

October 2017

# The National NOTARY®

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# CIVILITY in CRISIS

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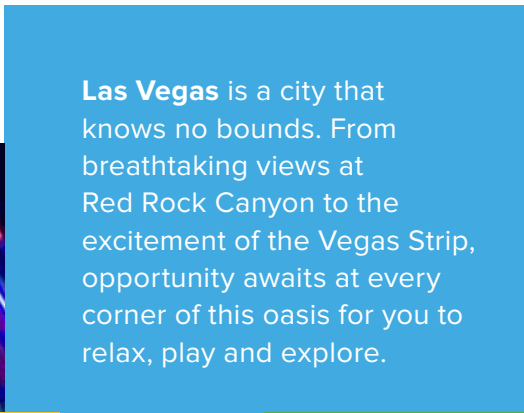
June 3–6

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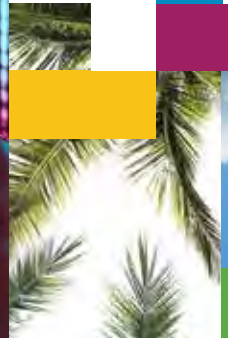
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# NATIONAL NOTARY ASSOCIATION

# The National NOTARY

Vol. LVII, No. 5, October 2017 Magazine

Published by the National Notary Association

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## 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.

## 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

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*Phillip Browne*

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## 13 Tips for Restoring Civility

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## When the Law Is Silent

*David Thun*

Notaries are required to follow the rules when they perform their duties. But no matter how detailed your state's laws are, eventually you run into a situation where the law provides no guidance. What do you do then? You follow the "Standard of Care" — in other words, time-tested practices to ensure you perform your duties in an honest and ethical manner. A panel of experts weighs in on what that means.

# 18

## How to Reinvent Yourself

*Laura Biewer*

Every mobile Notary hits dry spells. To survive the down times and grow the kind of business that thrives no matter what the market is doing, you need a variety of roots that go deep. You need to learn how to reinvent yourself. But how do you figure out exactly what else you might be capable of doing that also pays well? Here are some practical tips.

# 20

## Defending Democracy: Why I Became a Notary

*Spenser Mestel*

While covering the election recount controversy in Pennsylvania last year, journalist Spenser Mestel saw that Notaries played an integral part in the process — in our democracy. Inspired by a desire to be more politically and socially involved, Mestel set out to become a Notary. This first-hand account describes what he went through to navigate the process in New York, and how he plans to use his commission.



### Peer Advice for Your First Loan Signing

**MEMBERS OF THE NOTARY SIGNING AGENTS GROUP on LinkedIn are sharing their experiences and advice on how to conduct a signing. We encourage readers of *The National Notary* to participate and share their stories as well at [bitly.com/firstsigningstories](http://bitly.com/firstsigningstories).**

First times are hard but you'll get it down. I ask signers how familiar they are with the process generally as well as specifically. Most opt out of full discussion of each doc, especially with the 3-day rec. Note, deed, sworn docs, truth in lending biggys, you will begin to notice there is a redundancy of docs that you will breeze through.

**Barbara H., Quincy, CA**

To shorten your time at the table, clip the instructions, which do NOT require the borrowers to sign, and just

flip them. Also, clip the docs that have multiple pages together so you are not repeatedly shuffling thru them, i.e.: deed, W-9, Escrow prelim and instructions, etc... signers appreciate us being organized.

**Debra Gralik, Hermosa Beach, CA**

Borrowers appreciate a Notary who can get them through the signing quickly and efficiently, because sometimes the loan process can be long. You do not have to explain each document only the ones that need to be signed. Always encourage the borrower to use their 3-day right to cancel if they feel the need to try and read all the documents. Remember they all must be signed.

**Lee A. Thomas, Jr., Newark, NJ**

I was so hard on myself when I first started. Now I am not. I also started with low signing fees to get

experience. It was not good to start but now I look for companies who pay more.

