

# **SAINT REGIS MOHAWK TRIBAL COURT PROBATE PROCESS**

## **TESTATE (WITH WILL)**

### **PETITION**

1. Fill out petition form from Tribal Court.
2. Attach original will.
3. Attach proof of death.
4. Attach family tree certified by Tribal Clerk's Office.
5. Describe why the Court has authority (see Code)
6. Identify beneficiaries by name and address.
7. May attach consent forms from beneficiaries consenting to Petitioner's appointment as administrator and validity of will.
8. Submit all above documents and filing fee to the Court.
9. Within 10 days of filing petition, file notice with newspaper and Tribe's website that you are seeking to be named executor of estate and notice to creditors.

### **COURT DETERMINES VALIDITY OF WILL**

1. Self-Proving? No additional evidence submitted to Court. (See Code)
2. Not self-proving – Person petitioning Court to be named Executor must submit to the Court either notarized statements from witnesses that identify the will, that the Testator signed it in their Presence, and that the Testator had capacity to sign the will or witnesses may come to the Court and testify. (See Code)
3. Anyone contesting will or appointment of executor has 30 days from last day of public notice to file an objection with the Court.
4. Petitioner has 20 days to respond to any objections filed with the Court.
5. If will or appointment of executor is challenged, the Court will set a hearing within 30 days of Petitioner's response.
6. Court makes a determination on the validity of the will and request to be appointed executor.

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

**In the Matter of the ESTATE OF**  
\_\_\_\_\_,  
**deceased.**

**Case No.:** \_\_\_\_\_

**PETITION FOR PROBATE  
(WITH WILL)**

The Petitioner(s) allege(s) the following:

1. Petitioner(s) name, mailing address, phone number, and relationship to decedent are as follows:

(A) Name: \_\_\_\_\_

(B) Mailing Address: \_\_\_\_\_

(C) Phone Number: \_\_\_\_\_

(D) Relationship to Decedent: \_\_\_\_\_

(A) Name: \_\_\_\_\_

(B) Mailing Address: \_\_\_\_\_

(C) Phone Number: \_\_\_\_\_

(D) Relationship to Decedent: \_\_\_\_\_

2. The name, residence, date and place of death, and SRMT Tribal Enrollment information above-named decedent are as follows:

(A) Name: \_\_\_\_\_

(B) Date of Death: \_\_\_\_\_

(C) Place of Death: \_\_\_\_\_

(D) Residence: \_\_\_\_\_

(E) SRMT Enrollment Number: \_\_\_\_\_

3. The Petitioner(s) request that the Will(s) dated \_\_\_\_\_  
witnessed by \_\_\_\_\_ and/or codicils dated \_\_\_\_\_  
and witnessed by \_\_\_\_\_ be entered to probate.

4. The beneficiaries (those individuals given real or personal property in the Will and/or codicil) are the following individuals and their mailing addresses are the following:

| Name  | Mailing Address |
|-------|-----------------|
| _____ | _____           |
| _____ | _____           |
| _____ | _____           |
| _____ | _____           |
| _____ | _____           |
| _____ | _____           |
| _____ | _____           |

5. If any persons listed above are minors or persons under disability, please include the following information:

| Name  | Mailing Address | Name and Address for Guardian |
|-------|-----------------|-------------------------------|
| _____ | _____           | _____                         |
| _____ | _____           | _____                         |
| _____ | _____           | _____                         |
| _____ | _____           | _____                         |
| _____ | _____           | _____                         |

6. The decedent [ ] did not or [ ] did leave immediate family out of the Will and/or codicil (check applicable answer). If the decedent left out immediate family please list the name(s) and mailing address(es) for any of the decedent's surviving immediate family that were not included in the Will and/or codicil.

| Name  | Mailing Address |
|-------|-----------------|
| _____ | _____           |
| _____ | _____           |
| _____ | _____           |
| _____ | _____           |
| _____ | _____           |

7. If any persons listed above are minors or persons under disability, please include the following information:

| Name | Mailing Address | Name and Address for Guardian |
|------|-----------------|-------------------------------|
|------|-----------------|-------------------------------|

|       |       |       |
|-------|-------|-------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

\_\_\_\_\_  
Date

\_\_\_\_\_  
Petitioner's signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Petitioner's signature

**COMBINED VERIFICATION, OATH AND DESIGNATION**

SAINT REGIS MOHAWK TRIBAL COURT  
SAINT REGIS MOHAWK INDIAN RESERVATION:

The undersigned, the petitioner named in the foregoing petition, being duly sworn, says:

1. VERIFICATION: I have read the foregoing petition subscribed by me and know the contents thereof, and the same is true of my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true.

