File note for witnessing a will by audio video link

EVERYTHING MUST BE DONE ON THE SAME DAY

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Date: | Start time:  | End time: |  | File no.: |
| **Audio visual conference platform** |  |
| **Practitioner’s name** |  |
| **Testator’s name** |  |
| **Location of testator during the audio visual conference** |  |
| **Name, residential address and contact number of other witness** |  | **Location during audio visual conference:** * with testator
* with practitioner
* on video conference
 |
| **The will** | **[document description and document number if available]** |

How verification of identity performed

* Testator is well known to me and recognisable by sight on the audio visual link

or

* Testator’s identity was confirmed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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How will was delivered to testator

The will was sent to the testator by:

* Email address to the testator at email address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on \_\_\_/\_\_\_\_/\_\_\_day at …….am/pm.
* By ordinary post addressed to testator at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[address]
* Hand delivery by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[address]
* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[other]

The testator’s environment and demeanour

* I asked the testator whether anyone was in the room with them or otherwise nearby.

The testator’s answer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

If someone was present:

* He/she/they left the room or
* At the testator’s insistence he/she/they remained only as a support person. His/her/their name and relationship to the testator was \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
* I explained their role was only to support the testator and not to prompt or answer for the testator or seek to influence them in any way. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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My observations of the testator’s environment and demeanour were:

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Capacity, undue influence, duress

*[Record the steps taken to address* [*capacity*](https://lplc.com.au/blog/enough-test-testamentary-capacity/)*, undue influence and duress along with all relevant observations including:*

* *how much you could see of the testator’s body on the screen*
* *what the testator’s body language and behaviour were like, whether they appeared to hear you well, were following what you were saying, looked at easy with what they were doing]*

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Advice and discussion about contents of will

*[Record advice given and discussions with the testator]*

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As a result of my discussions with the testator it appears to me that the testator:

* is aware of and appreciates the significance of the document they are signing.
* is aware in general terms of the character, extent, and value of the estate with which they were dealing.
* is aware of those who might reasonably be thought to have claims upon their bounty, and the basis for and nature of those claims.
* Has the ability to evaluate and discriminate between the respective strengths of those claims

How the will was signed and witnessed

* At \_\_\_\_\_ am/pm on \_\_\_ [date] I watched via audio visual link the testator sign the will by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

How the will was returned

* The testator then scanned the signed will and emailed it to me and the other witness. I received the scanned document by email at ­­­­­­\_\_\_\_\_ am/pm
* I watched, via audio visual link, the other witness sign the will and write the statement required by sub-regulation 41(5)(c)(ii) before they scanned and sent their attested will to me by email at \_\_\_\_\_ am/pm. Before signing the copy will I received from the other witness, I compared the will with the one I had sent the testator by checking each line in both documents.
* I confirmed the contents of the two documents were the same.
* I signed the copy I received from the other witness and scanned and sent a copy of the will with all the signatures on it back to the testator at \_\_\_\_\_ am/pm.
* At \_\_\_\_\_ am/pm on \_\_\_ [date] I watched the testator:
	1. write on the copy I sent them with all the signatures on it that it is a true copy of the will signed by them and the conditions in sub-regulation 41(5) of the COVID-19 Omnibus (Emergency Measures) (Electronic Signing and Witnessing) Regulations 2020 have been met and
	2. sign and date the writing referred to in (1) above.

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END PRODUCT

One copy of the will on which appears

* The signature of the testator
* The signatures and statements of all the witnesses
* The statement by the testator that
	+ the copy is a true copy of the will signed by the testator and
	+ the conditions of sub-regulation 41(5) COVID-16 Omnibus (Emergency Measures (Electronic Signing and Witnessing) Regulations 2020 have been met and
	+ this statement is signed and dated by the testator

Additional notes and comments

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