

November 2018

# The National NOTARY®

NationalNotary.org

## IN THIS ISSUE

- 15 Notary Expert Michael Closen Highlights Common Mistakes, Best Practices
- 18 Online Marketing Pitfalls
- 20 Notary Resources: Where To Find Help When You Need It

## AVOIDING Conflicts of Interest IN THE WORKPLACE



May 5-8

# NNA 2019 ST. LOUIS

CAPTURE THE SPIRIT

Make plans to attend

## The Notary Event of the

### Break Out of Your Routine!

Join us in one of the most historic U.S. cities for an unparalleled educational and networking opportunity for Notary professionals that you simply won't find anywhere else.



### Early Bird Pricing for NNA® Members\* Ends Soon

Book now to take advantage of our Early Bird rate of \$549. Members can also make payments on an installment plan. Pricing will increase January 1 by \$100.

\*Check online for non-member pricing.





# Year!

## Reserve Your Room

**The Marriott St. Louis Grand**  
Enjoy direct access to all Conference activities plus all the luxury this contemporary oasis offers. A special NNA room rate of \$159 per night, plus tax, is open to all Conference attendees, including:

- Discounted on-site parking.
- Discounted guestroom Wi-Fi internet access.



Rising up from the heart of the Washington Avenue Historic District, the Marriott St. Louis Grand invites guests to explore. Nearby attractions include the iconic Gateway Arch, City Museum, Busch Stadium, and the St. Louis Zoo, as well as numerous restaurants and shops.

## Register Today!

[NationalNotary.org/NNA2019](http://NationalNotary.org/NNA2019)  
1-844-4NNA-CONF

   #NNA2019





**MILT VALERA** Chairman

**THOMAS A. HEYMANN** President and Chief Executive Officer

**DEBORAH M. THAW** Vice Chair and Executive Vice President

**ROB CLARKE**  
Vice President and  
Chief Financial Officer

**DAVE STEPHENSON**  
Vice President and  
Chief Information/Technology Officer

**JULIE HERTEL**  
Vice President, Human Resources

**WILLIAM A. ANDERSON**  
Vice President, Government Affairs

**THOMAS K. HAYDEN**  
Vice President, Marketing

**STEVEN BASTIAN**  
Vice President, Product Management

**CHRIS STURDIVANT**  
Vice President, Business Development

**KELLI BARABASZ**  
Vice President, Customer Care

**PHILLIP BROWNE**  
Vice President, Communications

**THOMAS A. HEYMANN**  
Executive Publisher

**PHILLIP BROWNE**  
Editorial Director

**MAGGIE SOLDANO**  
Creative Director

**THOMAS HAYDEN**  
Advertising Director

**MICHAEL LEWIS**  
Managing Editor

**DAVID S. THUN**  
Associate Editor

**MOSES KESHISHIAN**  
Social Media Manager

**KAT GARCIA**  
Content Strategist

**CINDY MEDRANO**  
Social Media Coordinator

**DANIEL LAVENTURE**  
Graphic Designer

**JAN BRATSLAVSKY**  
Graphic Designer

**AUSTIN ANDERSON**  
Contributing Designer

**SHERYL TURNER**  
Copy Editor

**VANESSA SANTANA**  
Production Coordinator

**YANCY LUNA**  
Production Coordinator

**AMY LUZETSKI**  
Traffic Coordinator

**MILT VALERA**  
Founding Editor and Publisher

## OUR MISSION

The National Notary Association is committed to the education and service of Notaries throughout the United States. As the foremost authority on the American Notary office, we are dedicated to imparting knowledge, understanding and unity among all Notaries, and instilling in them the highest ethical standards of conduct and sound notarial practice.

## NNA® HOTLINE (888) 876-0827

Hotline@NationalNotary.org  
Monday–Friday 5 a.m.–7 p.m.  
Saturday 5 a.m.–5 p.m.  
Bitly.com/NNALHotline  
Answers to your questions about notarization

## CUSTOMER CARE (800) 876-6827

Services@NationalNotary.org  
NationalNotary.org  
Service on membership, supplies, insurance, training

## OUR CORE VALUES

The National Notary Association serves its membership by promoting five essential core values that empower and protect Notaries when they assume their responsibilities of the office and perform their official notarial acts.

Our Core Values of Membership promote:

- **Compliance** with state laws and regulations
- **Liability Protection** for Notaries, signers and employers
- **Risk Management** to reduce fraud and identity crimes
- **Professionalism** with reliability, competence and integrity
- **Opportunities** to increase earning potential

## TRUSTED NOTARY (877) 876-0827

TrustedNotary@NationalNotary.org  
NationalNotary.org/Business  
Supplies, training, insurance and compliance programs for businesses

## SIGNING PROFESSIONALS

### SIGNINGAGENT.COM

(800) 876-6827  
For mortgage finance companies seeking a qualified professional to facilitate loan signings

## NATIONAL NOTARY FOUNDATION

Bitly.com/NNFoundation  
Make a difference in philanthropic causes

## SOCIAL MEDIA

NationalNotary.org/SocialMedia

9350 De Soto Avenue  
Chatsworth, CA 91311

(800) US NOTARY  
(800) 876-6827  
NationalNotary.org

(818) 739-4000  
(818) 700-1942 fax

Publications@NationalNotary.org  
NationalNotary.org/Bulletin  
Article submissions, feedback, letters

The National Notary (ISSN 0894-7872), November 2018 Vol. LVIII, No. 6, is published bimonthly by the National Notary Association, 9350 De Soto Ave., Chatsworth, CA 91311, a non-profit organization, to educate Notaries about the legal, ethical and technical facets of performing notarial acts and to instill in them a sense of self-respect and professional pride in their important role of public servant. • ALL RIGHTS RESERVED. Reproduction in whole or in part without the express written permission of the publisher is prohibited. • SUBSCRIPTION to all NNA members in the United States and its possessions comes out of their \$59 annual dues. International subscriptions are \$76 annually. Six dollars of membership dues are designated for a one-year subscription to the publications. • For address changes, send new and old addresses including ZIP code, suite or apartment number, and mailing label, if possible, to the NNA, PERIODICALS POSTAGE paid at Chatsworth, CA, and at additional mailing offices. • POSTMASTERS: Please send address changes to Customer Service, 9350 De Soto Ave., P.O. Box 2402, Chatsworth, CA 91313-2402.

## TABLE OF CONTENTS



## FEATURES

# 15

## Notary Expert Michael Closen Highlights Common Mistakes, Best Practices

*Michael Closen*

Most attorneys either become Notaries or supervise staff Notaries. But when it comes to understanding the ins and outs of notarization, too many lawyers miss the mark. Notary law expert Michael Closen explores five of the most common missteps his fellow lawyers commit.

# 18

## Online Marketing Pitfalls

*Sonita Leak*

For mobile Notaries, blogging and using social media offer great avenues to marketing your services to the public. While there are many effective techniques for using the internet, it is just as important to avoid the pitfalls. South Carolina mobile Notary Sonita Leak discusses some of the mistakes that can derail your efforts.

# 20

## Notary Resources: Where To Find Help When You Need It

*NNA Staff*

Every Notary wants to do their job well and avoid liability. But in today's world, it can be a challenge to keep up with the new laws, guidelines and standards of practice. Don't worry. There are a lot of free and low-cost resources at your fingertips.

## COVER STORY

# 10

## Avoiding Conflicts Of Interest In The Workplace

*David Thun*

Most Notaries learn early about the pitfalls of conflicts of interest. The caution is simple: If you notarize a signature on a document in which you are named, which you have signed or in which you receive any financial or beneficial interest, the document could be challenged, invalidated, and lead to other costly legal issues. But what seems simple in theory might not be so simple in practice. That's especially true with conflict of interest issues in the workplace, where the majority of U.S. notarizations are performed on any given day. *The National Notary* took a deep dive into workplace conflicts of interest, and our experts provide the following guidance.

