

National Association of Secretaries of State

2017 Remote Notarization

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INTRODUCTION

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

MERCHANTS
BONDING COMPANY™

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

Q & A?

Thank you!

