

How to Conduct an Electronic Estate Planning Signing

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MGDLaw
ESTATE & WEALTH PLANNING

PREPARED FOR

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Estate Planning Signing

Will

Revocable
Trust

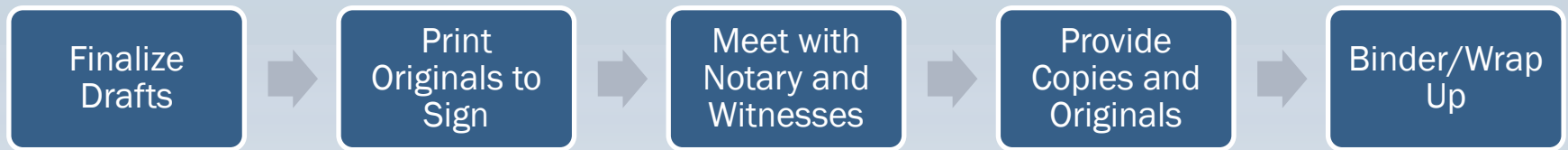
Financial
Power of
Attorney

Health Care
Directive

Health Care
Power of
Attorney

Deed

Your “In Person” Paper Process



How to Be Paperless

- 3 Good Monitors
- Larger Screen Laptops on a stand
- Develop Protocols for the E-File (YYYY-MM-DD), folders, platform
- Consider Pre-fix Number System (01, 02, 022, 023, etc.)
- Don't Create New Paper Files
- Have a Scan & Shred Champion and Team
- Implement "Scan & Shred Day"
- Calculate the rent per square foot on your files

Background

Compare Formalities of Other EP Docs

Document	Writing	Two Witnesses	Notary
<u>Will</u> (Ch 474)	✓	✓	<u>Recommended</u>
<u>Revocable Trust</u>	<u>Real Estate</u>		Real Estate*
<u>Financial Durable Power of Attorney</u> (Ch 404)	✓		✓
<u>Health Care Power of Attorney</u> (Ch 404)	✓		✓
<u>Health Care Declaration</u> (Ch 459)	✓	✓	
<u>Deed</u> (Ch 442) <u>Beneficiary Deed</u> (Ch 461)	✓		✓

Missouri's E-Signing Laws

Uniform Electronic
Transactions Act
(8/28/2003)

Remote Online
Notary Act
(8/28/2020)

Temporary
Emergency
Orders
Authorizing
Remote
Witnessing
and Remote
Notary

E-Wills & E-Estate Planning
(8/28/2025)

Federal E-SIGN Act

Electronic Signatures in Global and National Commerce Act (June 30, 2000)

MEWEEPDA In Chapter 474

MISSOURI ELECTRONIC WILLS AND ELECTRONIC ESTATE PLANNING DOCUMENTS ACT

- 474.540** Citation of law. (8/28/2025)
- 474.542** Definitions. (8/28/2025)
- 474.544** Electronic will valid as a will for all purposes. (8/28/2025)
- 474.546** Electronically executed will is an electronic will, when. (8/28/2025)
- 474.548** Electronic will requirements. (8/28/2025)
- 474.550** Self-proved electronic will, requirements — form and content. (8/28/2025)
- 474.552** Revocation of a previous will, when — presumption of revocation, when. (8/28/2025)
- 474.554** Disclosure of digital assets to obtain electronic will, when. (8/28/2025)
- 474.556** Certified paper copy of electronic will. (8/28/2025)
- 474.558** Need to promote uniformity of law, consideration given to. (8/28/2025)
- 474.560** Estate planning documents, electronic execution of — procedure. (8/28/2025)
- 474.562** Federal acts, effect on. (8/28/2025)
- 474.564** Applicability of act, when. (8/28/2025)
- 474.600** Estate planning document, execution of — definitions — requirements — ... (8/28/2025)

Missouri Remote Online Notary Law

REMOTE ONLINE NOTARIAL ACTS

- 486.1100** Definitions. (8/28/2020)
- 486.1105** Controlling law. (8/28/2020)
- 486.1110** Rulemaking authority. (8/28/2020)
- 486.1115** Standards for remote online notarization, secretary's duties. (8/28/2020)
- 486.1120** Notary commission and registration required. (8/28/2020)
- 486.1125** Course of instruction required, content. (8/28/2020)
- 486.1130** Registration form, contents — denial of registration, when — ... (8/28/2020)
- 486.1135** Term of registration. (8/28/2020)
- 486.1140** Permissible remote online notarial acts. (8/28/2020)
- 486.1145** Audio-video communication, use of, requirements. (8/28/2020)
- 486.1150** Principal requirements for remote online notarization. (8/28/2020)
- 486.1155** Remote online notary required to be physically located within this state ... (8/28/2020)
- 486.1160** Additional transaction fee. (8/28/2020)
- 486.1165** Remote online notarial certificate, contents, wording. (8/28/2020)
- 486.1170** Registered electronic signature, seal, or single element required, when — ... (8/28/2020)
- 486.1175** Jurat certificate form — signature form. (8/28/2020)
- 486.1180** Electronic journals. (8/28/2020)
- 486.1185** Electronic journal recording requirements. (8/28/2020)
- 486.1190** Additional requirements for electronic journal of remote online notarial ... (8/28/2020)
- 486.1195** Audio and video recording of performance of notarial acts, when, requirements. (8/28/2020)
- 486.1200** Safeguarding electronic documents, signature, and seal. (8/28/2020)
- 486.1205** Remote online notary — resignation, revocation, expiration, or death — ... (8/28/2020)

