

**SAINT REGIS MOHAWK TRIBAL COURT  
IN AND FOR THE SAINT REGIS MOHAWK TRIBE**

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**Estate of Hattie Agatha Lazore Laughing )  
Deceased. )**

**Case No.: 19-PROB-00016**

**OBJECTION TO WILL  
DECISION**

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**Procedural History**

On November 18, 2019, a petition for probate with a will was filed by Ralph Joseph (Rakwirotonkwas) David, Petitioner, for the Estate of Hattie Agatha Lazore Laughing, his grandmother. She died on August 2, 1941. Hattie Agatha Lazore Laughing was not married. She had one child with Angus David, Joseph David, who died on May 9, 2004. She had a child with Paul Caldwell, Louis Lazore, who died on August 5, 1988. She had another child with Antoine Laughing, Francis Laughing, who died on October 9, 1987. Judith Printup, the decedent's granddaughter, testified she believes the decedent married Antoine Laughing. Because all of the decedent's children have died, all of her grandchildren were given notice. Notices were sent to Gerald David, Judith Printup, Charles David, Thomas Lazore, Edward Lazore, James Lazore, and Glenn Lazore. Francis Laughing did not have any children. Mr. Hoffman filed a notice of appearance for Ralph Joseph (Rakwirotonkwas) David, Petitioner. Hearings were held on December 6, 2019, January 6, 2020, and February 21, 2020. At the February 21, 2020 hearing, the Saint Regis Mohawk Tribal Clerk's Office confirmed the decedent was eligible for tribal membership.

On February 25, 2020, Donna Delormier filed a power of attorney for Ralph Joseph (Rakwirotonkwas) David, Petitioner. On April 14, 2020, Donna Delormier, on behalf of Ralph Joseph (Rakwirotonkwas) David, Petitioner, filed a release of services from Terrance Hoffman, Esq. On April 21, 2021, due to Ralph Joseph (Rakwirotonkwas) David, Petitioner's, inability to attend Court, Glenn Lazore and Donna Delormier filed an Amended Petition for Probate listing Glenn Lazore as the Petitioner. On March 16, 2020, Thomas Wheeler, Esq. filed an Objection to Probate. On June 15, 2020, Donna Delormier, on behalf on Ralph Joseph (Rakwirotonkwas) David, Petitioner, filed an Answer to the Objection. On November 17, 2020, a status conference was held and Thomas Wheeler, Esq., requested a hearing on the Objection to Probate. On December 7, 2020, Thomas Wheeler, Esq., filed exhibits for his Motion. On December 8, 2020, Donna Delormier, on behalf of Ralph Joseph (Rakwirotonkwas) David, Petitioner, filed exhibits for her answer. On December 16, 2020, Thomas Wheeler, Esq., filed a second submission of exhibits. A hearing began on December 16, 2020, and subsequent hearing dates were April 8, 2021, April 22, 2021, May 17, 2021, July 6, 2021, July 26, 2021, and September 14, 2021.<sup>1</sup> The Court heard evidence from all parties and heard testimony submitted by Summer Bero, SRMT Tribal Clerk, and Derrick King, SRMT Deputy Tribal Clerk.

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<sup>1</sup> The Court notes that Glenn Lazore, decedent's grandson, substituted Ralph Joseph (Rakwirotonkwas) David as Petitioner.

### **Applicable Law**

The present action is governed by the Saint Regis Mohawk Tribe Probate Law (SRMT Probate Law).<sup>2</sup>

### **Jurisdiction**

Pursuant to the Saint Regis Mohawk Tribe Probate Law, the Court “shall have personal jurisdiction to probate an estate when, at the time of death, (1) the deceased was either a Tribal Member or a person eligible for enrollment as a Tribal Member and the deceased resided or owned real or personal property located within the reservation.”<sup>3</sup> Furthermore, “[t]he Tribal Court shall have exclusive jurisdiction to probate real property located within the reservation.”<sup>4</sup>

In the instant matter, Ralph Joseph (Rakwirotonkwas) David, and subsequently Glenn Lazore, Petitioner, contends that the decedent, Hattie Agatha Lazore Laughing, a tribal member, has an interest in real property. The documents provided by the Saint Regis Mohawk Tribe Tribal Clerk’s Office demonstrate that the real property is located within the borders of the Saint Regis Mohawk Indian Reservation. Thus, the Court possesses exclusive jurisdiction over the real property based on the aforementioned reasoning.