13 State Conflict Of Interest Laws

14 The Price Of A Conflict Of Interest

## DEPARTMENTS

YOUR COMMUNITY	6
ASSOCIATION NEWS	8
YOUR WORLD	9
BEYOND THE BASICS	23
HOTLINE	24
NOTARY ESSENTIALS	26



## Notaries Discuss New Seal How-To Videos

**NOTARIES ON YOUTUBE** were treated to a series of videos on how to use, clean and re-ink their stamp. Watch our videos by visiting [bitly.com/notarystampvideos](https://bitly.com/notarystampvideos).

"These are great tips! Thank you!"

*Julie Rice, Playa Del Rey, CA*

"That is why I started carrying a legal-size clip board. So many people nowadays have artfully uneven table tops."

*Meigan First, Gilbert, AZ*

"Great!! I really love my new Style Stamp."

*Patricia Gardner, Irmo, SC*

## California Immigration Consultants Saved

**NOTARIES AND IMMIGRATION CONSULTANTS** react as a bill that would have eliminated Immigration Consultants in California failed to pass the State Senate.

"The effort to eliminate fraud should be geared towards improving the program rather than eliminating it. There should be minimum education requirements for immigration consultants and continuing education on immigration matters, including courses on ethics. Immigration consultants should be allowed to work with attorneys to minimize the unauthorized practice of law. There are many things that can be done to improve the program and eliminate or minimize some of the failings so that we can provide trustworthy and ethical service to our clients.

Eliminating it would have been a huge mistake because people would not have had access to low cost assistance for their immigration needs. And it would not have ended any incidents of fraud. On the contrary it would have been worse."

*Manuel H Gomez, CA*

"We won. I did my part in this matter and I cannot say how happy I feel. We did it. If it had passed, this would have cause extreme hardship to the immigration community. Thank you for your efforts."

*Dennise Sanchez, CA*

"I would like to say thanks for all the effort... they should go against unlawful providers to stop the frauds against people who trusted them."

*Hania M Torres, CA*



## Giving Exceptional Customer Service



**WHAT'S THE MOST EXCEPTIONAL THING you've done as a Notary to provide a signer with quality customer service?**

"I completed a signing for an elderly lady who lived alone. She was from another state. She expressed how she often gets lonely so I found her a senior activity center nearby. I contacted them and referred her. They have daytime bingo and organize field trips. I love providing exceptional

customer service and going above and beyond my description if necessary."

*Mye Allen @mnmsservices, Humble, TX*

"I met a client at the airport whose flight was delayed and needed to have documents signed, dropped and delivered the next day. I sent her my picture so she'd know who I was, picked her up from the airport and called my normal drop spot to let them know I was coming. The drop spot had my envelope ready and had a table set aside for the signing. After completing the signing (all of two minutes), I dropped the client off at her hotel. Suffice it to say the title company handling the paperwork now gives me 10 to 15 closings a month."

*Eric Salas @salybkny73, Brooklyn, NY*

"I went to a hospice center to notarize a client's will, and at the end he asked me to pray for him because he felt 'at peace' while I was notarizing the documents."

*J&P Multiservices @jpmultiservices, Marietta, GA*

## NNA Community Shares Views About Accepting Expired ID For A Notarization

**NOTARIES ARE PRESENTED WITH EXPIRED IDs more often than you might think.**

"This is the hardest when the signer is in a care facility or a hospice. When they are not ambulatory at all, they have no way to get to the DMV for an ID card, and most DMV offices don't have a mobile service. I think that care facilities should issue a form of valid ID for the residents the same way that prisons do. It would help us Notaries a great deal."

*Catherine*

"Every state issues a state ID card. You don't have to get a driver's license. Get a state-issued ID if you're not driving. They are usually good for 5-10 years depending on the state. We Notaries should not be so eager to make a buck that we compromise the rules of our states. Remember if your


notarization goes south, it will be you they sue. Going to court is not fun."


*Bonnie*


"Interesting this should come up. In California, an ID is acceptable five years from date of issue, not expiration. I had to keep that straight in my head. I had to turn away a client because of that. They had no other acceptable ID or credible witnesses. In the same week, another Notary in our office came to me with the same problem. Fortunately, her client knew someone that the Notary also knew. They brought him in as a credible witness. So, point one — five years from issue not expiration; and point two — if no other acceptable form of ID can be presented, ask about a credible witness. You never know."


*Nanette*


**Join our online communities and interact with the NNA and Notaries everywhere!**


 [facebook.com/nationalnotary](https://facebook.com/nationalnotary)


 [linkedin.com/company/national-notary-association](https://linkedin.com/company/national-notary-association)


 [twitter.com/nationalnotary](https://twitter.com/nationalnotary)

 [plus.google.com/+nationalnotaryorg](https://plus.google.com/+nationalnotaryorg)

 [instagram.com/nationalnotary](https://instagram.com/nationalnotary)

 [pinterest.com/nationalnotary](https://pinterest.com/nationalnotary)

 [youtube.com/nationalnotary](https://youtube.com/nationalnotary)

 [yelp.com/biz/national-notary-association-chatsworth](https://yelp.com/biz/national-notary-association-chatsworth)



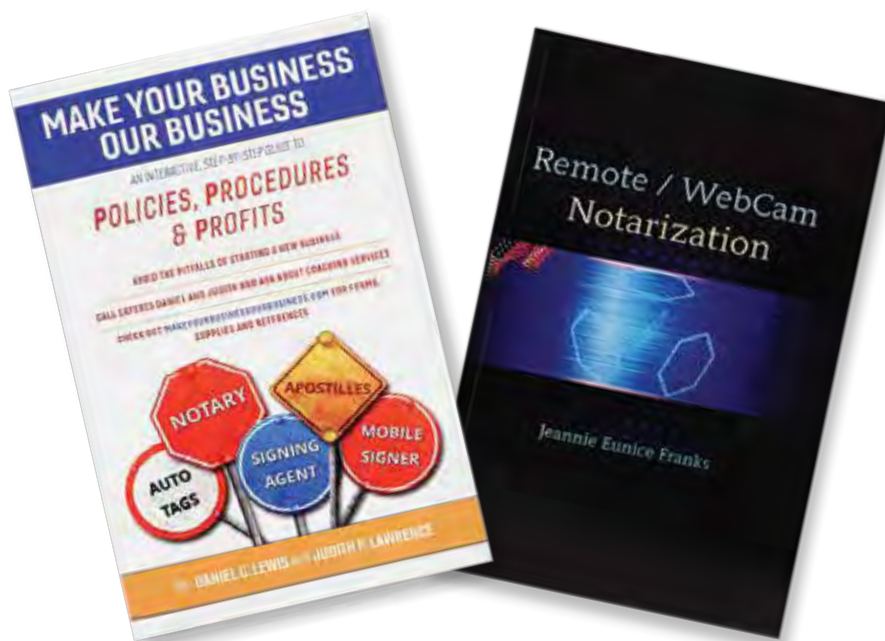
### New Books For Notaries, By Notaries

WE REGULARLY ASK NOTARIES ACROSS the country to share their insights and expertise in *Notary Bulletin* articles. These posts, which are written by Notaries who are in the field every day, are some of our most popular blog content. So, we've taken the opportunity to highlight a few Notaries who have really come into their own by publishing two books you'll want to have on your shelf.

2010 Notary of the Year Daniel Lewis and NNA Notary Ambassador Judith Lawrence, successful Notaries in different states, co-authored the book, *Make Your Business Our Business*. Whether you're just starting out or you've been in the Notary

business for years, the wisdom in this book will help you make positive changes in your work life. It also provides tools to help you get out of your own way and achieve higher levels of success.

With remote notarization gaining traction across the nation, many Notaries want to learn more about the nuts and bolts of the digital world. *Remote / WebCam Notarization*, by Virginia eNotary Jeannie Eunice Franks, dives into the good habits and proper steps Notaries can follow to add more layers of security for their online signers.



