

Illinois Court Case

Appellate Court Ruling - *Vancura v. Katris*

Effective December 26, 2008

Setting a precedent for expanded Notary employer liability, the Illinois Appellate Court in *Vancura v. Katris* ruled that an employer had direct liability for negligent Notary training and supervision based on the common law. In the ruling, an employer of Notaries was held directly liable for damages resulting from its Notary employee's notarization of a forged signature on a mortgage assignment.

Anyone who employs a Notary would be well-served to identify the many reported missteps taken by the Notary employer in the *Vancura* case in order to avoid potential liability for the negligent acts of its Notary employees. Significantly, the Court determined that an inadequately trained or supervised Notary employee poses the type of danger or risk of harm from which employers have a duty to protect third parties.

In defining the applicable standard of conduct for Notaries and Notary employers, the Court looked beyond statutory language – particularly that articulated in state notarial legislation – to available professional codes and other common law sources.

This ruling:

- Affects all Illinois Notaries, who may no longer use the inadequacy of local statutes as an excuse to ignore widely-recognized common law best-practice standards, such as safeguarding one's seal
- Recognizes a common law duty of employers to prevent harm to third parties caused by inadequately trained and supervised Notary employees
- In the absence of statutory rules, directs Notaries to look for guidance to such widely-recognized standards as the National Notary Association's Model Notary Act and its Notary Public Code of Professional Responsibility
- Potentially affects Notaries and employers of Notaries nationally