administration from administration elsewhere and appointed a general executor without [*5] geographical limitation, the person so named is to be preferred. It matters not what his title be at the domicile; it is sufficient if the will appoint him to administer the testator's property without limitation.

Surrogate DiFalco noted that letters testamentary are not issued under the law and practice of Greece (Id.).

The first place the court must look is the will of the testator to see if the will gives anyone the authority to administer the estate (Id.). In the instant proceeding, the decedent's will here does not appoint a fiduciary. The will simply provides as follows: "I bequeath all my movable and immovable properties to my beloved nephew, Ioannis Demoirakos, son of Dimitrios and Thaleia, as my sole heir." The will does not name anyone to administer the decedent's estate, whether in New York or otherwise.

Here, the petitioner is the sole beneficiary under the will. He, therefore, would be entitled to letters of administration, c.t.a. (SCPA 1418 [1][a]). Accordingly, under SCPA 1604, in view of the fact that there is no one qualified under SCPA 1604 [1][a], [b] or [c], ancillary letters of administration shall issue to the petitioner under SCPA 1604 [1][d] as a person entitled to letters of administration, c.t.a. as the sole beneficiary [*6] of the estate.

Submit decree within sixty (60) days of the date of this decision.

This constitutes the decision and order of the court.

Dated: July 17, 2026

New York Law Journal