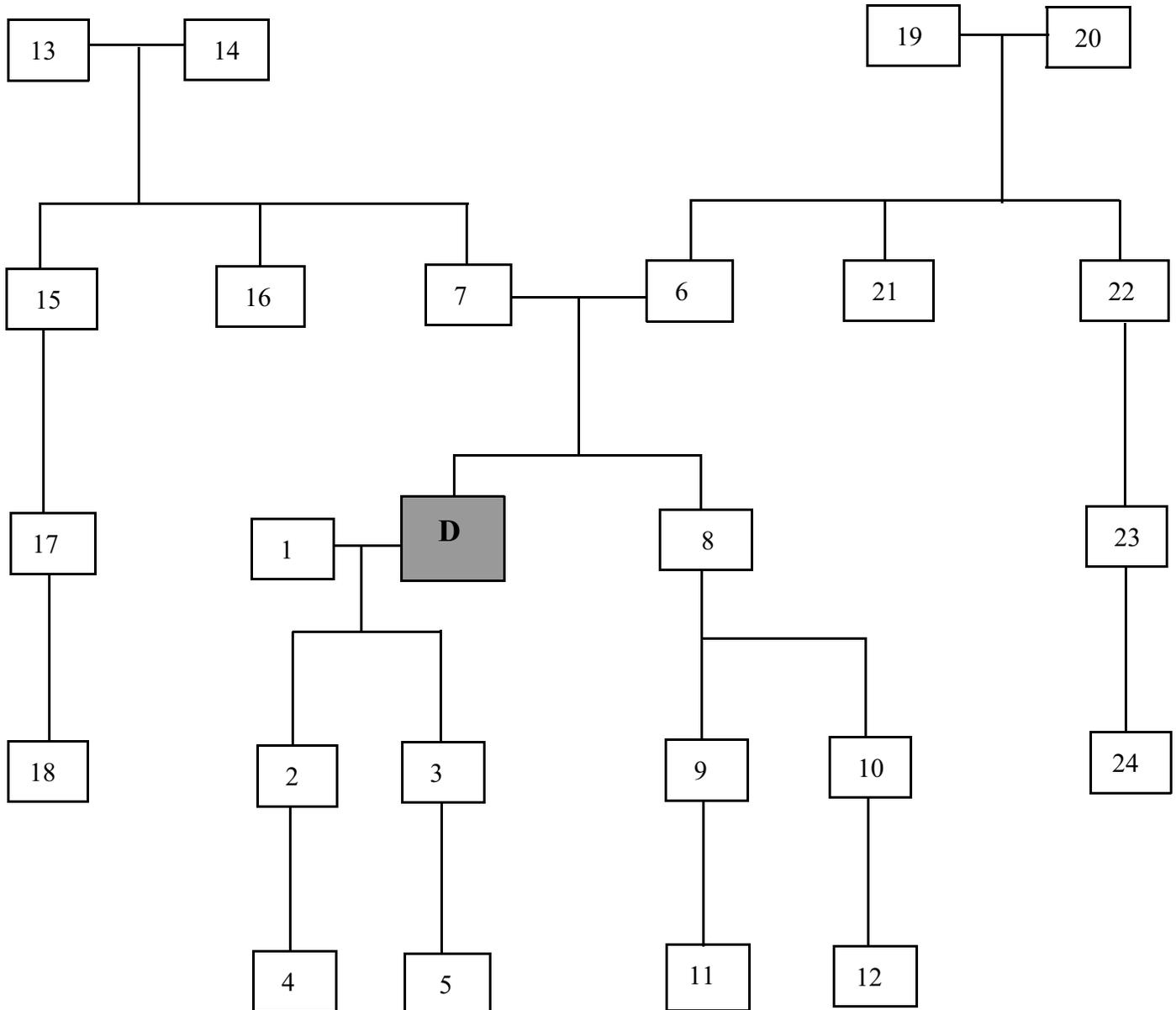


## Intestacy in New York under EPTL 4-1.1 and the Family Tree

### Cullen and Dykman LLP



EPTL 4-1.1 provides that if property of a decedent is not disposed by Will, it shall be distributed as follows to the next of kin (distributees):

4-1.1(a). If a decedent is survived by:

(1) A spouse [1] and issue [children, grandchildren, etc.(2,3,4, and 5)], fifty thousand dollars and one-half of the residue to the spouse, and the balance thereof to the issue by representation.

