

# Seneca Nation Surrogates Court

## “Last Will & Testament” Informational Packet

1. The Surrogates Court DOES NOT charge any fees to file your Last Will & Testament.
2. Your Last Will and Testament will be accepted, stamped on date received, sealed with tamper proof envelopes and filed.
3. Important Step: Do not sign your document until you have two (2) witnesses AND a Notary Public available. Your witnesses shall not have any interest in your estate.

March 2019

## "Personal Requests" for My Funeral Service

It is often difficult for a family to make funeral arrangements for their loved ones in a short period of time. It is always a good idea to write down your wishes and/or inform your family of what your final wishes are. By doing so, it will alleviate any questions the funeral home may have or other family members. The Allegany and Cattaraugus Surrogates' Court accepts Last Will and Testaments free-of-charge to our enrolled Seneca members.

1. Write down local Funeral Home Name and Address
2. Names and Phone number of the Seneca Nation sextons. (Most funeral homes will contact the Seneca Nation directly to make these arrangements.)
3. Date of Birth and Birthplace
4. Marital Status
5. Parents with mother's maiden name
6. Religious Preference
7. High School and/or College
8. Surviving Spouse, Significant Other, Children, Siblings, Grandparents, etc.
9. "Preceded in Death" names/relationship
10. Work History or Occupation (s)
11. Military Information: (ex. Branch, years served, etc.)
12. Visitation: Public or Private
13. Funeral Service: Public or Private
14. Committal (graveside) Service: Public or Private
15. Family Gathering
16. Final Disposition: Burial, Cremation, Entombment
17. Music requests
18. Readings (ex: poems, letters, etc.)
19. Eulogy of Remembrance
20. Pall Bearers and/or Honorary Pall Bearers
21. Any personal item (s) you wish to have displayed during Visitation and Funeral Service. (Ex: Hobby, Artwork, Photos, Collections, etc.)

3/1/19

# LAST WILL AND TESTAMENT

I, \_\_\_\_\_, residing on the Cattaraugus/Allegany Territory, Seneca Nation of Indians and having a mailing address of \_\_\_\_\_, being a duly enrolled citizen of the Seneca Nation of Indians, enrollment number \_\_\_\_\_ do hereby make, publish and declare this to be my Last Will and Testament, hereby revoking all other Wills and Codicils by me heretofore made.

## CLAUSE ONE

I direct that my just debts, funeral expenses and expenses of my last illness be paid by my Executor as soon as practical after my death, except those secured by mortgage on real estate.

## CLAUSE TWO

I do hereby appoint \_\_\_\_\_, the Executor of this my Last Will and Testament, and should he/she fail to qualify, or predecease me, then I appoint \_\_\_\_\_ to be my alternate Executor. My Executor shall not be required to give any bond or security in any jurisdiction for the faithful performance of his/her duties.

## CLAUSE THREE

I give my Executor the authority in all estate matters to perform all acts as required by the Seneca Nation of Indians Probate Code which would include the right to sell, mortgage or lease (when deemed appropriate and if necessary) to pay my debts, expenses of administration and/or to facilitate distribution, or to dispose of and distribute in kind any and all property, real and personal, and to compromise or adjust any claims or demands in favor of or against my estate, to execute and deliver any instruments necessary to carry out any of these powers, to do any other act necessary or desirable for the proper discharge of any powers or duties, whether by terms of this Will or by Seneca Nation Law. The aforementioned power of sale shall be deemed discretionary not mandatory. If my Executor fails to faithfully and honestly administer the estate and the estate remains open one (1) year from the date it was opened, I direct the Surrogate Court to appoint a new Executor.

## CLAUSE FOUR

I may leave a written statement or list disposing of certain items of my tangible personal property not otherwise disposed of herein. Any such statement or list in existence at the time of my death shall be determinative with respect to all items devised therein. If no written statement or list is found and properly identified by my Executor within thirty (30) days after my Will is admitted to probate in the Surrogate's Court of the Seneca Nation of Indians it shall be presumed that there is no such statement or list, and any subsequently discovered statement or list shall be ignored.

