

## Harter Secrest &amp; Emery LLP

ATTORNEYS AND COUNSELORS

## TRUSTS AND ESTATES

**RELIEF FOR NOTARIZATIONS IN NEW YORK**

The COVID-19 pandemic (commonly referred to as the “Coronavirus”) has disrupted economic life. In an example of a response to the reality of social-distancing and closures, Governor Cuomo, by Executive Order No. 202.7 (“the Order”), will allow notarial acts required under New York State law to be performed using audio-video technology (while not mentioned in the Order, presumably, Skype, Zoom or other similar technology).

**The Order requires the following:**

- if not personally known to the notary, the person seeking notarial services must present valid photo ID during the conference--and not before or after the conference;
- the video conference must allow for direct interaction between the person and the notary (the Order explicitly refers to no “pre-recorded videos of the person signing”);
- the person must affirmatively represent that he or she is physically situated in New York State; and
- the person must transmit by fax or electronic means a legible copy of the signed document directly to the notary on the same date it was signed;

The Order contemplates that a notary may repeat the notarization of the original signed document (as of the date of the execution) if the notary receives the original signed document together with the electronically notarized copy within 30 days after the date of execution (presumably, the use of “together” does not change the requirement that the copy be sent as of the date of notarization).

The Order is in force from March 19 through April 18, 2020.

The Order will ease execution of powers of attorney and affidavits of attesting witnesses to a Will. Some of the requirements may make it difficult for a person in poor health to comply with the requirements.

Note that the Order does not mention the witnessing of a Will or trust agreement remotely. While it may be supposed that a court would not refuse to probate a Will because the testator’s execution was witnessed remotely (or would invalidate a trust), the Order does not provide direct support. Thus, for any Will or trust executed remotely, it would make sense to re-execute the Will or trust in normal fashion after it is possible to do so.

If you would like more information on Executive Order No. 202.7, please contact a member of Harter Secrest & Emery LLP’s [Trusts and Estates](#) Practice Group at 585.232.6500 or visit [www.hselaw.com](http://www.hselaw.com).

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