2. OATH OF [ ] ADMINISTRATOR as indicated above: I am over eighteen (18) years of age and an enrolled member of the Saint Regis Mohawk Tribe and I will faithfully and honestly discharge the duties of Fiduciary of the goods, chattels and credits of said decedent according to law. I am not ineligible to receive letters and will duly account for all moneys and other property that will come into my hands.

3. DESIGNATION OF CLERK FOR SERVICE OF PROCESS: I hereby designate the Clerk of the Saint Regis Mohawk Tribal Court of the Saint Regis Mohawk Indian Reservation, and his/her successor in office, as a person on whom service of any process, issuing from such Court may be made in like manner and with like effect as if it were served personally upon me, whenever I cannot be found and served within the Saint Regis Mohawk Indian Reservation after due diligence used.

My physical address is:

\_\_\_\_\_  
(Street Address) (City/Town/Village) (State) (Zip)

\_\_\_\_\_  
(Signature of Petitioner)

\_\_\_\_\_  
(Print Name)

On \_\_\_\_\_, 20 \_\_\_\_\_, before me personally came

\_\_\_\_\_  
to me known to be the person described in and who executed the foregoing instrument. Such person duly swore to such instrument before me and duly acknowledged that he/she executed the same.

\_\_\_\_\_  
Saint Regis Mohawk Tribal Court Clerk

# CERTIFIED FAMILY TREE

**\*birth certificates may be requested**

## REQUEST FORM

**Requestor:**

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| First Name | Middle Name | Last Name | DOB |
|------------|-------------|-----------|-----|
|------------|-------------|-----------|-----|

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**Mailing Address (Physical Address and P.O. Box)**

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| Phone Number | E-mail Address |
|--------------|----------------|
|--------------|----------------|

**Name of Estate:**

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| First Name | Middle Name | Last Name | DOB |
|------------|-------------|-----------|-----|
|------------|-------------|-----------|-----|

**(Circle One)**

spouse/

divorced spouse/

life partner

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| First Name | Middle Name | Last Name | DOB |
|------------|-------------|-----------|-----|
|------------|-------------|-----------|-----|

**Children:**

\*Please indicate  
if child is;  
biological (B) or  
adopted in (I) or  
adopted out (O)

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| First Name | Middle Name | Last Name | DOB | (B) | (I) | (O) |
|------------|-------------|-----------|-----|-----|-----|-----|
|------------|-------------|-----------|-----|-----|-----|-----|

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| First Name | Middle Name | Last Name | DOB | (B) | (I) | (O) |
|------------|-------------|-----------|-----|-----|-----|-----|
|------------|-------------|-----------|-----|-----|-----|-----|

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| First Name | Middle Name | Last Name | DOB | (B) | (I) | (O) |
|------------|-------------|-----------|-----|-----|-----|-----|
|------------|-------------|-----------|-----|-----|-----|-----|

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| First Name | Middle Name | Last Name | DOB | (B) | (I) | (O) |
|------------|-------------|-----------|-----|-----|-----|-----|
|------------|-------------|-----------|-----|-----|-----|-----|

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| First Name | Middle Name | Last Name | DOB | (B) | (I) | (O) |
|------------|-------------|-----------|-----|-----|-----|-----|
|------------|-------------|-----------|-----|-----|-----|-----|

**Grandchildren:**

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| First Name | Middle Name | Last Name | DOB |
|------------|-------------|-----------|-----|
|------------|-------------|-----------|-----|

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| First Name | Middle Name | Last Name | DOB |
|------------|-------------|-----------|-----|
|------------|-------------|-----------|-----|

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| First Name | Middle Name | Last Name | DOB |
|------------|-------------|-----------|-----|
|------------|-------------|-----------|-----|

**If no spouse or children, please list the following:**

**Siblings:**

**\*Please indicate if sibling is: biological (B) or adopted in (I) or adopted out (O)**

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|                   |                    |                  |            |                    |
|-------------------|--------------------|------------------|------------|--------------------|
| <b>First Name</b> | <b>Middle Name</b> | <b>Last Name</b> | <b>DOB</b> | <b>(B) (I) (O)</b> |
|-------------------|--------------------|------------------|------------|--------------------|

