



Fleury, Comery LLP
Barristers & Solicitors

AFFIDAVITS, STATUTORY DECLARATIONS, AND NOTARIZED DOCUMENTS

We are frequently asked to commission or “notarize” documents. We hope the following short memorandum and attached form will assist our clients to prepare some of these documents on their own and thereby reduce legal expense.

What Are Affidavits And Statutory Declarations?

In court, you give oral evidence “under oath”. The sanction against telling falsehoods is the criminal charge of perjury. Statutory Declarations and Affidavits are simply written statements having the same effect and penalty. Affidavits are generally used for court purposes. Statutory Declarations are more general and could be used in many contexts, such as real estate. Furthermore, a “Statutory” Declaration does not have religious connotations: under law, you are permitted to make statements “knowing that they are of the SAME EFFECT as if made under oath”. (*Canada Evidence Act*, Section 41.) You must execute such documents before a Commissioner or Notary Public.

What Is A Commissioner?

A Commissioner is a person authorized by the Province of Ontario to take your oath or declaration when you sign an Affidavit or Statutory Declaration. The Commissioner then certifies that they have done so in the “jurat” at the bottom of an affidavit or statutory declaration. All lawyers, judges, justices of the peace, and certain other judicial officers are commissioners for life. Other persons may apply and receive time-limited commissions. For example, many legal secretaries are commissioners, and large companies often have an employee commissioner.

What Is A Notary Public?

A Notary Public is a person authorized under the *Notaries Act* to do various things, including commission documents, but also including certification of documents as true copies and to verify signatures. Again, all lawyers and judicial officers are notaries for life. The requirements to become a notary are more stringent than for a commissioner and accordingly there are few non-legal notaries. Quite frequently the persons requesting a document will ask that it be “notarized” as opposed to simply commissioned, because they want to be sure that the person taking the oath was a lawyer.

Authentication

The Government of Ontario maintains records and a list of all persons who are authorized as commissioners or notaries public. Sometimes (particularly when the document is to be used in a foreign jurisdiction) there will be a requirement that the appointment of the commissioner or notary be “authenticated” by the Government. Documents can be authenticated in Ontario through the Management Board of Cabinet, 77 Granville Street, 9th Floor, Toronto, Ontario, M5S 1B3, telephone (416) 325-8416.

Our Fees For Commissioning And Notarizing

If a client requests that we prepare documents such as a Statutory Declaration or Affidavit, our fees are based on the time spent. Typically, this may amount to between \$75.00 and \$150.00. On the other hand, if a document has already been prepared and filled out, clients may attend on us simply to take their oath or declaration. We charge \$25.00 to commission a document and \$40.00 to notarize it, provided that we do not have to revise the document in any way.

Some Typical Affidavits and Declarations

We have attached in “pdf” format a blank form of Statutory Declaration. The next memo (see <http://www.fleurcom.on.ca/PDFs/memo30.PDF>) contains typical wording of commonly requested declarations and affidavits.

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