

# A Guide to Executing Estate Planning Documents in Uncertain Times

---

**Presented by Eric Reis**

Thompson & Knight LLP

**Based on a Presentation by**

**William D. Pargaman**

SAUNDERS, NORVAL, PARGAMAN & ATKINS, LLP

July 29, 2020

1

## Preliminaries

- This is based on a presentation by Bill Pargaman, with some additions by Eric Reis
- Slides with thick blue header are Eric's, slides with thin olive-green header and SNPA logo are Bill's, blue thought bubbles on Bill's slides are Eric's

2

# WHY ARE WE HERE?

---

## COVID-19 and Social Distancing

- Our clients still would like to execute estate planning documents.
- The typical will signing ceremony for a married couple involves five people sitting around a table together:
  - The husband and wife,
  - Two unrelated witnesses, and
  - A notary
- Yet “social distancing” and various governmental orders suggest we should avoid gatherings like this.
- So how do we get documents executed?

## Most Estate Planning Documents Can't be Signed Electronically.

- The Texas Uniform Electronic Transactions Act expressly excludes its application to wills.
- Other documents must involve a “transaction” under TUETA. Essential elements require that the “transaction:”
  - Relate to the conduct of “business, commercial, or governmental affairs”
  - Between two or more persons.
- It's arguable whether financial powers of attorney constitute a “transaction.”
- Most medical directives would **not** constitute a “transaction,” but electronic execution is authorized by a separate statute in the Health & Safety Code.

## EXECUTION REQUIREMENTS BY DOCUMENT

---

Also available as part of the eCourse

[2020 Texas NAELA Summer eConference](#)

First appeared as part of the conference materials for the  
2020 Texas NAELA Summer Conference session

"COVID-19 Panel - Changes in Times of Uncertainty"