



Steps to Prevent Notary Claims and What to Do If It Happens to You

10 Ways to Protect Yourself From Losses Due to Claims

There is no dollar limit on liability and the consequences of a liability lawsuit naming a Notary can be so far-reaching that it pays to do everything you can to prevent losses. The good news is you can protect yourself before you notarize by following all laws and rules applicable in your state for notarizing documents. You should be particularly careful to practice the following 10 steps the NNA recommends to prevent losses.

1. Notarize only for signers who are present

Make sure that a signer requesting a notarial act is always present at the time of notarization. More Notaries are sued and have their commissions revoked for a failure to require personal appearance than any other violation. You can reduce your potential liability considerably simply by always following this cardinal rule of notarization.

2. Don't notarize documents with blank spaces

Documents should be entirely complete prior to notarization. A blank line for an interest rate or loan amount in a document is an invitation for fraud. By making sure the blank is properly filled in at the time you notarize, you will protect both the signer and transaction and this can avert legal action later.

3. Identify your signer

Many lawsuits against Notaries involve forgeries that a Notary can prevent by rigorously following all laws and best practices for properly identifying signers.

4. Never pressure a person to sign

The principal's signature before a Notary must be a voluntary act. Before notarizing, you must ensure that the signer intends to sign the document willingly and the signer understands what he or she is signing. This will protect all parties to the document — and you, the Notary — from allegations of duress.

5. Keep a journal

Recording every notarial act you perform in a journal is an important protection against liability. A legible and complete journal entry can provide evidence of the reasonable care you followed in performing an act and can establish your regular practice of following proper procedures over the course of many notarizations. Incomplete and sloppy journal entries are red flags that can call into question your Notary practices before a judge or jury.

6. Maintain your impartiality and don't advise

Never notarize your own signature or a document in which you are personally named, and refuse to notarize for close family members because a Notary's impartiality can be questioned in these circumstances. If you will receive a direct benefit, fee, commission or advantage other than the fee allowed by state law, you also should not notarize. Another aspect of being impartial is not to advise. A Notary's authority is limited — your commission does not provide authority to give legal advice, draft documents, or select the type of document or notarization for a client.

7. Complete certificates carefully and completely

The public relies upon the facts attested in every certificate of acknowledgment or jurat you sign. Make sure you enter the correct county and state, name of the signer, and date of notarization. If the name of any signer not present for the notarization is included in the certificate, always cross it out. Also, be sure your seal is legibly affixed.

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8. Watch your commission expiration date

It's important that you notarize with a valid commission. If your commission expires and you fail to realize it, any document you notarize after the expiration date could be questioned. Legal actions can arise over any imperfection in a signed and notarized document and attorneys often seek to disprove the legitimacy of documents on a technicality. A notarization performed after the date of the Notary's commission expiration is such a technicality.

9. Don't let anyone use your seal

In the wrong hands, a Notary seal can be used to perpetrate a fraudulent act that may land the rightful Notary back into court to answer for the fraudulent use of the seal. This is why you must protect your official seal, keeping it in a locked and secure area when not in use. Beware of anyone who asks to "borrow" your seal. The seal has your name on it and only you as the commissioned Notary may use it.

10. Purchase E&O Insurance even if you have a bond

Leaving yourself open to risk as a Notary is unwise and unnecessary — protecting yourself with E&O insurance significantly reduces your risk. Think of it like driving a car — safe drivers are mostly able to avoid accidents. However, sometimes good drivers get into accidents, and sometimes even the most diligent Notaries make mistakes. Purchasing an E&O insurance policy protects you financially for notarizations.

Should you choose to purchase E&O insurance, the NNA's Insurance Department can help you find the right policy for your needs. Please don't hesitate to contact us at 1-800-876-6827.

4 Steps to Take If There Is a Claim on Your Bond or Policy

If a claim is filed against your bond or insurance, there are still steps you can take to prevent financial loss. Just because there is a claim doesn't mean it's valid or that a loss will result from it. In fact, many claims against Notaries are found to be invalid.

1. Contact the NNA Insurance Services at 1-818-739-4089

If you are personally made aware of a claim against your bond or policy by an attorney representing a party allegedly harmed by a notarization you performed, immediately contact NNA Insurance Services at 1-818-739-4089.

2. Locate your journal and document events

Your journal physically demonstrates that you adhered to best practices and your attorney will want to have a copy of the journal entry for the notarization in question. It's also a good idea to independently document the notarization, recalling details including those present, the location, dates, timelines, and circumstances, and anything else pertinent. Collect copies of documents and related records. As part of an investigation, the surety or insurer may contact you to provide a statement of the events surrounding the notarization in question. Documenting everything will prepare you to make a statement.

3. Don't talk to opposing counsel

If contacted by a lawyer other than your own, do not say anything regarding the notarization in question or tell the opposing attorney to contact your insurance company. And, never initiate contact with opposing counsel. Your statements are ammunition for the opposition to use against you and you should only communicate with your own lawyer or with the bonding company's representative. Disclosing information could harm your chances of resolving free of financial loss.

4. Cooperate with your attorney

Your attorney is working on your behalf and it's in your best interest to fully cooperate and supply them with accurate, relevant information. The more you cooperate and disclose, the more likely it is that your attorney can prevent any financial loss.