**Kristina Darling, Tracy, CA**

When I was new, I would review the signed docs at the table and then let them know I was going to go somewhere nearby that was quiet (library is good) to review them again, so to please be aware that I may catch something that was missed and need to come back within the next half hour. They were always very understanding and appreciative of how careful I was, and believe me, the first few, I did have to go back. Always, at least triple check, every page before shipping, I still do and I have been doing this since 2011. Now I no longer find errors on the 2nd or 3rd run thru but it is a great way to be sure all is well.

**Jillian Hinrichs, Kansas City, MO**

### Notarizing a Document from Another State

**NOTARIES ON OUR FACEBOOK PAGE** shared tips and insight on issues that can arise when notarizing a document from another state.

The other state required seeing my E&O insurance, and I wasn't informed of this during the Notary process. They came back to get confirmation.

**Daniel S Lovejoy, Kealakekua, HI**

A government agency in another state wouldn't accept a notarization that didn't include representative capacity.

**Eureka Nutt, Los Angeles, CA**

They insisted that the representative capacity not be lined out. California Notaries are prohibited from including any representative capacity in a Notary certificate. We solved the problem by using the NNA California All-Purpose Acknowledgment with the "Optional" section at the bottom. There, I could write the capacity claimed by the signer (attorney in fact) and who the signer was representing. This was accepted.

**Jan Peck, Oceanside, CA**



## CA Notary Fee Survey: Has the Increase Helped You?

**NOTARIES IN THE GOLDEN STATE** discussed how the fee increase affected their business. **37 percent** of Notaries who participated in the survey said the fee increase has helped them, and **60 percent** said that they are charging more for their Notary services since the new law went into effect.

The fee increase definitely has been long overdue but very welcome as it has helped to offset the increasing operational costs for Notaries. It has also helped in the awareness of the value of our services. Thank you to all who supported this bill.

*Tara Denham, Los Gatos, CA*

Notarizing documents can be very time consuming, especially when combing through their documents to be sure they're all signed. This is a quasi-legal profession. Compare to lawyers — \$200 to \$700 per



hour? Please! I'd say free the fees, and let the charge be negotiated with the client, based upon the work performed.

*John Clark, Los Angeles, CA*

It only helps with fees for general Notary work. My business comes from loan signings, and there was no effect on that. It would be nice if the increased fee worked into an increased loan signing fee.

*Catherine James, Jamestown, CA*

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## First Ever Remote Mortgage Closing

**A FAMILY IN ILLINOIS CLOSED** for a **\$290,000, 30-year mortgage** from Michigan lender **United Wholesale Mortgage**. What has our **NSA Group on LinkedIn** buzzing is that the borrowers talked to a Notary via **Skype** and

**signed remotely using only electronic signatures from online Notary service Notarize.com.**

I would like to examine the recorded mortgage and see what the venue is on the document. Since

the signers were physically located in Illinois and Illinois does not allow web notarizations, I would assume that the venue was one of the states which allow web notarization. I guess on the web you can be anywhere and have your venue left up to the web provider.

*James Newberry, Sr., Kenosha, WI*

This is the future; however, I find the interaction with the client very helpful on both ends. I hope we don't lose that human interaction.

*Peter Kurtin, Oak Ridge, NJ*

Best we can all do is learn and prepare.

*Julie Brickley, Colorado Springs, CO*





## Hurricane Relief Efforts Continue

**THE NATIONAL NOTARY FOUNDATION** is continuing its hurricane relief campaign and asking our Notary community to join the effort.

Donate any amount through the Foundation and it will be matched up to \$25,000.

To donate, call 1-800-876-6827, Monday through Friday, from 6:00 a.m. to 5:00 p.m. PT.

Or send a check (payable to NNF Supports) to the National Notary Foundation, Attn: Hurricane Relief, P.O. Box 4659, Chatsworth, CA 91313.