### Putting Customers First

**THE NNA'S COMMITMENT to putting our customers first is gaining international attention.**

For the last 18 years, thousands of global customer care professionals have gathered for Customer Contact Week (CCW) to discuss ways to provide the best customer experience. The culture that Vice President of Customer Care Kelli Barabasz has nurtured in her team at the NNA caught the eye of the CCW organizers. In October, she spoke at the CCW conference in Austin, Texas, where she discussed building a customer relationship management system.

Barabasz was also a Key-note Panelist, joined by executives from Google, the National Basketball Association and StubHub. The panel addressed key challenges around setting up teams, embracing inclusivity and diverse cultures and establishing the customer-centric culture necessary for success.



Kelli Barabasz

### Tis' The Season Of Giving

IT'S ALSO THE SEASON FOR GRATITUDE, and we're grateful for the Notary community's boundless generosity. With your support, the National Notary Foundation donated \$10,000 to City of Hope for breast cancer treatment research. The Founda-

tion also donated \$1,000 to The Canterbury School in Florida on behalf of 2018 March Fong Eu Achievement Award recipient, Bob Murphy. You can read his story about pioneering the mobile Notary profession in the May 2018 issue of *The National Notary*.





## Rising Prices, Interest Rates Curtail Home Sales

**A NATIONWIDE DROP IN HOME SALES during August and September can be attributed to rising mortgage rates and increasing home prices making purchases less affordable, according to a report from the National Association of Realtors (NAR).**

“This is the lowest existing home sales level since November 2015,” said Lawrence Yun, NAR chief economist. “A decade’s

high mortgage rates are preventing consumers from making quick decisions on home purchases. All the while, affordable home listings remain low, continuing to spur underperforming sales activity across the country.”

Overall mortgage activity is expected to remain flat for the coming year at approximately \$1.63 trillion, according to the Mortgage Bankers Association.

Notary Signing Agents should prepare contingency plans for possible slowdowns in loan assignments, such as doing marketing outreach for assignments from other local businesses including law firms, health care facilities and other organizations that require mobile Notary services.

### Mortgage Origination Forecast

2018	\$1.636 trillion
2019	\$1.63 trillion
2020	\$1.74 trillion

Source: Mortgage Bankers Association

## California Bill To Ban Immigration Consultants Rejected

**A BILL THAT WOULD HAVE banned immigration consultants in California was defeated in September during an 11th-hour vote in the state Senate — allowing hundreds of law-abiding, low-cost immigration document service providers to keep their businesses open.**

Assembly Bill 638 was intended to reduce immigration fraud committed by con artists who frequently advertise using the misleading title “*notario publico*” to pose as qualified immigration law professionals. However, the measure would have done little to stop unlawful providers and would have put hundreds of legitimate, bonded and registered immigration consultants and their employees out of business.

“Since the mid-1980s, registered and bonded immigration consultants have served hundreds of thousands of immigrants wanting to make California their home,” said Bill Anderson, the NNA’s VP of Government Affairs. “We’re grateful that the value of the immigration consultant profession was reaffirmed by the Senate in the defeat of this legislation.”

## Pennsylvania Notary Loses Commission For Notarizing Dead Woman’s Signature

**A PHILADELPHIA NOTARY PERMANENTLY lost her commission after notarizing a woman’s signature without the woman being present — because it turned out that the signer was deceased.**

According to state records, Melba Terrell also failed to properly record information in her Notary journal. Terrell’s journal records also showed that she charged fees to customers in excess of the maximum amount permitted under Pennsylvania law, in addition to notarizing the deceased woman’s signature on a deed transfer.

Failing to require a signer’s personal appearance is one of the most serious errors a Notary can make. Without personal



appearance, the Notary has no way to verify the signer’s identity or confirm the signer acted willingly. Notarizing a signature without the signer present creates a grave risk of document fraud and can potentially lead to serious civil and even criminal penalties against the Notary.

# AVOIDING Conflicts of Interest IN THE WORKPLACE

By David Thun



**M**OST NOTARIES LEARN EARLY ON THAT NOTARIZING THEIR OWN SIGNATURE is a conflict of interest. So, too, is notarizing someone else's signature on a document that names you or gives you a financial or beneficial interest.

Doing any of those things could well lead to the document being challenged or invalidated — and entangle you in legal trouble — because they violate your essential role as an impartial, third-party witness to document signings. But what about notarizing on the job?

Imagine this scenario, which occurs countless times a day across the country: Your boss hands you a stack of documents she has signed. They could be sales agreements, loan papers or legal documents. In any event, they're the routine business of your employer, the business that generates profits for the company and bonuses for its employees.

While you don't benefit directly from these documents, your boss determines how big a raise you get and whether you receive that promotion. Is this a conflict of interest?

The question is more than a hypothetical. The NNA estimates that approximately 80 percent of the nation's 4.4 million Notaries got their commissions to notarize for their employer. These countless daily transactions performed by the nation's Notary workforce are essential to the smooth functioning of life and law, as well as growth of American commerce and maintaining consumer confidence.

That's because all parties in a transaction must have absolute trust that the transaction is legal, and the Notary's work was sound. Maintaining this level of trust is tricky as the lines orbiting around conflicts of interest — often referred to as "disqualifying interest" — can be blurred when you notarize at work.

What if your boss, who pays your salary, is named in the document? Is the signer a client that your company represents in legal or business matters? Can you notarize signatures on ballot petitions if you work for the political action committee that advocates for the issue at hand? These situations can be confusing or risky. And even if you did everything right, just the appearance of a conflict of interest could put a transaction at risk.

*The National Notary* took a close look at five specific scenarios Notaries often ask about, and our experts provided the following guidance:

Even if you did everything right, just the appearance of a conflict of interest could put a transaction at risk.

## Is Notarizing For My Employer A Conflict Of Interest?

Notaries call the NNA® Hotline every week asking if notarizing for their employers is a conflict of interest. As the scenario above describes, callers are concerned that they might be receiving a financial or beneficial interest because they are notarizing signatures on business deals for their bosses, staff members or clients and, as a result, they receive a paycheck for their work.

While their concerns are valid, the risks are minimal when notarizing documents for your employer if you take the right precautions. You should not notarize signatures on work-related documents if you are named individually or as a company officer, or for which you receive a commission. These situations are ripe court challenges, but they can easily be remedied by finding another, impartial Notary.

*The Notary Public Code of Professional Responsibility* posits the following standard: "The Notary who is an employee shall be permitted to notarize for any officer, executive, supervisor,

coworker, subordinate, client or customer of the employing organization, as long as the Notary will not gain a commission, bonus or other consideration as a result of the notarial act, other than the regular salary or hourly wage and the statutory notarial fee."

Several states specifically permit employees to notarize work-related documents with certain restrictions:

- **Pennsylvania** — An employee can notarize signatures on company documents unless they have a direct interest in the notarized transaction, directly benefit from the transaction or receive a fee that is contingent on the completion of the transaction.
- **West Virginia** — According to the state's Notary Handbook, an employee can notarize signatures on documents prepared by an employer as long as it is part of the Notary's regular job duties and the Notary receives no extra compensation.
- **Florida and Hawaii** — An employee can notarize for their company provided that the Notary receives no benefits

## The Notary Public Code of Professional Responsibility: Guiding Principle II

The Notary shall act as an impartial witness and not profit or gain from any document or transaction requiring a notarial act, apart from the fee allowed by statute.

other than his or her salary and the statutory notarization fee. Hawaii specifically follows *The Notary Public Code of Professional Responsibility's* Standard II-E-1.

The general rule doesn't always apply, and Notaries working in specific industries or performing certain types of work need to pay special attention to avoid potential conflicts of interest.

## The Murky Waters Of Banks And Finance

Banks and financial institutions across the country employ hundreds of thousands of Notaries to handle millions of notarizations annually.