(2) A spouse [1] and no issue [children, grandchildren, etc. (2,3,4, and 5)], the whole to the spouse.

(3) Issue [children, grandchildren, etc. (2,3,4, and 5)] and no spouse, the whole to the issue [children, grandchildren, etc.(2,3,4, and 5)], by representation.

(4) One or both parents [6 and 7], and no spouse [1] and no issue [children, grandchildren, etc.(2,3,4, and 5)], the whole to the surviving parent or parents [6 and 7].

(5) Issue of parents [siblings, nephews, nieces, grandnephews and grandnieces (8,9,10,11, and 12)], and no spouse [1], issue [children, grandchildren, etc.(2,3,4, and 5)] or parent [6 and 7], the whole to the issue of the parents [siblings, nephews, nieces, grandnephews and grandnieces (8,9,10,11, and 12)] by representation.

(6) One or more grandparents [13, 14, 19, and 20] or the issue of grandparents (as hereinafter defined) [aunts, uncles, first cousins (15, 16, 17, 21, 22, and 23)], and no spouse [1], issue [children, grandchildren, etc. (2,3,4, and 5)], parent [6 and 7] or issue of parents [siblings, nephews, nieces, grandnephews and grandnieces (8,9,10,11, and 12)], one-half to the surviving paternal grandparent or grandparents [13 and 14], or if neither of them survives the decedent, to their issue [aunts, uncles, first cousins (15, 16, 17)], by representation, and the other one-half to the surviving maternal grandparent or grandparents [19 and 20], or if neither of them survives the decedent, to their issue [aunts, uncles, first cousins (21, 22, and 23)], by representation; provided that if the decedent was not survived by a grandparent or grandparents on one side or by the issue of such grandparents [aunts, uncles, first cousins], the whole to the surviving grandparent or grandparents on the other side, or if neither of them survives the decedent, to their issue [aunts, uncles, first cousins], by representation, in the same manner as the one-half. For the purposes of this subparagraph, issue of grandparents shall not include issue more remote than grandchildren of such grandparents [first cousins].

**N.B. This means that if the decedent is most closely survived by first cousins on one side and first cousins once removed [18 and 24] on the other side, then all to the first cousins [17 and 23].**

(7) Great-grandchildren of grandparents [first cousins once removed (18 and 24)], and no spouse, issue [children, grandchildren, etc.], parent, issue of parents [siblings, nephews, nieces, grandnephews and grandnieces], grandparent, children of grandparents [aunts, uncles] or grandchildren of grandparents [first cousins], one-half to the great-grandchildren of the paternal grandparents [first cousins once removed], per capita, and the other one-half to the great-grandchildren of the maternal grandparents [first cousins once removed], per capita; provided that if the decedent was not survived by great-grandchildren of grandparents [first cousins once removed] on one side, the whole to the great-grandchildren of the grandparents on the other side [first cousins once removed], in the same manner as the one-half.

**N.B. This means that intestacy does not extend beyond first cousins once removed [18 and 24].**

#### D is the decedent

1 is decedent's spouse  
2 and 3 are decedent's children  
4 and 5 are decedent's grandchildren

7 is decedent's father  
6 is decedent's mother

8 is decedent's sibling  
9 and 10 are decedent's nieces or nephews  
11 and 12 are decedent's grandnephews or grandnieces

15 and 16 are decedent's paternal aunts and uncles  
17 is the decedent's paternal first cousin  
18 is the decedent's paternal first cousin once removed

21 and 22 are decedent's maternal aunts and uncles  
23 is the decedent's maternal first cousin  
24 is the decedent's maternal first cousin once removed

13 and 14 are the decedent's paternal grandparents  
19 and 20 are the decedent's maternal grandparents