### **Discussion**

In the instant case, Donna Delormier and Glenn Lazore, Petitioner, request that this Court determine that a writing purported to be the Last Will and Testament of Hattie Agatha Lazore Laughing dated January 11, 1938 is valid and enter it to probate. In response, on behalf of Judith Printup, Thomas Wheeler, Esq. objects to its validity for several reasons. Judith Printup did not submit another writing to probate involving this Estate to the Court. The Court heard arguments regarding property that has been deeded to the parties. However, at this point of the proceeding, the only issue before the Court is whether the writing purported to be the Last Will and Testament of Hattie Agatha Lazore Laughing is valid. Thus, it will not take up those arguments in its decision. Prior to addressing the issue, the Court will first start with discussing the parties’ arguments regarding the disputed writing.

In regards to the case at bar, Donna Delormier and Glenn Lazore, Petitioner, have argued that the writing in dispute is kept in Book Number One at the Saint Regis Mohawk Tribal Clerk’s Office. Petitioner and Ms. Delormier contends that Book One is one of the original Books and used to store official original documentation such as writings purported to be Wills and deeds. Petitioner and Ms. Delormier point to the testimony submitted by Summer Bero, SRMT Tribal Clerk, and Derrick King, Deputy Tribal Clerk, to support their arguments. In their arguments, Petitioner and Ms. Delormier noted that there was no proof submitted involving the Lands and Estates Committee. Petitioner and Ms. Delormier also contends that Judith Printup became aware of the disputed writing in 2008 after reviewing her father’s personal belongings. Moreover, Petitioner and Ms. Delormier allege that Sarah C. David, Ralph Joseph (Rakwirotonkwas) David ‘s mother, failed to inform Ralph Joseph (Rakwirotonkwas) David of the existence of the writing. Petitioner and Ms. Delormier also argue that the writing was

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<sup>2</sup> SRMT Probate Law (enacted August 16, 2017).

<sup>3</sup> SRMT Probate Law § 1.3 (a).

<sup>4</sup> SRMT Probate Law § 1.3. (b) (1).

discovered by the Tribal Clerk's Office in August 28, 2013 by the Tribal Clerk at the time. Lastly, Petitioner and Ms. Delormier contend that the disputed writing has not been probated and that the Tribal Court possesses jurisdiction because the decedent was eligible for membership in the Saint Regis Mohawk Tribe.

In response, Thomas Wheeler, Esq., on behalf of Judith Printup, argues that the Tribal Clerk's records are a public record; therefore, the presence of the writing serves as notice of its existence and content. Moreover, Thomas Wheeler, Esq. argues that the issue of the validity of the disputed writing has been raised and litigated in other forums such as the SRMT Land Dispute Tribunal. Thomas Wheeler, Esq. notes that the SRMT Land Dispute Tribunal determined the disputed writing to be invalid. Moreover, Thomas Wheeler, Esq. also argues that the disputed writing does not appear to be an original nor is it identical to other copies. Furthermore, Thomas Wheeler, Esq. argues that the document uses the spelling "Laffin" when other documents using "Laughing." Thomas Wheeler, Esq. argues that the testimony of Summer Bero, SRMT Tribal Clerk, and Derrick King, SRMT Deputy Tribal Clerk, demonstrates that there was no formal process of entering a will in the tribal book and that the process varied from one person to another. Lastly, Thomas Wheeler, Esq. requests that this Court apply the laws of the State of New York since there was no specific statutes enacted by the Tribe when the disputed writing was drafted. Based on the aforementioned, Thomas Wheeler, Esq. requests that the Petition be dismissed.