Conflict of interest issues in banks generally revolve around loans and

with a Notary commission will notarize the customer's signature, and then the Notary will have their own signature on the document notarized by another person. We told him, and we tell everybody, that you can't be the loan officer and Notary on the same transaction — end of story.”

Even if the notarization is performed properly, the mere appearance of a conflict can send the transaction into a tailspin and, ultimately, make it avoidable. The simple solution in these cases: Don't act as the Notary if you are named in the document or receive a benefit from the transaction. Just find another Notary in the office.

A couple of states — California and Kansas, for example — allow a loan officer who has a direct interest in

decisions and the financing of all of it. They can involve entire families in which loved ones often disagree over a host of issues. It gets even more complicated if some family members are cut out of the decision-making. And the patient's age, illness, mental state or medication can affect their ability to communicate or understand documents. These matters alone make health-related notarizations more vulnerable, so avoiding conflicts of interest is vital.

It's fairly common, for example, for seniors moving into a nursing home or managed care facility to sign over assets to buy their space and pay for their care. It's also common to form residents of these facilities to sign health care directives, medical powers of attorney and other documents related to their well-being.

A notarization that even hints at the possibility of a conflict of interest could be challenged. If you are a Notary working in a hospital or medical office, your best bet would be to call a mobile Notary to handle these types of transactions instead of someone on staff.

Many states also have laws or elder abuse regulations concerning health care documents — and these rules aren't always explicit. For example, California Probate Code stipulates that if a patient in a skilled nursing facility executes a written health care directive, the document isn't valid unless a patient advocate or ombudsman is present as a witness in addition to the Notary.

San Diego attorney and Notary Mike Phillips, who serves as a patient advocate for residents of mental health facilities, recommends that Notaries working in the health care field be vigilant for signs of conflict of interest when a patient's document involves a large financial transaction.

“The general public assumes that health care providers are all about the best interests of the patient, and they often are, but the patient has the

You can't be the loan officer and Notary on the same transaction — end of story.

investments, which account for trillions of dollars in transactions each year. And while these notarizations are mostly legitimate, they can be easily questioned if you don't take precautions.

Many bank executives and loan officers have Notary commissions. And due to lack of training and/or a desire to perform quick, efficient customer service they commonly notarize for their clients. But bank loan officers are often named in these documents, and they receive commissions for their transactions, making these risky transactions a big no-no.

“I had a bank executive call recently asking about this conflict of interest issue, and he said they had been doing it this way for 30 years,” said Lori Hamm, Notary Program Specialist for the Montana Secretary of State's office. “A bank loan officer

the transaction to also act as the Notary for the transaction. But even here, it is still a recommended standard of practice to have another Notary step in.

## Health Care Notaries Face Unique Issues

So far, we've focused on potential conflicts solely involving financial transactions and interests. When it comes to the health care industry, for example, financial matters intersect with decisions about a person's health, well-being and quality of life. Potential conflicts of interest revolve around powers of attorney, advance directives, consents for treatment and asset transfers.

Whether you're dealing with end-of-life situations, long-term care or routine medical treatment, people are signing documents revolving around their care, wishes, ability to make

## Sample State Laws Addressing Professional Conflict Of Interest

Some states directly address unusual professional conflict of interest situations for Notaries in their statutes. Here are a few notable examples. More information on conflict of interest laws in other states is available at [bitly.com/StateNotaryLaw](http://bitly.com/StateNotaryLaw).

### CALIFORNIA

California law provides an exception to disqualifying interest for Notaries also acting as agents, employees, insurers, attorneys, escrow officers and lenders on behalf of a person with a financial or beneficial interest in a document. A Notary acting in one of these capacities is permitted to notarize the signature of a client the Notary represents (GC 8224).

### FLORIDA

Notaries may notarize signatures for their employer without being disqualified, provided that the Notary receives no benefits other than their salary and the statutory notarization fee (FS 117.107[12]).

Florida Notaries who are attorneys may notarize a signature of a client without conflict of interest as long as the attorney has no interest in the document other than the fee paid by the client for legal services and the statutory Notary fee (FS 117.107[12]).

### MAINE

A Notary employed by or serving as an officer of a petition organization or as a treasurer, principal officer, primary fundraiser or primary decision maker to a ballot question committee or performing any services other than notarizing for such organizations may not notarize or certify an election petition. In addition, a Notary may not notarize if they are employed or compensated by a petition organization for any purpose other than notarial acts, provides services or offers assistance to a ballot question committee influencing a ballot measure or is employed by or receives compensation from the ballot question committee for any purpose other than performing notarial acts (21-A MRSA 902 and 903-D[1]).

### MINNESOTA

A person named as a health care agent or alternative agent for a health care power of attorney document may not notarize a principal's signature on the same health care power of attorney. An employee of a health care organization providing care to a patient may notarize the patient's signature on a health care directive, provided the employee is not named in the document as a health care agent or alternative agent (MS 145C.03, subdivision 3).

### NEBRASKA

State law permits exceptions to disqualifying interest rules in the following situations:

- An attorney; an employer or associate of an attorney; or a stockholder, officer or employee of a professional law corporation who is a Notary may notarize for the professional activities of that attorney or corporation (RSN 64-211[1]).
- A real estate agent or broker, or an employee or associate of such who is a Notary, may notarize for clients (RSN 64-211[2]).
- An employee, member, shareholder, officer, agent or director of an insurance company, cooperative credit association or credit union who is a Notary may notarize for the company, association or union (RSN 64-212 and 64-213).
- A stockholder, officer or director of a bank who is a Notary may notarize for the bank (RSN 64-214).
- An employee, shareholder, director, agent or officer of a savings and loan association or industrial loan and investment company who is a Notary may notarize for the association or company (RSN 64-215).

### PENNSYLVANIA

Notaries may not take an acknowledgment on a power of attorney if the Notary is named as an agent in the power of attorney document or serves as a witness to the signing of the document. In addition, an attorney who is a Notary may take the acknowledgment provided the attorney is not one of the witnesses to the power of attorney (20 Pa.C.S. 5601[b][3]).

A Notary who is an officer, director or employee of a company that is a party to a notarized transaction may notarize for a transaction involving the company, unless the Notary personally benefits from the transaction other than receiving a fee that is not contingent on the completion of the notarized transaction. A Notary who is a shareholder in a publicly traded company may notarize when the company is named as a party to the notarized transaction (57 Pa.C.S. 304[a][2]).

### TEXAS

Texas allows employees of corporations to notarize an acknowledgment or proof of a written document in which the employee's corporation has an interest. Texas also permits a corporation shareholder to notarize corporate documents unless the corporation has 1,000 or fewer shareholders and the Notary owns more than one-tenth of one percent of the corporation's issued and outstanding stock (Civil Practices and Remedies Code 121.002). Texas Notaries are not disqualified from notarizing solely on the basis of the Notary owning stock in certain trust institutions that are an interested party in the transaction (Texas Finance Code 199.002). ■

right to push back if they disagree regarding care,” he said. “A Notary is not expected to be an advocate, but one more check and balance certainly doesn’t hurt.”

## The Conundrum Of Attorneys Notarizing For Clients

Attorneys handle a wide variety of legal issues and, of course, act as their client’s advocates. In fact, they often handle their clients’ most important affairs, such as estate planning, wills, trusts, powers of attorney, prenuptial agreements, contracts, affidavits and plea forms, just to name a few. And they can earn a nice living doing it.

But is it a conflict for an attorney to notarize their clients’ signatures on documents they’ve prepared?

As trained and licensed legal professionals, attorneys are often granted

notarial powers or can apply to become a Notary. But the rules for them may be different. Many states exempt lawyers and certain other professional agents from Notary-related conflict-of-interest rules. For example, in California, a Notary who is an attorney may notarize for a client if they have no direct financial or beneficial interest in the client’s transaction. But those rules are not absolute in every state, and there could be serious legal ramifications if an attorney notarizes the signature on a document in which they are named — even if no impropriety was intended.

