

March 25, 2020

Law Society of Saskatchewan Practice Directive

Number 1

Remote Execution of Certain Documents Via Electronic Means

WHEREAS the Government of Saskatchewan may, from time to time, implement and extend emergency measures that modify the requirements of how the execution of certain documents may be witnessed by lawyers to allow for the witnessing of signatures via electronic means;

AND WHEREAS 'electronic means' is defined as being an electronic method of communication that includes both audio and visual aspects, such that the lawyer and the signator can both hear and see each other during the course of the meeting and execution of the document

AND WHEREAS the Law Society of Saskatchewan is entitled to impose additional regulatory requirements in relation to the manner in which lawyers avail themselves of these emergency measures;

AND WHEREAS the Law Society of Saskatchewan is authorized to issue directives pursuant to Law Society of Saskatchewan Rule 1143;

THE LAW SOCIETY OF SASKATCHEWAN HEREBY DIRECTS that lawyers who avail themselves of these emergency measures shall:

- require that a signator(s) display photo identification, and ensure that they obtain a screen capture (or alternatively a photo of their screen) showing the face of the signator(s) of the documents alongside their photo identification;
- manage risks associated with fraud, identity theft, undue influence, duress and potential lack of capacity by:
 - o Considering whether there are red flags of fraud in the matter;
 - o Assessing whether there is a risk that the client may be subject to undue influence or duress, including observing who else is physically in the room with the client during the execution of documents. If there is such a risk, consider if you are able to assist the client at this time without meeting in person;
 - o Confirming your client's understanding about the documents they are executing and provide adequate opportunity for them to ask questions during the meeting carried out by electronic means.
 - o Being alert to the fact that persons may attempt to use the execution of documents by electronic means as an opportunity to commit fraud or other illegal acts.
- amend any jurats as required to include the words "via electronic means" or other appropriate details to ensure that users of the signed document are fully aware of the manner in which the document was signed.

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- prepare a written record, in Form PD1 prescribed by the Law Society of Saskatchewan for placement on the client file, detailing how the above noted risks associated with the execution of documents by electronic means were addressed.

Lawyers continue to be required to adhere to all Law Society of Saskatchewan Rules governing client identification and verification.