\_\_\_\_\_  
*Initials*

**CLAUSE FIVE**

I hereby give, devise and bequeath my entire Estate, both real, personal and mixed, wherever situated in which I may be seized or possessed and any insurance proceeds to:

I leave my real property (land) to:

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I leave my automobile(s) to:

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I leave my personal property to (see page 5):

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I leave my life insurance to:

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Should any of the above named beneficiaries predecease me, then I direct his/her share to be passed to \_\_\_\_\_ or to above-named beneficiaries. If I am not survived by any of the above named beneficiaries, then I direct that this my residuary bequest laps and my estate if any, be distributed in accordance with the Laws of the Seneca Nation of Indians as they exist at the time of my death.

**CLAUSE SIX**

I have, except as otherwise provided in this Will, intentionally and with full knowledge, omitted to provide for my heirs who may be living at the time of my death, including any person who may become my heir or heirs by reason of marriage or otherwise after the date of execution of this my Last Will and Testament.

**CLAUSE SEVEN**

All estate, inheritance, succession, duties, charges, or assessments, imposed on or in relation to any property by reason of my death, whether passing under this Will or otherwise, shall be paid by my Executor out of the residue of my estate, without proration of

\_\_\_\_\_  
*Initials*

any charge therefore against any person who receives such property under this Will or otherwise.

**CLAUSE EIGHT**

Throughout this Will any pronouns used in connection herewith shall be construed to include the plural as well as the singular.

***IN WITNESS WHEREOF***, I have hereunto set my hand and seal to this my LAST WILL AND TESTAMENT, consisting of six (3) typewritten pages and on the margin of each of which I have attached my initials for greater security and better identification. I am of sound mind and under no constraint or undue influence this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ in the presence of attesting witnesses, who sign their names hereto at my request and in my presence.

X \_\_\_\_\_  
SIGNATURE

WE, whose names are hereto subscribed, DO CERTIFY that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, the Testator/Testatrix, subscribed his/her name to this Instrument, in our presence and in the presence of each of us, and at the same time, in our presence and hearing, declared the same to be their ***LAST WILL AND TESTAMENT***, and that he/she requested each of us to sign our names thereto as witnesses to the execution thereof, which we hereby do in the presence of the Testator and of each other and on the said date and write opposite our names and respective places of residence.

X \_\_\_\_\_ residing at \_\_\_\_\_  
WITNESS

X \_\_\_\_\_ residing at \_\_\_\_\_  
WITNESS

\_\_\_\_\_  
*Initials*

AFFIDAVIT OF ATTESTING WITNESSES

The undersigned, being duly sworn, deposes and says:

The within Last Will and Testament was subscribed in my presence and sight by the Testator/Testatrix on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

At the time of so subscribing the instrument the Testator/Testatrix declared the instrument to be his/her Last Will and Testament. Said Testator/Testatrix at the time of so executed the said Will, was over 18 years of age and in the opinion of the undersigned, of sound mind, memory and understanding and not under any restraint or in any respect incompetent to make a Will; he/she could read, write and converse in the English language and was suffering from no defect of sight, hearing or speech or from any other physical or mental impairment which would affect his/her capacity to make a Valid Will.

The Will was executed as a single, original instrument and was not executed in counterparts. The within Will was executed by the Testator/Testatrix and witnessed by the undersigned Affiants under the supervision of a Notary Public. The undersigned makes this Affidavit at the request of the Testator/Testatrix

**SENECA NATION OF INDIANS  
CATTARAUGUS/ALLEGANY TERRITORY**

On this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ before me,  
\_\_\_\_\_  
\_\_\_\_\_ and \_\_\_\_\_, the undersigned personally appeared as witnesses who are known to me or proved to me that they are the individuals whose names are subscribed to and who executed the foregoing instrument and he/she acknowledged to me that he/she executed the same.

X \_\_\_\_\_ residing at \_\_\_\_\_  
(WITNESS SIGNATURE)

X \_\_\_\_\_ residing at \_\_\_\_\_  
(WITNESS SIGNATURE)

X \_\_\_\_\_ My Commission Expires:  
NOTARY PUBLIC

\_\_\_\_\_  
*Initials*

**PERSONAL PROPERTY LIST**

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_
11. \_\_\_\_\_
12. \_\_\_\_\_
13. \_\_\_\_\_
14. \_\_\_\_\_
15. \_\_\_\_\_
16. \_\_\_\_\_

Signature: \_\_\_\_\_

\_\_\_\_\_  
*Initials*