The record demonstrates that SRMT tribal entities and the SRMT Tribal Court have issued decisions possibly involving the disputed writing or that involve the underlying land dispute between Judith Printup, Ralph Joseph (Rakwirotonkwas) David, and Charles David. The land laws enacted by the Saint Regis Mohawk Tribe demonstrate that the Tribe is vested with the authority to control the use of lands on behalf of the Tribe and has customarily been responsible for resolving land disputes on the Reservation.<sup>5</sup> To address land disputes, the SRMT Tribal Council has taken actions such as establishing the SRMT Land Dispute Examiners in 1994<sup>6</sup> and the SRMT Land and Estates Committee in 2004.<sup>7</sup> The SRMT Tribal Council also enacted the Saint Regis Mohawk Tribe Land Dispute Resolution Ordinance (SRMT LDRO) in 2009<sup>8</sup> and the Land Laws and Land Dispute Ordinance (SRMT LL&LDO) in 2016.<sup>9</sup> Pursuant to the language found in the SRMT LDRO, the Tribal Council established the SRMT Land Dispute Tribunal and delegated its authority to resolve land disputes to the Tribunal and granted jurisdiction to the Tribal Court to hear appeals. The SRMT Land Dispute Tribunal was later dissolved by the enactment of the SRMT LL&LDO. Through the enactment of the SRMT LL&LDO, the SRMT Tribal Council granted the Tribal Court jurisdiction to hear land disputes and preside over the trial and appellate level land dispute cases. Prior to assessing the validity of the disputed writing, the Court must first review the decisions entered by the SRMT Land and Estates Committee; SRMT Land Dispute Tribunal; SRMT Tribal Council; and the SRMT Tribal Court to determine the relevancy and weight it must afford the decisions entered.

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<sup>5</sup> SRMT Land Dispute Resolution Ordinance § II., TCR 2009-69 (enacted Sep. 3, 2009).

<sup>6</sup> SRMT Tribal Lands & Real Property Act

<sup>7</sup> TCR 2004-41 (enacted July 9, 2004).

<sup>8</sup> TCR 2009-69 (enacted Sep. 3, 2009).

<sup>9</sup> TCR 2016-91 (enacted Dec. 21, 2016).

## **SRMT Land and Estates Committee**

In his submissions, Thomas Wheeler, Esq. includes a quote found in a decision made by the SRMT Land and Estates Committee entered in 2005 regarding the disputed writing in his filing. The Court was not provided a copy of the decision. However, the Court notes that the decision entered by the Land Dispute Tribunal on September 17, 2014 references the 2005 decision made by the SRMT Land and Estates Committee. It appears that Thomas Wheeler, Esq. uses the same quote stated by the Tribunal in their decision. Specifically, Thomas Wheeler, Esq. and the SRMT Land Dispute Tribunal quote the following, “. . .[w]hen 67 yrs has passed w/out an attempt to have property deeded over then the property remains the guardians and he/she can transfer this by will.” Thomas Wheeler, Esq. argues that the SRMT Land and Estates Committee decision was reaffirmed by the Land Dispute Tribunal in 2014; however, he does not provide an explanation as to the authority of the Committee.

It appears that through Tribal Council Resolution 2004-41 the SRMT Tribal Council established the Tribal Land and Estates Committee on July 9, 2004. The Tribal Council Resolution states that the SRMT Land and Estates Committee was set up as a “temporary vehicle” to help lessen undue burden on the Executive Office. The Tribal Council determined at the time that the Tribal Council Procedures Act of 1994 did not address rules regarding definitions of certain words and phrases used in Wills and land transactions.<sup>10</sup> The Tribal Council Resolutions seems to imply that a uniform framework for settling land and estates disputes and an appeal process that involves the Tribal Court needed to developed.<sup>11</sup> The SRMT Tribal Council established the Land and Estates Committee to address the following issues within the specific time frame: review past practices for application in today’s policy, separation of determinations on land disputes from Tribal Council, establish codes and ordinances by June 30, 2005, set up a mediation process, and set up a referral service to the Tribal Court.<sup>12</sup>