According to attorney and Notary law scholar Michael Closen, Notary-lawyers rarely undergo in-depth training in Notary rules and procedures. That makes it easy for them to make mistakes.

One alternative to help avoid problems is having a legal secretary or paralegal notarize signatures for clients instead of the attorney. For attorneys who are practicing on their own or in small firms without a staff, it’s a good idea to keep the contact information of several mobile Notaries.

## May A Worker For A Political Advocacy Group Notarize Campaign Documents?

Few lines of work are fraught with more challenges to notarizations than politics. Faulty notarizations on election forms and petitions can, and often do, lead to election results being challenged in court.

In this polarized political environment, factions increasingly are looking for reasons to challenge a voter initiative or candidate’s place on the ballot, and a faulty notarization is low hanging fruit. In 2012, for example, an incumbent South Dakota state representative almost lost his place on the ballot because his challenger discovered that the representative had notarized his own nomination petition.

If you notarize for a political organization, even the appearance of bias can pose a problem. A politically active Notary might want to sign a ballot petition for a cause they strongly support. However, the petition with the Notary’s signature could be rejected if the Notary also notarizes the signature of the person circulating the petition. Earlier this year, Maine enacted a law prohibiting any Notary employed by petition organizations from notarizing signatures on or certifying election petitions.

Although each of these fields poses distinct challenges for Notaries, the common rule to follow is to obey your state’s Notary laws regarding conflict of interest. And if you aren’t sure if there’s a conflict, stop the notarization until you can get help from a qualified source like your state Notary office or the NNA Hotline. ■

## Galloway v. Cinello: The Price Of Conflict Of Interest



A Notary’s conflict of interest may seem harmless, but it can have messy legal consequences later. West Virginia attorney William Galloway learned that the hard way after his own conflict nearly cost a client \$19,000.

In 1990, Galloway prepared a deed of trust for a sale of property owned by Rose Ann Cinello. Galloway then notarized the signatures of Cinello and the buyers. Months later, the buyers declared bankruptcy.

The bankruptcy court ruled that the deed of trust was invalid because Galloway notarized the signatures while being named as a trustee for the property, creating a conflict of interest under state law. Consequently, Cinello could not collect \$19,000 she was owed from the property sale.

In an interview with *The National Notary*, Galloway said he notarized the signatures because his office Notary was unavailable when Cinello and the buyers arrived to sign them. “Looking back, I wish I hadn’t done it.”

On appeal, the Supreme Court of Appeals of West Virginia [*Galloway v. Cinello*, 423 S.E.2d 875 (W. Va. 1992)] overturned the bankruptcy court’s decision because it would be “unduly harsh” for Galloway’s conflict to invalidate the deed because there was no “claim of wrongdoing, bad faith, or other improper conduct.”

The episode taught Galloway a valuable lesson. “I try to avoid notarizing my own work, and I don’t notarize if I am named in the document.” ■

# LAWYERS AND NOTARIZATION

## **FIVE ALL-TOO-COMMON MISSTEPS**

By Michael Closen



**T TAKES A LOT OF EFFORT FOR PEOPLE TO GET THROUGH THREE YEARS OF LAW** school and pass the bar to become practicing attorneys. And they can take justifiable pride in their accomplishment. There are many lawyers who know their areas of specialty inside out. But when it comes to notarization — a vital element of so many legal transactions — most lawyers just don't get it.

Too many lawyers mistakenly think that they know notarial practice because it is so easy and routine. Yet Notary issues are not easy. Law schools do not teach Notary law and practice. Indeed, as a young law student, I never heard or read a single reference to "Notary" or "notarization." The bar exam does not ask about Notary issues, nor is there a requirement to get Notary instruction as part of mandatory continuing legal education programs. So, most lawyers remain uneducated and indifferent about Notary issues.

Nevertheless, most of us lawyers become Notaries and/or supervise staff Notaries, and virtually all attorneys deal with notarized documents with regularity. So we are obligated as part of their professional responsibilities to know about Notary law and best practices.

Despite this obligation, lawyers routinely cross the line and commit Notary misconduct. It takes many forms, from conflicts of interest [see article on page 10] to outright fraud.

What follows are five of the most common and most serious faults committed by lawyers.

### **1. Notarizing For Absent Signers**

Notarizing documents outside the presence of the signers is arguably the most common — and most serious — violation of Notary law and standards of practice. All too often, lawyers will notarize documents for absent signers — or direct their staff Notaries to do so. Without the signer present, the Notary cannot:

- Confirm the true identity of the signer,
- Assess whether the signer is acting willingly or is mentally competent,
- Administer an oral oath or affirmation (if one is required), or
- Obtain the signature of the signer in a journal entry.

Lawyers take this serious shortcut for their own and their clients' convenience. Lawyers may have

Failure to administer required oaths or affirmations is a serious violation of Notary law, which results in the failure to obtain a meaningful notarization. A jurat, also called a verification on oath or affirmation, is a very special and significant form of notarization because the signer confirms on penalty of perjury that the contents of the document are true and correct. The point of a jurat is to add an extra element to the integrity

It is an absolute rule: the correct date on the Notary certificate is the date of the notarization.

their clients pre-sign documents or even blank pages for later 'notarizations,' or may have clients sign and mail documents without the signers coming to the office for the notarizations. Still worse, lawyers may forge or direct staff personnel to forge the signatures of absent clients on documents and then notarize those documents. Without the signer present for the notarization, it is not valid.

### **2. Skipping Oaths Or Affirmations**

Frequently, lawyers who also are Notaries will fail to administer required oral oaths or affirmations to their clients — or will direct staff Notaries to skip it. Again, it's all about saving time and avoiding inconvenience.

of a document — namely the pledge that its contents are true and accurate. Without the oath or affirmation, the law of perjury does not apply, and the notarization is invalid.

### **3. Doctoring Dates Of Notarizations**

Lawyers sometimes falsify the dates of notarizations. It is an absolute rule: the correct date that must be entered on the Notary certificate is the date of the notarization. And the notarization must be conducted contemporaneously on the date indicated on the notarial certificate. In other words, portions of the notarization cannot take place before, or after, the notarization.

However, many attorneys have little respect for this requirement. They often conduct notarizations when





and how it is convenient for them, not necessarily in one sitting. Attorneys sometimes ask clients to sign blank pages in advance that will be converted to signature pages for documents to which notarial certificates can be affixed later. Or attorneys may direct staff Notaries to sign and seal blank notarial certificates in advance to be filled in later and attached to documents. Even when notarizations are performed in one sitting, attorneys may still pre-date or post-date them to suit their needs — especially when they also fail to maintain a Notary journal.

Correct dates of notarizations are vital to their integrity, and false dates can invalidate notarizations.

#### **4. Saying No To Journals**

Most lawyers steadfastly refuse to prepare and preserve Notary journal entries; nor do they allow their staff Notaries to keep a journal of their notarizations. This is a willful neglect of a crucial notarial best practice. At best, this shows a lack of concern about the best interests of their clients. It sometimes shows the worst motives — namely the desire to hide Notary misconduct and avoid possible consequences.

Notary journals help protect against falsification and fraud regarding

notarizations. They also help assure the proper performance of a notarization in the first place and then corroborate that fact if it is challenged. Consequently, so many lawyers avoid keeping a journal to hide misconduct.

Ironically, law school teaches attorneys to create a record of important instruments and transactions and to encourage their clients to do the same. But, when it comes to notarizations, lawyers are strongly opposed to keeping a record of every notarization. What many lawyers do not fully appreciate is that there are other ways to prove notarial wrongdoing has occurred, such as the testimony of disgruntled former clients or former employees.

#### **5. Jeopardizing Clients And Staff**

One of the ugliest features of notarial wrongdoing by lawyers occurs when they involve their clients and/or staff members in the misconduct. Lawyers who drag their clients and staff into schemes to falsify notarizations cause them to become accomplices to unlawful and potentially criminal conduct.

