National Association of Secretaries of State

2017 Remote Notarization JIM HOLTER



INTRODUCTION

Jim Holter, AFSB Vice President Commercial Surety



Merchants
Bonding Company
West Des Moines, IA
800-678-8171
merchantsbonding.com



Merchants Bonding Company is among the top 15 surety writers in the United States, and the number one surety writer in Iowa.



IMPOSTER SCENARIO

Imposter presents a fake identification.

- The notarized document becomes fraudulent as a result.





IMPOSTER SCENARIO

Notary's liability based on:

the quality of the ID?

 Did the notary act reasonably in identifying the person?





IMPOSTER SCENARIO

Technology's Influence

 Unlikely a criminal wants to be on video.

 Increased difficulty for a notary to ID an imposter (..limited body language, can't scrutinize the ID..).





CLAIMANT – FALSE CLAIM

Claimant alleges he/she did not sign the document.

Claimant does not provide us with the documentation we need.





CLAIMANT – FALSE CLAIM

Notary's Liability

- Based on the journal entry.
- Usually the evidence shows they did sign.





CLAIMANT – FALSE CLAIM

Technology's Influence

Video would be a deterrent.

 Assuming video could be recovered, it would be conclusive as to the claimant's signature.





CAPACITY SCENARIO

- Claimant alleges signer did not have mental capacity to sign.
- Typically a power of attorney or will.
- Claim typically arises after death of signer.





CAPACITY SCENARIO

Generally ... Not notary's duty to determine signor's capacity.

Notary's liability may hinge on:

- the degree of capacity
- the laws of the state.





CAPACITY SCENARIO

Technology's Influence

 More difficult for the notary to determine capacity - remotely

 Video might be analyzed by experts later - could be detrimental for the notary

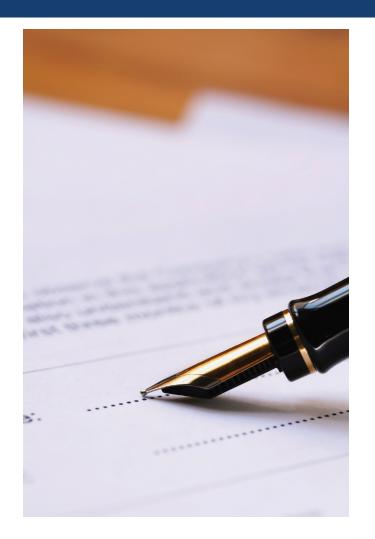




CREDIBLE WITNESS

- Signer does not appear
- 3rd party (spouse, friend) appears with signed document

- 3rd Party attests the signer signed the document



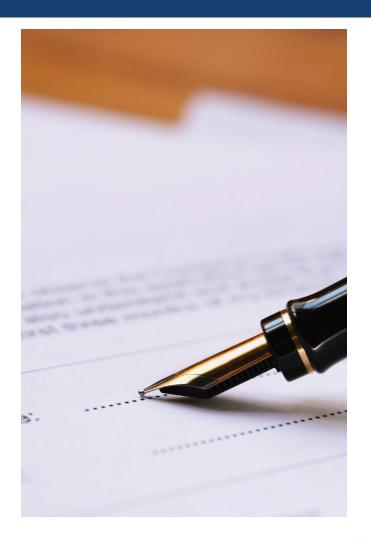


CREDIBLE WITNESS

Technology's Influence

 Should not affect outcome

 Video might be a deterrent here





OTHER CONCERNS

- Demographics
- Costs

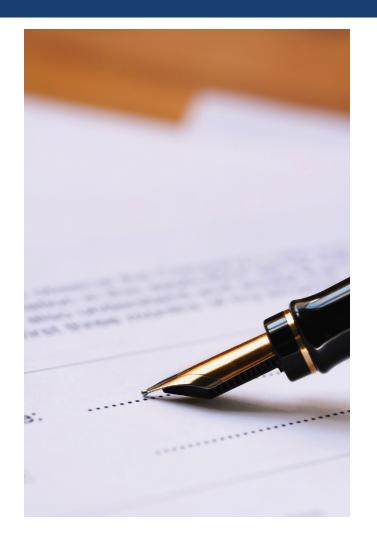
- What state has jurisdiction?
- Education





BENEFIT OF A BOND

- Bonds fill gaps of uncertainty
- Bonds require the notary to have a stake in the game
- Bonds are a financial instrument to protect the public





COMMERCIAL SURETY SUMMARY

