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B.C. courts amend procedures for affidavits

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In light of the COVID-19 pandemic, the B.C. courts have made accommodation for the commissioning of affidavits in circumstances where it is not possible or is medically unsafe for the deponent to physically attend before a commissioner, such as deponents who are unable to leave their residences, are not permitted to receive visitors, or for those who are required to self-quarantine.

With the approval of the Law Society of British Columbia, until further notice, the following accommodations will be made for affidavits to be used in B.C. courts, subject to the discretion of the courts to apply the best evidence requirements to their use.

Any affidavit to be sworn using video technology must contain a paragraph at the end of the body of the affidavit describing that the deponent was not physically present before the commissioner, but was linked with the commissioner utilizing video technology and that the process described below for remote commissioning of affidavits was utilized.

While connected via video technology, the deponent must show the commissioner the front and back of the deponent's current government-issued photo identification and the commissioner must compare the video image of the deponent and information in the deponent's government-issued photo identity document to be reasonably satisfied that it is the same person and that the document is valid and current. The commissioner must also take a screenshot of the front and back of the deponent's government-issued photo identity document and retain it.

The commissioner and the deponent are both required to have a copy of the affidavit, including all exhibits, before each of them while connected via video technology.

The commissioner and the deponent must review each page of the affidavit and exhibits to verify that the pages are identical and if so, must initial each page in the lower right corner.

At the conclusion of the review, the commissioner will administer the oath, the deponent will state what needs to be said to swear or affirm the truth of the facts, and the commissioner must watch the deponent sign his or her name to the affidavit.

The deponent will then send the signed affidavit with exhibits electronically to the commissioner.

Before completing the affidavit, the commissioner must compare each page of the copy received from the deponent against the initialed copy that was before him or

her in the video conference and may affix his or her name to the jurat only upon being satisfied that the two copies are identical.

The two copies will then be attached together with a certificate signed by the commissioner stating that the commissioner was satisfied that the process was necessary because it was impossible or unsafe, for medical reasons, for the deponent and the commissioner to be physically present together.

The completed package would then be permitted to be filed.