Client Alert: Virtual Notarization and Witnessing of Your Documents During COVID-19 Emergency

BY CESIRA NEWCOMB • APRIL 28, 2020

On April 27, 2020, Massachusetts enacted An Act Providing for Virtual Notarization to Address Challenges Related to COVID-19. This emergency virtual notarization law expands the meaning of "in the presence of a witness and notary," which has always meant in the physical presence, to also include in the virtual presence, during the COVID-19 emergency. Please note that the law does *not* include the use of an electronic signature, such as DocuSign.

We are now able to safely assist you with signing your original documents, before witnesses and notaries, utilizing real time electronic video conferencing, such as FaceTime on the phone or Team Meetings on the computer.

The documents will be fully enforceable, so long as we follow these strict rules:

- We will set up a virtual meeting with you, using real time electronic video conferencing.
- We will send your original documents to you for your signature, while retaining the original notary and/or witness pages.
- During the virtual meeting, you will need to show us a current federal or state government agency issued photographic identification with your signature.
- We will request your verbal assent to record the virtual meeting (please note that we are required to retain a copy of such recording for 10 years).
- We will request you to certify to us that you are physically located in Massachusetts.
- We will ask you if there is any other person present in the room with you, and if so, what is their relationship to you.
- You will then sign the original document in front of the notary and the witnesses, by utilizing the video conference.
- We will sign the original notary and/or witness pages in front of you, by utilizing the video conference.
- After signing, you will return all your original pages to us, so that we can fully assemble the complete executed document to include your signature, the notary signature page, and the witnesses signature pages if any.
- If the documents pertain to real estate, then there is an additional requirement to hold a second virtual meeting to confirm that the documents we receive from you are in fact the documents that you signed during the previous virtual meeting.

Finally, we will execute an Affidavit signed under the pains and penalties of perjury, stating all of the above, including a statement that we were physically located in a certain County in Massachusetts on the date of the signing. We will keep

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this affidavit along with a copy of your photo identification in our file for 10 years.

We are excited to offer you virtual notarization. If you would like to set up a virtual meeting to sign your documents under the safety protections of the new law, please contact your attorney at Bowditch.

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