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|                   |                    |                  |            |                    |
|-------------------|--------------------|------------------|------------|--------------------|
| <b>First Name</b> | <b>Middle Name</b> | <b>Last Name</b> | <b>DOB</b> | <b>(B) (I) (O)</b> |
|-------------------|--------------------|------------------|------------|--------------------|

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|                   |                    |                  |            |                    |
|-------------------|--------------------|------------------|------------|--------------------|
| <b>First Name</b> | <b>Middle Name</b> | <b>Last Name</b> | <b>DOB</b> | <b>(B) (I) (O)</b> |
|-------------------|--------------------|------------------|------------|--------------------|

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|                   |                    |                  |            |                    |
|-------------------|--------------------|------------------|------------|--------------------|
| <b>First Name</b> | <b>Middle Name</b> | <b>Last Name</b> | <b>DOB</b> | <b>(B) (I) (O)</b> |
|-------------------|--------------------|------------------|------------|--------------------|

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|                   |                    |                  |            |                    |
|-------------------|--------------------|------------------|------------|--------------------|
| <b>First Name</b> | <b>Middle Name</b> | <b>Last Name</b> | <b>DOB</b> | <b>(B) (I) (O)</b> |
|-------------------|--------------------|------------------|------------|--------------------|

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|                   |                    |                  |            |                    |
|-------------------|--------------------|------------------|------------|--------------------|
| <b>First Name</b> | <b>Middle Name</b> | <b>Last Name</b> | <b>DOB</b> | <b>(B) (I) (O)</b> |
|-------------------|--------------------|------------------|------------|--------------------|

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|                   |                    |                  |            |                    |
|-------------------|--------------------|------------------|------------|--------------------|
| <b>First Name</b> | <b>Middle Name</b> | <b>Last Name</b> | <b>DOB</b> | <b>(B) (I) (O)</b> |
|-------------------|--------------------|------------------|------------|--------------------|

**Nieces/Nephews:**

**\*Please indicate if Niece/Nephew is: biological (B) or adopted in (I) or adopted out (O)**

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|                   |                    |                  |            |                    |
|-------------------|--------------------|------------------|------------|--------------------|
| <b>First Name</b> | <b>Middle Name</b> | <b>Last Name</b> | <b>DOB</b> | <b>(B) (I) (O)</b> |
|-------------------|--------------------|------------------|------------|--------------------|

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|                   |                    |                  |            |                    |
|-------------------|--------------------|------------------|------------|--------------------|
| <b>First Name</b> | <b>Middle Name</b> | <b>Last Name</b> | <b>DOB</b> | <b>(B) (I) (O)</b> |
|-------------------|--------------------|------------------|------------|--------------------|

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|                   |                    |                  |            |                    |
|-------------------|--------------------|------------------|------------|--------------------|
| <b>First Name</b> | <b>Middle Name</b> | <b>Last Name</b> | <b>DOB</b> | <b>(B) (I) (O)</b> |
|-------------------|--------------------|------------------|------------|--------------------|

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|                   |                    |                  |            |                    |
|-------------------|--------------------|------------------|------------|--------------------|
| <b>First Name</b> | <b>Middle Name</b> | <b>Last Name</b> | <b>DOB</b> | <b>(B) (I) (O)</b> |
|-------------------|--------------------|------------------|------------|--------------------|

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|                   |                    |                  |            |                    |
|-------------------|--------------------|------------------|------------|--------------------|
| <b>First Name</b> | <b>Middle Name</b> | <b>Last Name</b> | <b>DOB</b> | <b>(B) (I) (O)</b> |
|-------------------|--------------------|------------------|------------|--------------------|

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|                   |                    |                  |            |                    |
|-------------------|--------------------|------------------|------------|--------------------|
| <b>First Name</b> | <b>Middle Name</b> | <b>Last Name</b> | <b>DOB</b> | <b>(B) (I) (O)</b> |
|-------------------|--------------------|------------------|------------|--------------------|

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|                   |                    |                  |            |                    |
|-------------------|--------------------|------------------|------------|--------------------|
| <b>First Name</b> | <b>Middle Name</b> | <b>Last Name</b> | <b>DOB</b> | <b>(B) (I) (O)</b> |
|-------------------|--------------------|------------------|------------|--------------------|

