



The Commission Connection

Tips, recommendations, and information for notaries,
from the Idaho Secretary of State

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Notary Bond...

*“Even if the bond
pays all of the
damages the surety
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collect the amount
they have paid from
the notary.”*



Protect Yourself...

Notaries in Idaho are often required to affix a signature and seal to legal and financial documents. Those documents can have far-reaching effects and may be responsible for transactions that range into the millions of dollars. A notary should treat each document that receives his or her seal and signature as if someone's life may be on the line. Though that statement sounds melodramatic, it is the notary's life that can be damaged should a notarization be deemed improper, through negligence or official misconduct.

As was discussed in [The Commission Connection Volume 2](#), notaries have a responsibility to exercise a duty of care in the performance of notarial acts. The best way that a notary can provide himself or herself with protection is to be diligent in upholding this responsibility. However, in our imperfect world mistakes can happen. As such, one must remember that “A notary public shall be liable for all damages proximately caused by his official misconduct,” (Idaho Code, 51-118(1)). Furthermore, a notary can also be found personally liable for acts of negligence, whether or not those acts amount to official misconduct. There are two steps, however, that a notary can take for protection – errors and omissions insurance, and through the use of a notarial journal.



The Bond is Not Enough

It is a common misconception for notaries to believe that their bond protects them as they perform notarial acts. Such is not the case, however. Notarial errors can be costly, and the notarial bond does not remove a notary's liability for making a mistake. The bond only protects the notary's customers.

If a business or legal proceeding goes awry, and the notary is found to be at fault, damages may be awarded. The bond then provides quick compensation of those damages to the notary's customer.

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“You utter a vow or forge a signature and you may find yourself bound for life to a monastery, a woman or prison.” ~ Bronislaw Malinowski - anthropologist



E&O Insurance...

“The Secretary of

State’s office

strongly advises all

notaries to

purchase E&O

insurance.”

Journals...

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The Bond is Not Enough (cont.)

However, even if the bond pays all of the damages the surety company can choose to collect the amount they have paid from the notary. Since that is the case, where does a notary find protection? The answer is simple – an “errors and omissions” (E&O) insurance policy.

E&O insurance is more commonly known as malpractice insurance, and it is often quite inexpensive. According to Insurancejournal.com, “most E&O policies cover judgments, settlements, and defense costs.”

Mistakes are almost always unintentional. That fact does little to make a customer happy when that person has lost thousands of dollars because of a notarial error. The Secretary of State’s office strongly advises all notaries to purchase E&O insurance. Don’t find yourself suddenly owing thousands of dollars because of an unintentional mistake. Take the time to protect yourself – get some E&O insurance.



Much Ado About Journals

Though Idaho law does not require that a notary keep a journal, journals are strongly recommended by the Idaho Secretary of State. A wise notary will heed this recommendation.

If a notary is called into court to testify about a notarial act provided five years ago, what proof does the notary have to support his or her testimony? If the notary does not keep a journal, he or she has none. Journals are necessary to provide you with documentation if a notarial act comes into question. A journal can make the difference between a judgment in your favor, and a judgment that costs you thousands of dollars.

A standard notary journal entry includes:

- ✚ The date and time of the notarial act.
- ✚ The date on the document.
- ✚ The type of document.
- ✚ The type of ID used to verify a person’s identity.
- ✚ The name of the principal (signer).
- ✚ The address of the principal.
- ✚ A signature by the principal indicating that the journal entry is correct.

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Much Ado About Journals (cont.)

If you choose to keep a journal, protect it as you do your notarial seal. Keep it under lock and key. When a journal is full, store the journal for a minimum of seven years from the date of the last entry.

Please take the time to protect yourself with a notarial journal.



HELP!

- Do you have any interesting notary stories or anecdotes?
- Do you have any questions that you and other notaries would like answers to?
- Are there any legal issues with notarization that you would like to make others aware of?
- Do you have any tips on making the notarization process easier?

If so we would like to include them in this newsletter. Please send anything you have to Debbie Farnsworth at dfarnsworth@sos.idaho.gov.

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