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COVID-19 Response: NY Executive Order Permits Video Execution of Wills and Other Documents

On April 7, New York Governor Andrew Cuomo issued Executive Order 202.14, permitting remote witnessing of wills, powers of attorney, health care proxies, deeds and other documents. Together with the recent Executive Order 202.7 permitting video notarization, it means that New York residents who wish to execute new or updated wills, healthcare proxies or powers of attorney may do so without leaving their home or admitting others to their home, provided all the rules outlined below are followed.

In order for a video witnessing to be valid, all of the following conditions must be met:

- The person requesting that his or her signature be witnessed must either be personally known to the witnesses, or else must present a valid photo ID to the witnesses during the video conference (not merely send a copy before or after).
- The video conference must allow for direct interaction between the person signing, the witnesses and the supervising attorney (not a pre-recorded video of the person signing).
- The witnesses must receive a legible copy of the signed pages, which may be sent by fax, PDF or telephone scan or photo, on the same date that the person signs the pages. In a remote *notarization* the full document apparently must be sent to the notary, but in the case of remote *witnessing* the only requirement is to send the signature pages.
- The witnesses may sign the copy of the signature pages and after signing them send them back to the person who signed them.
- The witnesses may sign the original signature pages as of the date of execution provided they receive the original signature pages together with the electronically witnessed copies within 30 days after the date of execution.

Any deviation from the above process requires input by legal counsel to ensure proper execution.

For more Day Pitney alerts and articles related to the impact of COVID-19, as well as information from other reliable sources, please visit our COVID-19 Resource Center.

COVID-19 DISCLAIMER: As you are aware, as a result of the COVID-19 pandemic, things are changing quickly and the effect, enforceability and interpretation of laws may be affected by future events. The material set forth in this document is not an unequivocal statement of law, but instead represents our best interpretation of where things stand as of the date of first publication. We have not attempted to address the potential impacts of all local, state and federal orders that may have been issued in response to the COVID-19 pandemic.

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