That occurs, for example, when a lawyer asks a client to pre-sign blank signature pages in advance or

asks a client for permission to sign documents on their behalf so the clients do not have to appear for notarizations.

It also occurs when lawyers direct staff Notaries to notarize for absent signers or to falsify dates of notarizations. Lawyers know the risks incurred by entangling clients and staff members in these illegalities.

Still worse, this misconduct jeopardizes the validity of the very documents that are wrongly notarized. Thus clients are placed at risk for a second time and may suffer serious harm.

#### **Discrediting The Legal Profession**

The official published reports of lawyer discipline cases include hundreds of examples of attorneys being sanctioned for committing all sorts of violations of Notary law and practice. But, those cases are the tip of the proverbial iceberg. The vast amount of notarial misconduct by attorneys goes undetected and unpunished.

Ignoring and thereby enabling the corruption of the notarial process by lawyers encourages the spread of this cancer upon the integrity of notarizations. Most lawyers do not know best when it comes to notarizations. ■

# WEB AND INTERNET MARKETING DON'TS

By Sonita Leak



**S**INCE STARING MY NOTARY BUSINESS IN 2010, I HAVE LEARNED A LOT ABOUT marketing online — and I've made some mistakes along the way. I realized that knowing what not to do is almost as important as knowing what to do.

The following are some of the things that I've learned and the mistakes all Notaries should avoid as they market their services online.

**Don't post any content without proofreading it.** Before you post anything, make sure that your content is as error-free as possible. We are all human, mistakes do happen. The best way to avoid mistakes is to check and double-check. Much like you double- and triple-check your

Notary assignments, you need to do the same with your web content.

Keep in mind that spell check may not catch everything, so don't completely rely on it to make your content error-free. The website hosting platform WordPress will automatically spell check your content, but if a word needs to be spelled a certain way and WordPress' spell check doesn't recognize it, the program will change it. That's why

it's important to proofread and go through your content to make sure that it doesn't have any mistakes.

But if something does have an error, and you missed it before posting, don't worry. You're going to have a mistake or two here and there. But when that happens, you can always fix it. If I find a spelling or grammar mistake, I'll just go back and correct it. I don't beat myself up over it because I'm human. I make mistakes, too.

**Don't overstep professional boundaries.** When posting information about Notary issues and practices, make sure you do not cross the line into offering legal advice — that's asking for trouble and is considered the unauthorized practice of law. I often run into other Notaries who post about closing a loan, and they mention that they provided information on the terms of a specific document. Remember that we as Notaries are allowed only to tell signers where to sign and how to sign and give direction as to where they can find something specific within a document. In no way, shape or form are we to explain things like why a loan isn't fixed, or why the APR is higher than the interest rate — not even on a blog or social media post.

**Don't compromise your client's confidentiality.** Although I will write about work experiences in my blog, I never name names. Instead I will write that it was a private transaction. And even then, I ask the client for permission to discuss the transaction. Also, if there are a lot of people around during a signing situation, I won't write about it in my blog at all.

Also, never post your location on social media when you are actually there. Not only is this a safety hazard for you, it can also put your clients at risk. Remember that you are at times carrying important and secure documents on behalf of clients, and you definitely wouldn't

want to compromise their information. This can be the difference between successfully completing an assignment and having a signer file a lawsuit against you for identity theft. I often will wait for hours after an assignment before posting about it. Think of it like going on vacation. You don't want to post about a trip while you're on vacation. If you do, you have told the world that your house is available to rob and pilfer.

**Don't use your business website to experiment.** Don't play around with your Notary business website. If you want to try something new — such as adding features, different types of content or changing the design and look — do it somewhere else until you know what you're doing. I lost a whole two years of my blog because I was building someone else's website and accidentally installed their Word-

energy in. I just try to remain as positive and as professional as possible because I don't want to spread that negativity.

**Don't forget to use SEO.** SEO, or search engine optimization, is the process of formulating your content to appear higher in search engines when people look for information about Notaries. When I first started learning about websites years ago, I researched ways to get the word out about my company to the widest possible audience with less effort. I also researched back-end sites and discovered I could use such things as metatags and other language in the background of my coding to have the search engines find my content easier. This may seem complicated, but it's easier than it sounds. Now I have over 15 years of experience dabbling with search

I would suggest researching how SEO works so you can bring traffic to your site organically.

Press website over mine. The major lesson I learned from that experience is to always back everything up.

**Don't forget to give credit where credit is due.** If you use content from any source, whether it's a photograph or a quote, you definitely want to give the creator credit. Preferably, you should ask first if they don't mind you putting that content on your blog. Then of course, link back to the source.

**Don't allow drama on your platform.** Don't foster negativity on your social media pages. There are a lot of people online who are negative and miserable in their own lives, and they want you to be miserable along with them by picking petty fights back and forth on social media. I don't let that

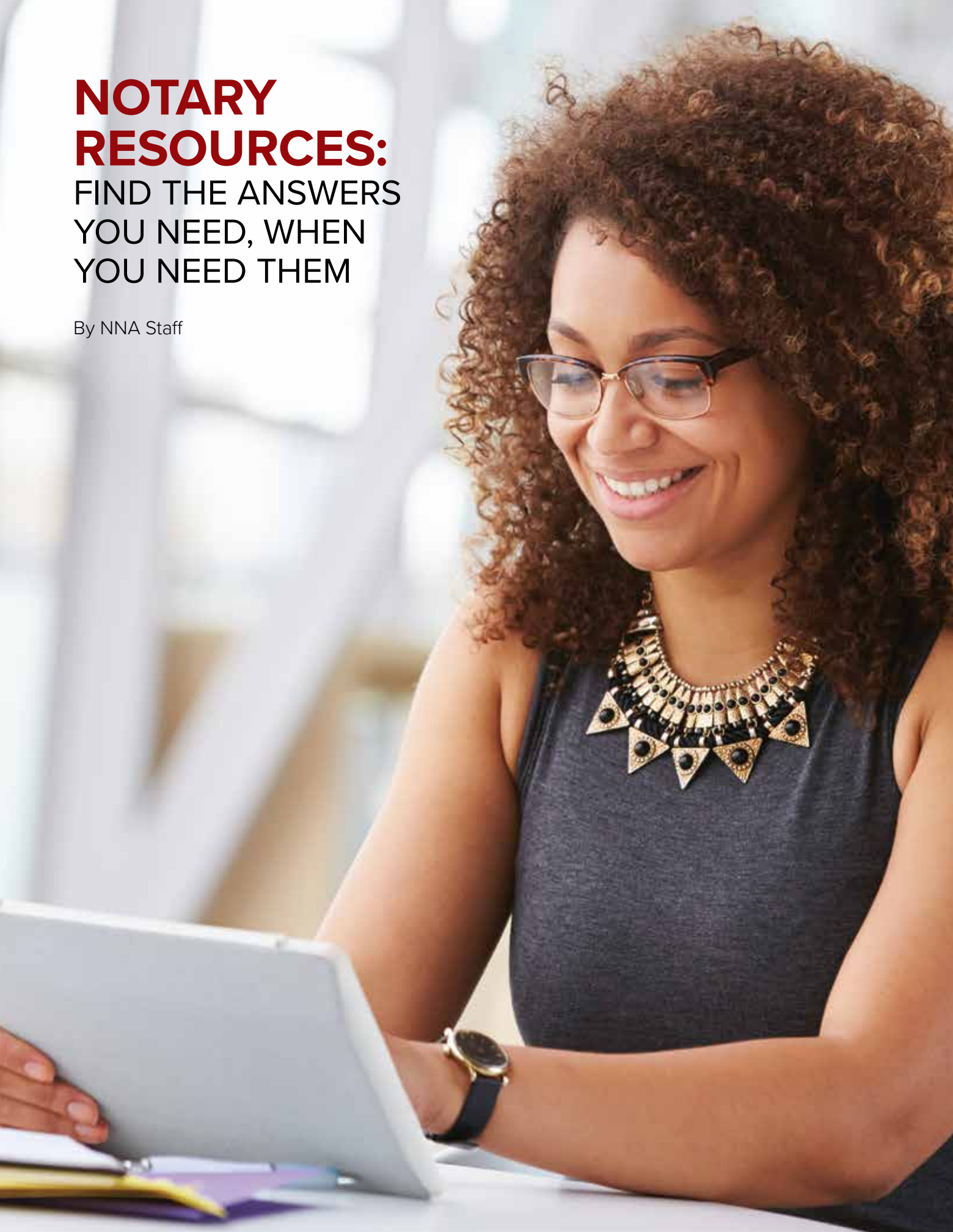
engine optimization and I'm still learning new things. I would suggest researching how SEO works so you can bring traffic to your site organically. I used to pay for search engine results, but now I get the results I want on my own through the quality of my content.