How MEWEEPDA Was Drafted

- [MEWEEPDA](#), Chapter 474, Revised Missouri Statutes, Making changes to Chapter 474, RSMo. and adding Sections 474.540 to 474.564
- Uniform Electronic Wills Act, [Final Act 2019](#) (UEWA)
- Uniform Electronic Estate Planning Documents Act, [Final Act 2022](#) (UEEPDA)
- [Missouri Uniform Electronic Transactions Act](#) (8/28/2003)
- [Missouri Remote Online Notary Act](#) (8/28/2020)

Characteristics of Good Electronic Formalities



Serve Missouri Testators. Give them a Voice to Say How Assets Pass by Allowing Electronic Remote Signings as an Option (Access to Planning)



Minimize Fraud/Litigation While Not Overly Sacrificing Other Goals



Coordinate Electronic Formalities with Missouri's Other Estate Planning Laws

Being Practical About Electronic Wills

Little Advantage in Only Passing E-Wills

Beware Unnecessary New Electronic Formalities

- Electronic Document Custodians
- Mandated Software
- Location of Notary and Witnesses and Testator
- Forced Reduction to Paper

Legislatively Feasible aka “Will It Pass?”

Review: Three Types of E-Signings



Paper
Document

+

Remote
Signing



Electronic
Document

+

In Person
Signing



Electronic
Document

+

Remote
Signing

Reading MEWEEPDA

Electronic Wills Must be in Writing

- No YouTube Wills
- You must be able to read it (PDF, tablet, not encrypted)
- Readable by Probate Court
- No Emojis
- Certified Paper Copy is Optional

MEWEEPDA What is an Electronic Will

- Section 474.544 Electronic will valid as a will for all purposes. — An electronic will shall be a will for all purposes of the laws of this state. The provisions of law applicable to wills and principles of equity shall apply to an electronic will, except as modified by sections 474.540 to 474.564.
- Section 474.542 Definitions. — (3) "Electronic will" , a will executed electronically in compliance with subsection 1 of section 474.548.

MEWEEPDA Definitions - Electronic

- Section 474.542 Definitions. — (1) “Electronic”, technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

MEWEEPDA Definitions - Sign

- Section 474.542 Definitions. — (6) “Sign”, with present intent to authenticate or adopt a record to: (a) Execute or adopt a tangible symbol; or (b) Affix to or logically associate with the record an electronic symbol or process.

MEWEEPDA Definitions - Presence

- Section 474.542 Definitions. — (2) “Electronic presence”, the relationship of two or more individuals in different locations in real time using technology enabling live, interactive audio-visual communication that allows for observation, direct interaction, and communication between or among the individuals

ELECTRONIC WILL REQUIREMENTS - SECTION 474.548.

1. An electronic will shall be:

(1) A record that is readable as text at the time of signing as provided in subdivision (2) of this subsection and remains accessible as text for later reference;

(2) Signed by: (a) The testator; or (b) Another individual in the testator's name, in the testator's physical presence, and by the testator's direction; and

(3) Signed in the physical or electronic presence of the testator by at least two individuals after witnessing:

(a) The signing of the will pursuant to subdivision (2) of this subsection; or

(b) The testator's acknowledgment of the signing of the will pursuant to subdivision (2) of this subsection or acknowledgement of the will

3. In accordance with the provisions of section 474.337 or 474.550, a witness to a will shall be a resident of a state and physically located in a state at the time of signing if no self-proving affidavit is signed contemporaneously with the execution of the electronic will.

Which Self-Proving Affidavit

- When to Use RSMo [474.337](#)
- All Witnesses In Person
- When to Use RSMo [474.550](#)
- One or more witnesses are Remote

Practical Tips

Your Electronic Process



Prep the Documents for E-Signing

- What kind of signing?
- Update notary blocks
- Prepare PDFs
- Think about the fields/actions signors have to take
- Load the right notary/witness blocks

	<u>Document and Signature Type</u>	<u>Notary with Signer?</u>	<u>Witnesses with Signer?</u>
1	Electronic Documents; eSignature	No	No
2	Electronic Documents; eSignature	No	Yes
3	Electronic Documents; eSignature	Yes	Either
4	Paper Documents; Wet Ink Signature	No	Yes
5	Paper Documents; Wet Ink Signature	No	No

Know Your Tech Setup

- Be familiar with your webcam, mic, and speaker in your tech setup, and know how to toggle between options.
- Be able to coach a client through a tech setup issue – especially speakers and mics.