## Call for 2018 Notary of the Year Nominees

**DO YOU ADHERE TO THE HIGHEST STANDARDS** of the Notary office and dedicate yourself to serving your community?

Does that sound like someone you know? If the answer is yes, please fill out a nomination form before December 6 ([bitly.com/NOTYForm](http://bitly.com/NOTYForm)).

You can nominate yourself, a friend, a

family member, a coworker or any Notary you think deserves to be the NNA's 2018 Notary of the Year. NNA membership is not required.

Join us at NNA 2018 in Las Vegas to meet the Honorees and see who will be named 2018 Notary of the Year. Register at [NationalNotary.org/nna2018](http://NationalNotary.org/nna2018).

## Supporting the Miracle of Science with Soul

**OCTOBER IS BREAST CANCER AWARENESS MONTH**, and with the generosity and support of the entire Notary community, the National Notary Foundation (NNF) donated \$10,000 to the City of Hope.

Our annual Breast Cancer Awareness Journals provide an easy way for Notaries to contribute to research focused on finding a cure.

The NNF's Linda Bazar Breast Cancer Research Fund is named after the NNA's

late and beloved Vice President and Chief Financial Officer. The Fund benefits national cancer research programs including the City of Hope.



## Member Benefit: Say Hello to Your New How-To Guide

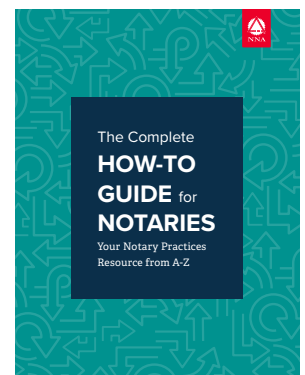
**NNA MEMBERS HAVE A NEW BENEFIT** at their digital fingertips: *The Complete How-To Guide for Notaries*.

This *Guide* covers the most common acts as well as the most obscure acts you may encounter during your Notary career. It explains the important aspects of lawful, prudent and ethical Notary procedures.

The *How-To Guide* tells you how to put Notary laws into everyday use (Think: behind the wheel driving experience), while our *Reference Manual* provides the letter of the law in your

state (Think: learning the rules of the road).

Members can access this comprehensive content for free by logging onto the NNA website.





## Businesses Asking for Webcam Notarizations



**MORE THAN 12 PERCENT OF THE NOTARIES** who responded to a recent survey said they have been asked to perform an online notarization in the past year, and nearly half of those were asked three or more times.

The online survey, conducted by the Colorado Secretary of State's Remote Notarization Working Group, queried all 81,981 Notaries in the state. They received 14,250 responses.

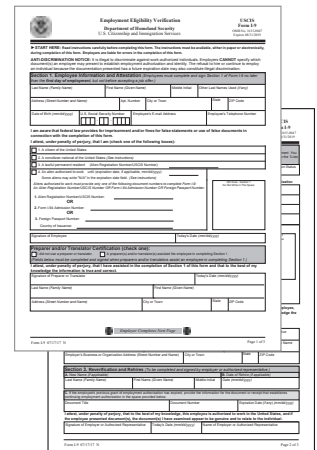
Of those respondents who were asked to perform a webcam notarization, nearly

14 percent did so, even though current Colorado law requires signers to be in the physical presence of the Notary when performing a notarization. Most said the online notarizations were requested by their employers.

The survey results also highlighted mixed views about webcam notarizations:

- 53% said they have no concerns about performing webcam notarizations, while 28% did have concerns;
- 49% favored allowing online notarizations, but 29% did not;
- 46% are interested in offering online notarizations; and
- 68% said there should be limits on how webcam notarizations can be used.

The top concerns mentioned were how to properly identify signers, assess signers' willingness and awareness, and protect against hacking.



## USCIS Webinar Highlights Updated I-9

**THE U.S. CITIZENSHIP AND IMMIGRATION SERVICES** released a revised Form I-9, and has scheduled a webinar on November 9 to brief Notaries about the changes.

The updated Form I-9, Employment Eligibility Verification, incorporates minor changes from the version released in November 2016. But employers were required to start using it starting September 18, 2017.