**Don't be afraid to make mistakes.** Anything you deem worth doing in your web strategy will take time, effort, and lots and lots of research. Tinker with what works and what doesn't. It's easy to make mistakes along the way, but when you do, don't beat yourself up — learn from them. The object is to make less work for yourself in the long run. ■

*About the author: Sonita Leak owns Greenville Notary Service in South Carolina.*

# **NOTARY RESOURCES:** FIND THE ANSWERS YOU NEED, WHEN YOU NEED THEM

By NNA Staff



**EVERY NOTARY WANTS TO DO THEIR JOB WELL AND AVOID LIABILITY.** But in today's world, it can be a challenge to keep up with the new laws, guidelines and standards of practice. There are a lot of free and affordable resources available, whether you need quick access to a recently updated Notary law, professional

advice on how to advertise and expand your mobile signing business, or a step-by-step walkthrough of how to perform a certain type of notarization.

### Your Notary Commissioning Office

The Notary commissioning agency in many states — usually the Secretary of State's office — provides guidelines at no charge to its state-commissioned Notaries. These resources usually can be found on the commissioning agency's website.

Many commissioning agencies publish handbooks that describe in detail the duties a Notary may or may not perform, provide sample Notary certificate wording, explain the appropriate steps for notarizations and list the fees a Notary may charge.

This is also where you're likely to find information for reporting a name or address change, an explanation of how your state handles *apostilles*, and answers to frequently asked questions.

Some states have systems in place to alert Notaries about law changes or clarifications. In California, for example, the California Secretary of State's website publishes an annual newsletter. If your state doesn't offer a similar service, you can either consult your state website for law updates or check out the NNA's state-specific Notary Law Updates.

### Local Notary Training Courses

Many states, such as Texas, Montana, Georgia, Colorado, Arizona, Florida and Oregon, provide free or low-cost Notary education resources. These courses often are designed for new or renewing Notaries, and generally cover state laws and Notary basics.

In some states, such as Alabama and South Carolina, the Notary commissioning agencies have organized seminars and conferences to help educate Notaries. You'll need to visit your commissioning agency's website to see if there are any educational events scheduled.

If your state doesn't offer training, there are other options.

Depending on your state or location, you may find courses available through your local community college. For example, Prince George's Community College in Maryland offers a Notary course taught by NNA 2009 Notary of the Year Elaine Wright.

Daniel Lewis of Carmel, Indiana, NNA 2010 Notary of the Year and owner of Lewis Signing Services, provides state-approved continuing education courses for Notary Signing Agents in Indiana who need title insurance producer licenses.

To find the right training option for you, do a web search for local courses.

### National Notary Association Resources

The NNA provides resources designed for both new and experienced Notaries and Signing Agents, many of which are available free of charge.

**Publications:** The NNA's online *Notary Bulletin* and *The National Notary* member magazine produce in-depth discussion of Notary-related topics, including how to perform various types of notarizations, tips for building a successful Notary business, current Notary trends and much more.

#### Website Tutorials and Webinars:

Detailed online tutorials walk Notaries through a wide variety of subjects: administering oaths, correcting certificates, determining if a signer's ID is acceptable, fixing a bad seal impression and more. Webinar topics include how to use credible witnesses, handling strange notarization requests, understanding the difference between acknowledgments and jurats, and more.

**NNA Reference Library:** This useful online resource library contains links to the *Notary Public Code of Professional Responsibility*, the *Model Notary Act*, and the *U.S. Notary Reference Manual* (accessible to members only). NNA members can also download certificate forms from this page.

**New Law Updates:** The Notary Law section online allows you to look up the latest rules and legislation enacted in

Many states provide free or low-cost Notary education resources.

any state. The updates include a summary of the law or rule along with the actual text.

**Notary Handbooks:** A variety of Notary handbooks are available for purchase in our online store. State-specific Notary law primers and the *2018 NNA Keeping Documentchecker Guide* are just a few of the Notary supplies you will find on the NNA website.

**NNA Hotline:** For questions requiring immediate answers, you can call the NNA Hotline and speak directly to a Notary expert. This service is free to NNA members and Notaries who get their commission through the NNA.

**Notary Essentials:** If you want to brush up on the elements of performing a notarization, you can take the NNA's Notary Essentials course. It presents real-life scenarios and is state-specific, so the information is tailored to the Notary requirements in your state. ■



## Support the Fight for a Cure.

For every sale of this journal, a \$5.00 donation will be made to the National Notary Foundation Linda Bazar Breast Cancer Research Fund.

Join the fight. Get yours today.

[NationalNotary.org/jointhefight](http://NationalNotary.org/jointhefight) • 1-800-876-6827



NATIONAL  
NOTARY  
ASSOCIATION

# Professional Practices For Checking A Signer's Identification



Verifying the identity of document signers is one of a Notary's most important duties, and failing to do so is one of the more common causes of legal claims against Notaries. Most states have laws that tell you the methods you can use to verify identity, but it's not the purpose of these laws to provide guidance for checking IDs.

So how much effort is needed to check someone's ID? Here are suggested professional practices that can help you meet reasonable standards of care.

### 1. Hold and examine the ID

When a signer presents identification during a notarization, ask them to hand it to you so you can inspect and touch it up close. Ask the signer to remove the ID from their wallet. Examine the card's information and security features to confirm they are genuine.

Don't simply glance at a driver's license or ID card through the window of a signer's wallet, as this makes it impossible for you to check the ID card's

security features (see below).

### 2. Confirm the ID's appearance and information

In this step, you'll be checking to ensure that the general appearance of the card's font styles, color, and lettering is consistent with what you know about your state's ID. For example, certain states may place the name of the state in capital letters, initial caps, italics, or cursive letters. Often, the serial number of the identification document will be printed in a certain color (red numbers in California, black numbers in Georgia, etc.).

In addition, you should know where specific types of information are placed on the identification card. For example, the physical description on a Colorado driver's license is in the middle of the card, while on the newest Idaho driver's license, it is towards the bottom. An ID reference guide such as the *NNA Keesing Documentchecker Guide* can help familiarize you

with what to look for when checking these elements.

### 3. Familiarize yourself with the ID's security features

It's a good professional practice to know the security features on IDs commonly used in your state, and ensure they appear on the ID. Using California as an example, the most recent state driver's licenses include raised printing of the signature and date of birth you can feel by running your finger over the surface of the card. It also includes microprinting, holographic images and hidden details that only show up when held up to a light (the California brown bear). Again, the *NNA Keesing Documentchecker Guide* can help familiarize you with your state ID's security features.

### 4. Look for any discrepancies

If a picture or description on an ID is out of date, it's possible the signer has simply changed their hair color, lost weight, or been ill recently — but it may also mean the signer is an

impostor. If you are uncertain, follow any state laws first. For example, effective October 26, 2017, Pennsylvania's new laws will allow Notaries to refuse to perform an act if the Notary is not satisfied the signer's signature or appearance matches what is on the ID. Determine if there is more than one discrepancy. For example, if the signer's hair color is different from the photo, is their height and weight consistent with the information on the ID? In these cases, it may be better to ask the signer to produce other ID or refuse the notarization.

