

- Thence, in a Southwesterly direction along a fence line for a distance of 356.0' to a point;
- Thence, in a Northeasterly direction along Lot# [REDACTED] and Lot# [REDACTED] for a distance of 587.0' to a point adjacent to [REDACTED] Road;
- Thence, in a Southeasterly direction along [REDACTED] Road for a distance of 225.0' to meet the POINT AND PLACE OF BEGINNING.

The inventory of [REDACTED] Phillips' debts included the following:

- Electric bill for \$ [REDACTED] – paid
- Phone bill for \$ [REDACTED] – paid
- Amerigas bill \$ [REDACTED] – not paid
- Five Star Bank \$ [REDACTED] – not paid
- Funeral expenses \$ [REDACTED] – paid
- After funeral dinner \$ [REDACTED] – paid

[REDACTED] Phillips explained to the Court he and his wife had numerous conversations with Amerigas. The Tribe has paid Amerigas under the Elder Assistance program, yet Amerigas claimed they have not received payment. Amerigas also informed [REDACTED] Phillips they had made a subsequent delivery of fuel to [REDACTED] Phillips home, since the death of [REDACTED] Phillips. However, [REDACTED] Phillips noted the fuel tank was empty. He thought perhaps Amerigas had delivered it to the wrong [REDACTED] Road address. Thus, Amerigas is overcharging [REDACTED] Phillips' account. He has attempted numerous times to resolve this issue, but Amerigas has refused to work with [REDACTED] Phillips to determine that the account is actually paid. Amerigas also failed to file a claim with the Court in an attempt to be reimbursed by the Estate.

The Court also notes [REDACTED] Phillips stated that the vehicle was turned in and sold by Five Star Bank. Five Star Bank has failed to file any notice with the Court to obtain further payment on the loan.

JURISDICTION

The Tribal Court has original jurisdiction over cases, matters or controversies arising under the laws, ordinances, regulations, customs and judicial decisions of the Tribe.¹ The Court possesses civil jurisdiction over disputes arising in, connected with, or substantially affecting Mohawk Indian Country.² Given that the resolving a person's estate is a civil issue that substantially affects Mohawk Indian Country and there is no SRMT law limiting the Court's jurisdiction,³ the Court assumes jurisdiction of this Estate.

APPLICABLE LAW

The Saint Regis Mohawk Tribe (SRMT) Civil Code § V states the applicable laws are "such portions of the Constitution of the United States and federal law are clearly applicable in Mohawk Indian Country"; written Mohawk law adopted by the Tribe; unwritten Mohawk laws, and written and unwritten Mohawk customs, traditions and practices; generally recognized principles of contracts; and generally recognized principles of the law of torts.

The Court has previously stated:

[T]he SRMT Civ. Code, as the applicable law section, is not a single law that must guide this Court's approach to any case, including land disputes; as it could be a combination of laws that must guide the Court; and, furthermore the parties must request the applicable laws to be used and the Court shall determine if they do apply within the context of each case and pursuant to SRMT. In the SRMT Civ. Code §V(1), which speaks of applicable U.S. Constitutional and federal laws, the Court finds that there is no automatic application of such provisions in SRMT Court with respect to land disputes. Therefore, any party before the Court seeking to have the U.S. Constitution or Federal laws applied would have to request such application, as provided for in the SRMT Civ. Code.⁴

¹ The Saint Regis Mohawk Tribal Court and Judiciary Code § V.1. (2012).

² SRMT Civil Code § II.A. (2008).

³ The Saint Regis Mohawk Tribal Court and Judiciary Code § V.1. (2012).

⁴ *White v. White*, 10-LND-00009, 55-56.

Additionally, the Court has previously stated “that pursuant to SRMT Civ. Code §V(6) there is no automatic use of New York State law in the SRMT Court. In fact New York State law is listed last in the hierarchy and is only applicable if it is consistent with principles of Tribal sovereignty, self-government, self-determination; and, consistent with the applicable laws preceding it.”⁵

The case before the Court is not a land dispute, but rather an estate. However, the Court finds the interpretation of the Civil Code in *White v. White*, a land dispute case, to be applicable to probate proceedings. Thus, the law will be applied in the manner stated in *White v. White*.

The Land Dispute Resolution Ordinance (LDRO) enacted by the Tribe is applicable as it defines a will and intestacy. Although the LDRO involves real property, the Court will use its provisions regarding division of real property for an intestate case as a guide for division of [REDACTED] Phillips’ personal property.

ANALYSIS

In this case, there was no signed will as required by the LDRO, thus the Estate proceeded intestate. [REDACTED] Phillips surviving heirs are her children, [REDACTED] [REDACTED]. As noted above, [REDACTED] [REDACTED] waived their interest in their mother’s estate. As a result, [REDACTED] Phillips [REDACTED] is the sole remaining eligible heir, as the LDRO states when there is no surviving spouse, the children are to receive possessory interest in land.⁶ And as noted earlier, the Court applies this principle to personal property, thus [REDACTED] Phillips is the sole eligible heir to receive the personal, in addition to the real property in [REDACTED] Phillips’ estate.

CONCLUSION

Based on the above, the Court orders the following:

1. As sole eligible heir with a legal interest, all of [REDACTED] Phillips’ personal property is hereby bequeathed to [REDACTED] Phillips [REDACTED]
2. The deed to the property of [REDACTED] Phillips, Lot # [REDACTED], and described above, is now transferred to [REDACTED] Phillips, as he is the sole eligible

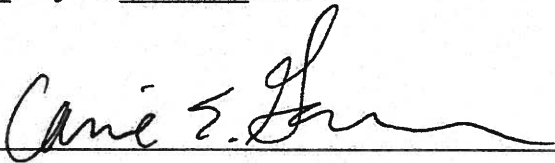
⁵ *Id.* at 56.

⁶ SRMT LDRO § V. E. 6.

heir. [REDACTED] Phillips is Ordered to seek a new deed in his name from the Tribal Clerk's Office.

3. [REDACTED] Phillips [REDACTED] has fulfilled his duties as administrator and is now released from this role.
4. The Estate is closed.

Signed by my hand this 3rd day of November 2014



Carrie Garrow, St. Regis Mohawk Tribal Court Judge