As previously noted, the Court does not have a copy of the decision. As a result, the Court is unable to assess the decision entered by the SRMT Land and Estates Committee. The quote referenced by Thomas Wheeler, Esq. demonstrates that the SRMT Land and Estates Committee reviewed the language involving the guardian. However, it is unclear what was decided and whether they determined alleged writing purported to be the Last Will and Testament of Hattie Agatha Lazore Laughing, dated January 11, 1938 was valid. The Court has no knowledge of what was decided and it is unclear whether the sentence constitutes a finding or holding. It is also unclear whether the SRMT Land and Estates Committee had adjudicatory authority based on the language found in the Tribal Council Resolution. The Tribal Council Resolution establishing the Land and Estates Committee demonstrates that it was set up to develop a process for land disputes and establish rules and regulations. The Court received no evidence to indicate that the Tribal Council delegated its authority to resolve land disputes or probate Tribal Member Estates to the Committee. The Tribal Council Resolution does note that the Committee was set up to address rules regarding definitions of certain words and phrases used in Will and land transactions. However, there is no language indicating a process of admitting a Will to probate or the appointment of an Executor or Administrator. Thus, the Court

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<sup>10</sup> TCR 2004-41 (enacted July 9, 2004).

<sup>11</sup> TCR 2004-41 (enacted July 9, 2004).

<sup>12</sup> TCR 2004-41 (enacted July 9, 2004).

may not rely on the alleged decision entered by the SRMT Land and Estates Committee. The Court notes that the SRMT Tribal Council was aware of the component of appointing an Executor for an Estate for Estate cases. The SRMT Tribal Council appointed Executors and Administrators to administer Tribal Member Estates in 2005.<sup>13</sup> In their Resolutions, appointing Executors/Administrators, the Tribal Council noted their authority “to regulate the use and disposition of all property within the jurisdiction of the Tribe, including but not limited to the appointment of Estate Executors to occupy, manage, and maintain those tribal property bestowed in their name.”<sup>14</sup> Based on the SRMT Tribal Council’s actions and absent language found in Tribal Council Resolution 2004-41, it is clear that the Council retained the authority to appoint individuals to manage an Estate. This is a key aspect of probate actions as demonstrated by the provisions found in the SRMT Probate Law. Thus, the SRMT Tribal Council did not delegate this authority to the SRMT Land and Estates Committee to probate a writing purported to be Will. Therefore, the Court finds the 2005 decision made by the SRMT Land and Estates Committee has no bearing on the present action. The SRMT Land and Estates Committee did not have the authority to probate the disputed writing.

### **SRMT Land Dispute Tribunal**

In his arguments, Thomas Wheeler, Esq. heavily relies on the decision entered by the SRMT Land Dispute Tribunal on September 17, 2014. In its decision, the SRMT Land Dispute Tribunal found the disputed writing to be invalid. The SRMT Land Dispute Tribunal was established on September 3, 2009 pursuant to the enactment of the SRMT Land Dispute Resolution Ordinance through Tribal Council Resolution 2009-69 and subsequently amended by Tribal Council Resolution 2011-19. The SRMT Land Dispute Ordinance states that the Tribal Council is vested with the authority to control the use of lands and delegated its authority to the Land Dispute Tribunal and the Tribal Court. The Ordinance did provide the criteria for a valid Will and uses terms that one would find in probate law such as “intestacy.” However, a review of the Ordinance demonstrates that Wills were addressed for the purposes of proving land ownership. The Ordinance does not contain language indicating a process for the appointment of an Executor or Administrator or identifying heirs and beneficiaries. If it had the necessary provisions, there would not have been a need for the SRMT Tribal Council to enact a separate probate law in 2017. The Court notes that during the time that the SRMT Land Dispute Ordinance was in place, the SRMT Tribal Council regularly appointed Administrators and Executors to administer Tribal Member estates.<sup>15</sup> Thus, it retained its authority to probate Tribal Member estates and did not delegate this to the SRMT Land Dispute Tribunal. Therefore, the finding made by the SRMT Land Dispute Tribunal on September 17, 2014 does not have any effect on the probate action and this Court is not required to apply its finding. The Tribunal’s authority was limited to resolving land disputes pursuant to the Ordinance.

