

**SAINT REGIS MOHAWK TRIBAL COURT**

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|                                      | ) |                               |
|                                      | ) | <b>DECISION AND ORDER</b>     |
|                                      | ) |                               |
| <b>Estate of [REDACTED] Benedict</b> | ) |                               |
|                                      | ) |                               |
|                                      | ) | <b>Case No.: 17-CIV-00009</b> |
|                                      | ) |                               |

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**PROCEDURAL HISTORY**

On June 16, 2017, [REDACTED] Herne filed a complaint with the Saint Regis Mohawk Tribal Court requesting to be named the administrator for the Estate of [REDACTED] Benedict, [REDACTED] father. Mr. Benedict died on [REDACTED]. [REDACTED] Benedict, Mr. Benedict's wife, submitted a notarized letter stating that her husband did not leave a will and that she wanted [REDACTED] Herne to be appointed as the administrator. Mrs. Benedict's surviving children, [REDACTED] all submitted notarized statements consenting to the appointment of [REDACTED]. Herne as the administrator.

The Court granted the Letters of Administration on July 14, 2017. [REDACTED] Herne submitted to the Court a certified family tree, a marriage certificate for the decedent, [REDACTED] Benedict, and [REDACTED] Benedict, an inventory sheet with the deed to SRMT Land Lot [REDACTED] and posted the required notice to creditors.

**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.<sup>1</sup> The Court possesses civil jurisdiction over disputes arising in, connected with, or substantially affecting Mohawk Indian Country.<sup>2</sup> Given that the resolution of the Estate of a Tribal member affects land on the Saint Regis Mohawk Indian Reservation and resolution of a person's estate is a civil issue

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<sup>1</sup> The Saint Regis Mohawk Tribal Court and Judiciary Code § V.1. (2012).  
<sup>2</sup> SRMT Civil Code § II.A. (2008).

that substantially affects Mohawk Indian Country,<sup>3</sup> the Court assumes jurisdiction over this Estate.

### APPLICABLE LAW

The Civil Code directs the Court to apply all “written laws adopted by the recognized governmental system of the Mohawk Tribe.”<sup>4</sup> The SRMT Land Laws and Land Dispute Ordinance (LL&LDO) was enacted by the Tribe in 2017. The LL&LDO specifically addresses intestate distribution<sup>5</sup> and wills.<sup>6</sup> Thus, the law is applicable to the case at bar.

### ANALYSIS

In this case, the record established that the decedent, [REDACTED] Benedict, had no signed will as defined by the LL&LDO, and, accordingly, the distribution of the Estate will proceed intestate. The only assets listed in the inventory was land, known as Lot [REDACTED] and the house residing on the land.<sup>7</sup> The decedent, [REDACTED] Benedict, had a SRMT Right to Use and Occupancy deed for Lot [REDACTED] signed by the Saint Regis Mohawk Tribal Council and certified by the Tribal Clerk. Pursuant to the LL&LDO, an SRMT Use and Occupancy Deed is proof of ownership.<sup>8</sup>

Pursuant to tribal law, the surviving spouse inherits “the possessory interest formerly held by the deceased spouse.”<sup>9</sup> [REDACTED] Benedict is the surviving spouse and thus inherits the entire possessory interest in real property, namely Lot [REDACTED] held by [REDACTED] Benedict.

### ORDER

Based on the above, the Court hereby Orders the following:

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

<sup>4</sup> SRMT Civil Code § V.2.

<sup>5</sup> LL&LDO § V. A.

<sup>6</sup> LL&LDO § V. B.

<sup>7</sup> No creditors came forward and identified a debt owed to them.

<sup>8</sup> LL&LDO § IV.E.3.(a)

<sup>9</sup> LL&LDO § V.A.1.

1. [REDACTED] Benedict is the sole eligible heir of all of [REDACTED] Benedict's real property, including the home, as described in the SRMT Use and Occupancy Deed for Lot [REDACTED]
2. Lot [REDACTED] including the home, is hereby transferred to [REDACTED] Benedict.
3. [REDACTED] Herne is hereby Ordered to seek a new deed for Lot [REDACTED], placing it in the name of [REDACTED] Benedict, from the Tribal Clerk's Office.
4. Upon the receipt of the new deed, [REDACTED] Herne is released from her duties as administrator and the Estate of [REDACTED] Benedict will be closed.

Signed by my hand this 3<sup>rd</sup> day of August, 2017.



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Carrie E. Garrow, Chief Judge  
Saint Regis Mohawk Tribal Court