### 5. Recording ID information in your journal

Always follow any state requirements for recording ID information in your Notary journal. In states without a journal requirement, it is still a best professional practice to record every notarial act, including a description of how you verified the identity of the signer. This can be as simple as, "NY driver's license."



## Passport Alternatives, Warranty Deeds, Foreign Language Documents

### NOTARIES NATIONWIDE

**RELY** on the NNA's Notary Hotline to answer their most challenging questions. The following are among the thousands our Information Services Team receives each month.

**Q** Someone wanted me to notarize a copy of their passport, which we aren't permitted to do in my state. Is there any alternative we can offer someone needing this done?

*M.A., Illinois*

**A** If state law does not authorize Notaries to certify a copy of a document, as in Illinois, you may notarize the signature of a person on a written statement attesting to the accuracy of the copy that he or she presents to you. The NNA does not recommend that you offer advice on how to do this, what the document should say and how to notarize it, since that would be considered giving the signer unauthorized legal advice.

**Q** Can a Notary who is not a lawyer notarize a Warranty Deed in the state of New York?

*J.C., New York*

**A** Yes, you may notarize a signer's signature on a deed. There is no requirement that the notarization be done by an attorney.

**Q** Am I allowed to notarize documents written in a language I can't read and understand? For example, a power of attorney written in Hebrew?

*L.M., California*

**A** You may notarize a signature on a document

in a foreign language, provided that the document includes certificate wording in a language you understand and you can communicate directly with the signer.

**Q** A signer would like to have us certify a "true copy" of her will. Because wills are recordable documents, am I prohibited from certifying a copy of this document?

*M.C., Virginia*

**A** According to the Code of Virginia 47.1-2, Virginia Notaries may certify copies of documents that are not in the custody of the court

and the Virginia Notary Handbook clarifies that Notaries are prohibited from certifying true copies of court-issued documents.

**Q** I have been asked to notarize a grant deed for a signer who does not have valid ID. Her passport expired more than five years ago, and she is unable to locate her driver's license. Can I use two credible witnesses if I do not know the signer?

*K.V., California*

**A** Yes. According to California Civil Code section 1185, when a signer is unable to present reliable







ID cards, that signer may be identified on the oath or affirmation of two credible witnesses who present state-approved identification.

**Q** I am a Notary, and I have a process server business. I want to have my spouse and my brother perform process service for me. I know there are rules against notarizing for family members, but they will be contract employees of my sole proprietorship. Can I notarize their returns in a business capacity?

*K.F., Michigan*

**A** No, you may not

notarize for a spouse or sibling in Michigan, regardless of their employment status. "A notary public shall not perform a notarial act for a spouse, lineal ancestor, lineal descendent, or sibling including in-laws, steps, or half-relatives" (MCL 55.291[8]).

**Q** A customer is requesting a notarization for a minor who does not have valid identification. Can the notarization be performed? If it can, what would be acceptable identification?

*J. E., Washington*

**A** If the minor doesn't have valid identification,

the next option would be to use a credible witness who provides a passport, driver's license, or government issued nondriver ID, which is current or expired by not more than three years, or another form of governmental ID which is current or expired by not more than three years, contains the signature or a photograph of the individual, and is satisfactory to you as the Notary (RCW 42.45.050[2][b]).

**Q** My boss has a client in Germany. We need to have a photocopy of his passport notarized. Am I

allowed to notarize something for a German client who is personally known to my boss?

*A.P., Florida*

**A** A Florida Notary has the authority to certify copies. If you are presented with the original passport, you can make a copy and certify that the copy is a true copy of the original (FS 117.05[12]).

**Q** Can I notarize a document that has previously been signed?

*K.V., North Carolina*

**A** It depends on the type of notarization requested. For an acknowledgment, the document may be previously signed, and the signer must acknowledge to you that he or she signed the document and did so willingly [G.S.10B-3(1)].

However, if you are performing a jurat, the signer must sign the document in your presence. If they already signed the document, have them cross out the prior signature and sign again.





## How To Complete A Jurat

Notaries must be familiar with several common types of notarization in order to perform their duties properly, and one of the more common acts is a jurat. With a jurat, also known as a verification upon oath or affirmation in some states, the signer swears or affirms that the contents of a document are true.

When executing a jurat, a Notary must use certificate wording that is specific to the requirements of state law. Jurats are used for documents such as affidavits and depositions, which often are used as evidence in trials or other legal proceedings.

When performing a jurat, there are four things you need to certify:

1. The signer was physically in front of you when you performed the notarization.
2. You verified the signer's identity if required by your state or used a method acceptable in your state.
3. You witnessed the signer sign the document in front of you.

4. The signer swore or affirmed that the statements in the document are true. Although it is not required by law, it is recommended that the signer raise their right hand to emphasize the seriousness of the oath or affirmation.

The purpose of administering a verbal oath or affirmation is to confirm your client is committing to honesty.

It is up to the signer to choose whether they want an oath or affirmation. With an oath, the signer is making a promise before a deity, such as: "Do you solemnly swear that the statements in this document are true, so help you God?" With an affirmation, the signer swears on their personal honor, such as: "Do you solemnly affirm, on your own personal honor, that the statements in this document are true?" Both questions must be asked out loud and the signer must respond with an "I do" or "Yes."

It is never acceptable for a third party, such as an attorney in fact, to

**JURAT WITH AFFIANT STATEMENT**

State of Texas } ss.  
 County of Bexar

See Attached Document (Notary to cross out lines 1-7 below)  
 See Statement Below (Lines 1-7 to be completed only by document signer[s], not Notary)

1 \_\_\_\_\_  
 2 \_\_\_\_\_  
 3 \_\_\_\_\_  
 4 \_\_\_\_\_  
 5 \_\_\_\_\_  
 6 \_\_\_\_\_  
 7 \_\_\_\_\_

Signature of Document Signer No. 1 \_\_\_\_\_  
 Signature of Document Signer No. 2 (if any) \_\_\_\_\_

Subscribed and sworn to (or affirmed) before me  
 this 12th day of January, 2018, by  
 Date Month Year  
Michael T. Smith  
 Name of Signer No. 1

Name of Signer No. 2 (if any)  
Pat R. Jones  
 Signature of Notary Public

Place Notary Seal/Stamp Above

Any Other Required Information  
 (Residence, Expiration Date, etc.)

**OPTIONAL**

This section is required for notarizations performed in Arizona but is optional in other states. Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document Affidavit of Loss  
 Title or Type of Document: \_\_\_\_\_  
 Document Date: 1-2-2018 Number of Pages: One  
 Signer(s) Other Than Named Above: No other signers

©2017 National Notary Association

execute a jurat or take an oath or affirmation on behalf of another person. For instance, if John Smith appeared before you, he would not be permitted to swear on behalf of Jane Doe that the document contents are true and complete.

However, John Smith could take an oath or affirmation in his own name, even when acting as an attorney in fact for Jane Doe. In this instance, he is personally promising, in his own name, that the contents of that document are truthful.

Learn more about best practices and procedures in the NNA's Notary Essentials course:  
[NationalNotary.org/Notary-Essentials](http://NationalNotary.org/Notary-Essentials)

DEC  
1-31

NNA<sup>®</sup> Member  
**Exclusive**  
Discounts

# SAVE **15%** ON Books

Visit us online for a complete list of books on sale.



NationalNotary.org/MemberDiscount  
1-800-876-6827



NATIONAL  
NOTARY  
ASSOCIATION





# Time to Renew?

Don't wait until it's too late  
to renew your commission.

The NNA will provide you with everything you need to meet your state's requirements and protect yourself from liability.

---

**Application • Bond • E&O Insurance • Training • Supplies**

---

NationalNotary.org/Renew | 1-888-896-6827



**NATIONAL  
NOTARY  
ASSOCIATION**