**\*PLEASE ATTACH ADDITIONAL PAGES AS NEEDED.**

Identify heirs and provide their address:

|  |  |
|--|--|
| Name: _____<br>Address: _____<br>_____ | Name: _____<br>Address: _____<br>_____ |
| Name: _____<br>Address: _____<br>_____ | Name: _____<br>Address: _____<br>_____ |
| Name: _____<br>Address: _____<br>_____ | Name: _____<br>Address: _____<br>_____ |
| Name: _____<br>Address: _____<br>_____ | Name: _____<br>Address: _____<br>_____ |
| Name: _____<br>Address: _____<br>_____ | Name: _____<br>Address: _____<br>_____ |



**Checklist of all Documents Required for Probate Petition  
(A copy must be included with this Petition)**

Certificate of Death

Certified Family Tree by SRMT Tribal Clerk's Office

Copy of decedent's Will and/or Codicil(s)

**Failure to submit the aforementioned documentation will result in a delay in scheduling this matter before the presiding Judge.**

**SUPPLEMENTARY PROBATE CASE INFORMATION SHEET  
SAINT REGIS MOHAWK TRIBAL COURT**

**This sheet is a supplement to the Probate Petition. Both the Petition and this supplementary sheet should be completed when an original petition or application is filed in this Court. The information provided assists the Court in determining the property interest(s) held by the decedent's Estate.**

Case No.: \_\_\_\_\_

1. List all the real property lots that are located within the boundaries of the Saint Regis Mohawk Indian Reservation that you believe that the decedent owned or had an interest at the time of death.

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2. Is the real property that you listed above owned by the decedent and another individual?  
\_\_\_\_\_ No      \_\_\_\_\_ Yes

3. Is the real property that you listed above in the decedent's name?  
\_\_\_\_\_ No      \_\_\_\_\_ Yes

If no, is it presently in another individual's name?  
\_\_\_\_\_ No      \_\_\_\_\_ Yes

If it is presently in another individual's name, is the individual that is listed as the owner deceased?  
\_\_\_\_\_ No      \_\_\_\_\_ Yes

Provide the name(s) of the deceased individual(s):

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4. Is the real property that you listed above currently in another individual's name at the Saint Regis Mohawk Tribal Clerk's Office?  
\_\_\_\_\_ No      \_\_\_\_\_ Yes

5. Has the Saint Regis Mohawk Tribal Council or another Court or Entity appointed an Executor/Administrator for this Estate?

No       Yes, by Tribal Council       Yes, by another Court or Entity

If yes, please list the individuals that were appointed as the Executor/Administrator:

\_\_\_\_\_  
\_\_\_\_\_

If yes, did the Tribal Council or another Court or Entity distribute any real property?

Yes       No

*Attach all applicable SRMT TCR(s) or other Letters of Administration/Testamentary issued by the Tribal Council or another Court or Entity(ies) and all other documentation in your possession regarding the distribution of any real and/or personal property.*

6. Has the decedent's property or the decedent ever been the subject of a case previously filed, or is related to a matter previously brought before and/or addressed by the Land Dispute Tribunal, Tribal Council, or another entity?

No       Yes, in this Court (Case No. \_\_\_\_\_)

Yes, by Tribal Council       Yes, by the Land Dispute Tribunal

Yes, by another entity(ies)

List a brief description of the matter previously brought to the aforementioned entities under the applicable section. Please note the year the matter was brought to the aforementioned entities, the property that was in dispute, and the parties involved.

A. Saint Regis Mohawk Tribal Court

Lot(s): \_\_\_\_\_

Description of the Dispute:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. Saint Regis Mohawk Tribal Council

Lot(s): \_\_\_\_\_

Description of the Dispute:

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C. Land Dispute Tribunal

Lot(s): \_\_\_\_\_

Description of the Dispute:

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D. Other Entity(ies)

Lot(s): \_\_\_\_\_

Name of Entity(ies): \_\_\_\_\_

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Description of the Dispute:

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*Attach all documentation in your possession regarding the disputes that you listed above.*

7. Are you aware of any possible encroachment or related actions currently taking place or any events that took place in the past regarding the property that you claim to be owned by the decedent? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, provide a brief description as to the encroachment or related actions currently taking place on the property that you claim to be owned by the decedent:

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*By completing this section, you are not filing a land dispute against the listed individual for the actions described above. In order to file a land dispute, an individual possessing an interest in the property must complete a Land Dispute Complaint, pay the filing fee, and serve the Respondents a summons and copy of the Complaint pursuant to the Saint Regis Mohawk Rules of Civil Procedure. This section is merely used by the presiding Judge to address the present probate matter.*