### **SRMT Tribal Council**

In this case, it appears that the matter was brought to the Tribal Council by Ralph Joseph (Rakwirotonkwas) David in 2013. Mr. David disputed the deeds that were issued to Charles

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<sup>13</sup> See TCR 2005-29 Appointment of Executor to Estate.

<sup>14</sup> *Id.*

<sup>15</sup> See example TCR 2011-57 Appointment of Administrator.

David and Judith David. In response Tribal Chiefs Beverly Cook, Paul Thompson, and Ronald LaFrance, Jr. sent a letter to Ralph Joseph (Rakwirotonkwas) David reviewing the deeds that were issued to Judith David and Charles David. However, the Tribal Council declined Ralph Joseph (Rakwirotonkwas) David's request to rescind the deeds. It is clear that in 2013, the Tribal Council possessed the authority to probate Tribal Member estates and the Court is aware that the dispute involves underlying estates. However, their decision did not involve an appointment of an Executor or Administrator or other probate related action. Thus, the disputed writing was not probated by the SRMT Tribal Council.

### **SRMT Tribal Court**

On October 16, 2014, Ralph Joseph (Rakwirotonkwas) David filed a case at the SRMT Tribal Court appealing the decision entered by the SRMT Land Dispute Tribunal on September 17, 2017. The Saint Regis Mohawk Tribe Land Dispute Ordinance allowed for appeals to be heard by the Tribal Court. In that case, Lorraine White, Esq., Ralph Joseph (Rakwirotonkwas) David's legal counsel, filed a motion to dismiss the action. On June 8, 2016, Hon. Peter J. Herne dismissed Ralph Joseph (Rakwirotonkwas) David's appeal pursuant to the motion. The case did not involve a probate action. Thus, it does not impact the instant case.

Based on the aforementioned, the Court is unable to consider the findings made by the SRMT Land and Estates Committee and SRMT Land Dispute Tribunal regarding the validity of the disputed writing because the tribal entities lacked the authority to probate Tribal Member estates. The Tribal Council retained the authority for probate actions. Furthermore, there were no actions made by the SRMT Tribal Council or SRMT Tribal Court that would demonstrate that the disputed writing was probated. Thus, the only issue left for the Court to resolve is whether the document is valid in accordance with tribal law.

### **Validity of the Disputed Writing**

In the instant case, Donna Delormier and Glenn Lazore, Petitioner, request this Court to enter a writing purported to be the Last Will and Testament of Hattie Agatha Lazore Laughing to probate. The writing is dated January 11, 1938 and appears to be a handwritten document. The document contains the signatures of the decedent, a witness, the Tribal Clerk, and three Tribal Chiefs. The disputed writing contains a stamp indicating that it is the copy of the original on file at the Saint Regis Mohawk Tribe's Clerk Office.

In regards to the validity the disputed writing, Thomas Wheeler, Esq. has primarily focused his arguments on demonstrating that there is a discrepancy with the decedent's name in the writing and that there was no formal process in place when the disputed writing was drafted. Thomas Wheeler, Esq. also focused on the lack of action by the parties to probate the disputed writing. In response, Donna Delormier and Glenn Lazore, argue that the disputed document is recorded in Book One at the Saint Regis Mohawk Tribal Clerk's Office and as such is an original document. To support their argument, Donna Delormier and Glenn Lazore point the testimony submitted by Summer Bero, Tribal Clerk, and Derrick King, Deputy Tribal Clerk.

In order to constitute a valid Will, the SRMT Probate Law requires that the testator be eighteen (18) years or more and be of sound mind. The document must be signed by the testator and have two (2) witnesses and be signed in the presence of those two witnesses by the testator. During the hearing on this matter, Thomas Wheeler, Esq. argued that a problem with probating the disputed writing is that the witnesses or those that could testify to this document are no longer available. The Court is aware that these witnesses are no longer alive; however, the Court notes that there is no statute of limitations found in the SRMT Probate Code and that this Court's case law clearly demonstrates instances where older documents are entered to probate.

