

Legal by Notarization

I honestly cannot count the number of times I've been asked the question, "Once you notarize my document, will it be legal?" If I were to guess, I'd say I'm asked at least once a week (during a slow week). It seems people feel that a notary public can do the same thing an attorney does, but at a cheaper price.

There is a general misconception that a notary public stamp on any document automatically makes the document legally binding, and the document is able to "hold up in court." I am not sure where or when this myth started, but as notaries, we need to make sure we are not doing anything to perpetuate that myth. I warmly refer to this myth as the "Legal by Notarization" myth or "LBN."

I first encountered the LBN myth several years ago. I received a phone call from an individual who was in the process of selling a vehicle, and he wanted the bill of sale notarized. When I arrived at the meeting location we exchanged pleasantries, and I asked to see the bill of sale. I was handed a handwritten document explaining the terms of the sale of the vehicle. The document did not include any notarial wording, so I explained to the gentleman who had hired me (Mr. Client) that I would need to attach a certificate to the document, either an "Acknowledgement" or a "Jurat." I explained the purpose for the documents and asked which he would prefer to use. Of course, Mr. Client's next question was "which is more legal?" Mr. Client then went on to explain the purpose for getting the document notarized was to make sure the document was legal and would "hold up in court."

To avoid an "unauthorized practice of law (UPL)" situation, I had to explain to Mr. Client that if he wanted a legally binding document that would "hold up in court," then he would need to contact an attorney. I also explained the notary public's role was to serve as a disinterested party, properly verify the identity of the document signers, administer an oath, or acknowledge that the document was signed willingly by the person(s) who were required to physically appear before the notary public, and record the signing of the document in the notary public's journal. After I explained all of this, Mr. Client finally chose a certificate, and we were able to proceed with the signing and notarization of the Bill of Sale.

I'm pretty sure that even though I was not able to guarantee Mr. Client that his bill of sale would hold up in court, he still felt more comfortable about the sale after having the document notarized. I'd like to think that this was attributed to the fact he was able to make an "informed" decision about the notarization process.