

Affidavit exhibiting Original Will Information Sheet

On and after April 1, 2024, the original Will must be attached and marked as an exhibit to an affidavit when it is filed at the Probate Court. This means that the original will may be filed in one of the following ways:

- Form 2 – Affidavit of Execution of Will or Codicil:** If **Form 2** was not completed before April 1, 2024, the original will is attached to it and marked as Exhibit “A”.
- Form 2A – Affidavit Proving Execution of Holograph Will:** If **Form 2A** was not completed before April 1, 2024, the original will is attached to it and marked as Exhibit “A”.
- Other affidavit proving due execution of the will:** If neither **Form 2** nor **Form 2A** can be completed, and either:
 - (a) an affidavit attesting to the authenticity of the signature of the deceased and the signature of either of the subscribing witnesses; or
 - (b) an affidavit from any person present at the execution of the will who can attest to the circumstances of the execution of the will

can be completed, but this was not done before April 1, 2024, the original will is attached to the applicable affidavit and marked as Exhibit “A”.

- Affidavit explaining Circumstances** (*non-mandatory template*):
 - If **Form 2** or **Form 2A** was completed before April 1, 2024, and does not have the original will marked and attached as an exhibit, then the **Affidavit explaining Circumstances** may be used:
 - The original will is attached and marked as Exhibit “A”
 - **Form 2** is attached and marked as Exhibit “B”
 - If neither **Form 2** nor **Form 2A** can be filed, but another affidavit proving due execution of the will (described above) was completed before April 1, 2024, that does not have the original will attached as an exhibit, then the **Affidavit explaining Circumstances** may be used:
 - The original will is attached and marked as Exhibit “A”
 - The applicable affidavit is attached and marked as Exhibit “B”
 - If the wording of the **Affidavit explaining Circumstances** template does not fit the circumstances that need to be addressed by affidavit, contact Probate Court for clarification before filing.

To mark the original will as an exhibit

In accordance with section 3 of the *Probate Court Practice, Procedure and Forms Regulations*, Civil Procedure Rule 39.09 applies to marking the Original Will as an exhibit. While this Rule provides options, the preferred approach is to attach a separate page bearing the exhibit stamp or writing to the Original Will rather than marking it directly: for example, a complete **Form 2** would include three documents: [1] The affidavit in **Form 2** referencing the Original Will as Exhibit “A”, [2] the page with the writing that marks the Original Will as Exhibit “A” (which may be in **Form 39.09**), and [3] the Original Will.