A review of the disputed writing demonstrates in the beginning paragraph the decedent's last name is spelled "Laffin" and later at the bottom it is spelled "Laughing." The Court notes that when asked about this spelling discrepancy of the decedent's last name, Derrick King, Deputy Tribal Clerk, testified that he is aware of the different *variations* of the spelling in this document. The Court notes that in its cases, it has seen instances where a decedent changed his last name<sup>16</sup> and that it is not uncommon to see family members within the same family using different spellings for their last name.<sup>17</sup> Furthermore, the testimony from Summer Bero, Tribal Clerk, and Derrick King, Deputy Tribal Clerk, indicates that the Tribal Clerk, Thomas Bero, most likely wrote this document by hand into Book One. Thus, it is likely a clerical mistake made by the Tribal Clerk is the reason for the discrepancy.

As previously noted, Thomas Wheeler, Esq.'s arguments focus primarily on the lack of process and argues that absent a tribal statute, New York law applies. Summer Bero, Tribal Clerk, and Derrick King, Deputy Tribal Clerk, testimony indicates that the process at the time was that a Tribal Member would go see the Tribal Clerk and the Clerk would handwrite the Will into the Tribal Clerk's Book. Summer Bero testified that Book One contains original documents from the 1930s and 1940s. Derrick King testified that he has noticed instances where the Tribal Clerk and Tribal Chiefs signed and others where they did not sign a writing. The Court notes that the SRMT Probate Law states that "[a] written Will may be declared valid if it was executed in compliance with this Probate Law; or the law in force at the place and time the Will was executed; or the law in force at the time of execution or at the time of death, at the place where the person making the Will was domiciled or had a place to abode."<sup>18</sup> The Court heard no testimony indicating that there was a tribal law enacted by the Tribal Council in the 1930s involving Wills and the Court was unable to locate any tribal law in its own research. Thus, the issue becomes whether New York law may be applied in this case.

The SRMT Civil Code provides the list of principles of law that it may apply to resolve civil disputes. The SRMT Civil Code requires that the Court first look to portions of the United States Constitution and federal law. In regards to this case, there are no provisions from the US Constitution or federal law that are on point. Next, the Court is required to apply the written Mohawk laws. In this case, the Court was unable to locate a written law that was in place at the time the disputed writing was executed. Following written Mohawk laws, the Court is required to apply "[u]nwritten Mohawk laws, and written and unwritten Mohawk customs, traditions and *practices*, whenever such Mohawk laws, customs, traditions or practices are found by the

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<sup>16</sup> See Estate of Thomas Laughing 18-PROB-00018.

<sup>17</sup> The Court notes that it has seen siblings use Gorrow and another use Garrow.

<sup>18</sup> SRMT Probate Law § 4.1 (a).

Mohawk Court to be (i) well-established with the Tribe and recognized by Tribal members, (ii) applicable or relevant to the dispute in issue, and (iii) not inconsistent with due process and other rights established under law.”<sup>19</sup> Following this, the Court is allowed to look to generally recognized principles of law of torts and contracts. Furthermore, the SRMT Civil Code allows for principles of New York State law to only be applied if this Court finds “. . . (i) there is no other controlling principles of Mohawk law; (ii) application of the New York State law is consistent with principles of Tribal sovereignty, self-government, and self-determination; and (iii) application of the New York State law is in the overall interest of justice and fairness to the parties.”<sup>20</sup>

In this case, the Court heard testimony from Summer Bero, Tribal Clerk, and Derrick King, Deputy Tribal Clerk, regarding the practices of entering Wills into Book One by previous Tribal Clerk’s. The testimony submitted by Tribal Clerk Bero and Deputy Clerk King indicates that they are unaware of any written tribal procedures or policies highlighting the process. However, that is not required when assessing practices as indicated by the SRMT Civil Code. Rather, the practice must be well-established with the Tribe and recognized by Tribal Members, applicable or relevant to the dispute, and not inconsistent with due process and other rights established under the law.

