



HULL & HULL LLP
Barristers and Solicitors

Execution of Wills and Powers of Attorney During COVID-19: A Further Update

As our readers are familiar, Ontario's laws regarding the execution and witnessing of wills and powers of attorney were [updated](#) this April to make it easier to assist estate and incapacity planning clients in light of transmission concerns and physical distancing measures. Specifically:

- the reference to "in the presence of" with respect to witnessing requirements under the *Substitute Decisions Act, 1992*, and the *Succession Law Reform Act* is currently being interpreted as including being in one another's presence by way of audiovisual communication technologies; and
- wills and powers of attorney may be executed and witnessed in counterpart, with the copies together constituting the complete "will" or "power of attorney".

In [last month's Solicitor's Tip](#), we shared that the virtual witnessing of wills and powers of attorney and the execution and witnessing of wills and powers of attorney in counterpart would be permitted until September 22, 2020. Subsequently, last week, a further one-month extension of the new execution and witnessing requirements to October 22, 2020 was issued under [O. Reg. 458/20](#).

It is also notable that the Attorney General's office requested input this summer in respect of a number of potential areas of reform to Ontario's wills and estates legislation. Amongst the issues where input was requested was that relating to the new measures introduced during the pandemic to facilitate the safe execution and witnessing of wills and powers of attorney and whether these provisions should be made permanent.

As we enter the second wave of COVID-19 and beyond, it will be interesting to see how these measures enhancing access to legal assistance in estate and incapacity planning continue to develop and whether there may be any further extensions to the relaxed formal requirements for the execution of wills and powers of attorney.