

Notarize at Your Own Risk

Posted by [The ALS Group](#) on Jul 20, 2020 2:02:43 PM



Notaries are essential. You may know one or may be one yourself, and chances are, you will need one in the course of your lifetime. In Ancient Egypt, there was evidence to suggest there were people that filled a notary public-like role proving that this job has been universally agreed upon as a noble public service undertaking for thousands of years.

Nowadays many people choose to become a notary, which is, according to the [National Notary Association](#), someone who is an “official of integrity appointed by state government —typically by the Secretary of State — to serve the public as an impartial witness in performing a variety of official fraud-deterrent acts related to the signing of important documents”. The most important role of a notary is to ensure



that the signers of a document are who they say they are. As you can imagine, with any important job, there are risks involved. Those who choose to take on the title of notary public, should take precautions to protect themselves, and their employers should do so as well.

Even though statistically, less than 2% of full-time notaries end up in court, the risk of a lawsuit and the corresponding expenses is significant enough to make one want to ensure they have coverage. An independent, full, or part-time notary should carry personal Error and Omissions (E&O) Coverage and possibly Signing Agent Liability E&O Coverage, as well. In some states, a notary could be required by law to have a notary surety bond, which is required, in an effort to protect the public from financial loss arising out of mistakes made by the notary public. A surety bond may decrease the risk of an individual or business seeking compensation from the notary directly because they can be compensated through the surety bond. However, the surety bond may not cover the full extent of the financial loss, and this could encourage the individual or business to seek the compensation from the notary themselves or even from the employer of the notary. This is when the E&O coverage would come into play to protect the notary and employer from financial harm. If you already have an E&O policy or are considering purchasing one, please take the time to carefully consider the limits of the policy and the potential financial risk notarizing can present.

In many states, a notary cannot turn away anyone who requests their services. These services include signing off on a variety of important documents. For example, a notary could be asked to sign off on something as critical as a multi-million dollar real estate transaction, or they could be asked to notarize something simpler, such as a document that changes the name on a Wi-Fi account. It is important that anyone considering the job know the risks involved and take the proper steps to protect themselves.

Employers can limit the risk of having a notary work for them by making sure the notary is fully educated in how to notarize appropriately as well as encouraging them to keep up with notary law (which does change periodically). They can also require notaries to keep a journal of all their notarizations. They can check with their insurance carrier to make sure that liability arising out of their employee's work is a covered loss and ask if their state offers group E&O policies for employers of notaries and the notaries themselves.

The employers of notaries can be liable for the actions of the notary while notarizing. Employing a notary may be an important decision for your business, however, it is also important for your business to carry E&O Insurance. Even if the notary never makes a mistake, (which is unlikely) they can still be named in a lawsuit or subpoenaed for



information or documents. The cost of legal representation, settling, or being held liable can be a significant expense to the notary and/or employer.

If you need more information on any of the topics covered in this blog, or need help with any risk related issues please contact [Albert Sica, Managing Principal](#), at 732.395.4251 or asica@thealsgroup.com.

Topics: [Enterprise Risk Management \(ERM\)](#), [Risk Mitigation](#), [Strategic Risk Management](#), [notary public](#), [Notary Risks](#)