The Court has heard testimony submitted by the current Tribal Clerk based on her understanding of the practices of the Tribal Clerk’s Office during that time. The manner in which a Will was drafted and submitted to the Tribal Clerk’s Office is relevant to the dispute and there is no evidence demonstrating that it is inconsistent with due process and other rights established under the law. The Court heard no evidence or testimony submitted by Judith Printup or others that disputes that this practice was not well-established with the Tribe at the time the disputed writing was executed. The Court is aware that Derrick King indicated instances he has seen during that time where Tribal Clerks and Tribal Chiefs signed and other times they did not sign the Wills. However, it does not negate the fact that the practice was that the Tribal Clerks at the time handwrote the document into the Tribal Clerk’s Books. Application of New York law to determine the validity of the disputed writing would clearly violate principles of tribal sovereignty, self-government, and self-determination and its application is not in the overall interest of justice and fairness to the parties. The Court has determined that Donna Delormier and Glenn Lazore, Petitioner, have proven the practice of the Saint Regis Mohawk Tribe at that time regarding Wills. Thus, application of New York law would be inconsistent with tribal sovereignty. Moreover, the dispute centers on a Tribal Member’s estate and a disputed writing that was executed within the boundaries of the Saint Regis Mohawk Indian Reservation. Thus, it is nonsensical to apply New York law when deciding the validity of the disputed writing. Therefore, the Court will not apply New York standards to assess the validity. Thus, the issue becomes whether this document is valid.

In regards to the case at bar, the disputed writing was stored in Book One located at the Saint Regis Mohawk Tribal Clerk’s Office and appears to be handwritten. The Tribal Clerk’s Office is the tribal office responsible for managing and storing Tribal Member’s land files and land records and tribal enrollment records. The disputed writing appears to have the signatures of

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<sup>19</sup> SRMT Civil Code § V. 3.

<sup>20</sup> SRMT Civil Code § V. B.


the decedent; Thomas Bero, Tribal Clerk; Thomas Back, a witness; and three Tribal Chiefs. It appears that Thomas Bero, Tribal Clerk, signed as a witness and also at the bottom of the document. The Court is aware that Judith Printup argued that there are other documents that appear to be the decedent's Will. However, the Court notes that there were no other writings purported to be the decedent's Last Will and Testament submitted in this case for probate. Thus, it will not consider the other writings. In its cases, this Court has assessed a number of writings purported to be a Last Will and Testament that have been on tribal letterhead that that are witnessed by the Tribal Clerk and others not signed by the Tribal Chiefs. Based on the established practice and that the writing contains the testator signature and signatures by the Tribal Clerk and another witness and the Tribal Chiefs, the Court holds the document dated January 11, 1938 is valid and entered into probate.

In closing, the Court notes that it is aware that the underlying issue between a number of the parties involves a land dispute and that SRMT Right to Use and Occupancy Deeds has been issued. The Court notes that the writing being entered into probate does not render deeds invalid. The Court appointed Executor will be responsible for conducting an inventory of the Estate to determine the property that the decedent owned at death and what is subject to distribution. The parties may object to any property listed on the inventory, as allowed by the SRMT Probate Law.

### ORDER

Based on the foregoing, it is **ORDERED, ADJUDGED, AND DECREED** that the writing dated January 11, 1938 constitutes a valid Will and is admitted to probate and that Glenn Lazore is appointed as the Executor of the Estate and shall be issued Letters Testamentary.

Signed this 5<sup>th</sup> day of November, 2021.

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

*No later than ten (10) days after a judgment is final, a party may ask the Judge for a rehearing, reconsideration, correction vacation, or modification of the judgment. The parties have thirty (30) days from the entry of this Order to file an appeal with the Saint Regis Mohawk Court of Appeals. Due to the coronavirus pandemic, please consult the Administrative Orders found on the Court's webpage for information on how to submit a motion for reconsideration or appeal at this time.*