Consider a “Green Room” Approach

Overlap a familiar Video Conference for your client to meet you before the e-signing through the e-signing software. Meet there afterwards.

Good for troubleshooting if anyone gets “lost” on the way to the signing.

Good for reinforcing the meeting afterwards.

Think About the Screens



- Potentially 5 people plus a document on one screen
- Toggling between the Green Room and the E-Signing
- Are the Witnesses in the Conscious Presence of the Signor?

Remote Online Witnesses



Electronic Trusts

- MEWEEPDA does not impose a writing or notary requirement on trusts.
- Applies to
 - Irrevocable Trusts
 - Amendments
 - Nonjudicial Settlement Agreements (aka “amendments”)

Applies to Other Electronic Documents

- Financial Durable Power of Attorney
- Health Care Power of Attorney
- Health Care Declaration
- Deed
- Beneficiary Deed
- Amendments, Nonjudicial Settlement Agreements, 411A Modification Agreements
- “A document modifying, amending, correcting, or revoking any written estate planning document”

Remote Online Notary

- [RSMo 486.1100-1205](#)
 - 486.600 - notary definitions
 - 486.900 - electronic notary definitions
 - 486.1100 - remote notary definitions
- “In the presence of the notary” includes appearing remotely if in compliance with 486.1100-486.1205. See [486.1100\(1\)](#)
- Remote notarizing must be on an electronic document. [RSMo 486.1115.3\(7\)](#).

Location of Remote Online Notary

- [RSMo 486.1155](#)
- Notary Must be In Missouri
- Signor can be anywhere in the US (and in the world, if the jurisdiction does not prohibit remote online notarial acts)
- Witnesses can be:
 - A resident of any state if physically located in that state at the time of signing (if no self-proving affidavit). RSMo 474.548(3).
 - A resident of anywhere if a self-proving affidavit is signed contemporaneously with the execution of the electronic will. *Id.*; RSMo 474.550.

Adding Electronic Notary Capabilities

- New notaries or renewing notaries
- Selecting the software
- Personally Known vs. Showing ID on an electronic signing

It's Going to be Recorded

- If the Notary is Remote, the document must be electronic and the session must be recorded

Remote Electronic Notary Sample

I, the undersigned, **an Electronic** Notary Public authorized to administer oaths in the State of Missouri, hereby certify that _____, also known as _____ and formerly known as _____, the person who executed the foregoing attached instrument, and the witnesses, whose names are signed to the foregoing attached instrument, **having personally appeared together before me by remote online means** and having been first duly sworn, each then declared to me that the Testator signed and executed the foregoing attached instrument as the Testator's Last Will and Testament, and that the Testator had willingly signed and that the Testator executed such instrument as the Testator's free and voluntary act for the purposes therein stated; and each of the witnesses, in the presence and hearing of the Testator, signed the foregoing attached Will, and that to the best of his or her knowledge the Testator was at that time eighteen (18) or more years of age, of sound mind, and under no constraint or undue influence.

IN WITNESS WHEREOF, I have subscribed my name and affixed my official seal on [DATE].

Electronic Public Notary

Essential Originals

- Paper Will (Not Electronic)
- Car Title
- Stock Certificate and Stock Ledger
- Life Insurance Policy
- Make your case!

There Is No “Original” Electronic Will



Have a Plan to Find the E-Will

- Share the PDF – Financial Advisor, Family, CPA, Lawyer
- Wrap Up Letter to Client – Convey Importance of Storing the E-Will in a place it can be found
- Certified Paper Copy or Zip Drive in the Safe Deposit Box/Home Safe?
- Paper Trail in your legal file that specifies where it last was
- Lawyer Risk of Saying “I have it”
- [File](#) with Probate Court? 474.510.

Revocation of Electronic Wills



- Physical Act + Preponderance of Evidence = RBPA. [474.552.2\(3\)](#).
- Interaction with the Lost Electronic Will Problem (presumption of revocation).
474.552.3

When NOT to E-Sign

- Litigation Likely
- If Video will be terrible
- Clients Can't Handle the Tech
- You Can't Handle the Tech
- Impatient people



Takeaway Checklist

- Identify Scenarios Where E-Signings are a Bad Idea
- Add Electronic Notaries (yours or a service)
- Choose and Buy Electronic Notarization Software
- Prepare Clients for Showing ID and Identity Test
- Load PDFs into Software & Familiarize & Practice
- Your Tech Setup and Coaching Someone Through a Tech Setup (mic and speakers)
- Green Room Approach
- Finding the E-Will Later
- Rethinking Binders

*I would like to thank my
colleague*

Tara Kpere-Daibo

*for her help with my
firm's implementation of
electronic signings.*

Thank you, Tara!