It is helpful for Notaries to understand the new form because businesses often ask them to act as their authorized representatives to complete the form on their behalf.

Any Notary may participate in the 30-minute webinar. For details about taking part in the webinar, go to [bitly.com/NNAI-9](http://bitly.com/NNAI-9).

## Mobile Notary Tip: Preparing for Disaster

**AS FOLKS ALONG THE GULF COAST** learned, disaster can strike quickly. Everyone tries to prepare for emergencies, but self-employed mobile Notaries also need to safeguard their business for such an event.

Although you may not be able to save your home in a natural disaster, you can protect your livelihood. Following are some tips from FEMA and the Small Business Administration that can help:

- Update your emergency plan and emergency contacts on a regular basis. In the event that you may be unable to work for an

extended period of time, identify a Notary associate who could serve your clients in the interim.

- Make sure that tax records, client databases, your journal and seal are stored in an easily accessible part of your home where you can "grab them and go."
- Back-up your computer regularly on a flash drive or to the cloud so that you can always have access to vital information if you need to evacuate.
- Make sure all your insurance, including your E&O insurance, is up to date.
- Develop a business continuity plan. If your business is home-based, do you have an alternate location you can operate from in case of an extended evacuation?
- If you are forced to evacuate, communicate with clients as soon as possible to advise them of your status or new location.
- And finally, if the worst happens and your records, journal and seal are destroyed, notify your Secretary of State's office immediately. You also can contact the NNA Hotline at (888) 876-0827 for additional advice.

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# CIVILITY in CRISIS

What  
You Can Do  
About It



By Phillip Browne

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*“Every action done in company ought to be with  
some sign of respect to those that are present.”*

George Washington

On August 12, Heather D. Heyer lost her life during a chaotic rally of white nationalists in Charlottesville, Virginia. The 32-year-old woman, a Notary Public, had joined a group of counter protesters to voice their opposition against white supremacist ideology. According to those who knew her, she was a passionate advocate for the disenfranchised and was dedicated to campaigning against hate.

Heyer was killed when a 20-year-old man from Ohio — described as having radical beliefs about white supremacy — reportedly drove a car into the group of counter protesters. Nineteen other people were injured.

Heyer paid the ultimate price for standing up for her beliefs. And while tragedies like these are rare, her story is a sobering illustration of just how destructive our country's decline of civility has become.

It's been more than 140 years since the United States faced a national crisis of civility among its citizens. Back then, the controversy was over slavery and state's rights. Today, the "us against them" conflicts are rooted in the aftermath of a divisive presidential election, disagreements over social and political issues, and judgments about our personal lifestyles, beliefs and values.

The impact on our social fabric is so significant that a record-high 69 percent of Americans believe we are amid a major civility problem, and 75 percent believe the problem has reached crisis levels, according to a recent study. Gone are the days of courtesy, integrity and respect amid opposing viewpoints. Instead, political or social discourse often results in harassment, intimidation, threats, discrimination, cyberbullying and even violence.

Heyer was a victim of that ugly form of discourse, even though she was in Charlottesville to lead by example in advocating for civility. By nature of their duty to protect consumers and the public trust, America's 4.4 million Notaries Public consistently practice the pillars of impartiality, civility and public service. Her motives were

in line with the spirit of the Notary community, and illustrative of the examples that Notaries set every day.

Still, despite the country's festering environment of conflict and hatred, experts believe there are solutions that can significantly improve our relationships and lives. And in recent studies, Americans have demonstrated a clear desire to improve civility in our nation.

## How Did We Get Here?

*"Little progress can be made by merely attempting to repress what is evil. Our great hope lies in developing what is good."*

Calvin Coolidge

The decline in American civility has created a sinister and destructive environment in our country. By all accounts, today's uncivil atmosphere has significantly decreased our quality of life. We're having more trouble than ever with gridlock, dispute resolution, polarization, maintaining relationships, amplification of hate and productivity in the workplace.

This situation didn't happen overnight. In fact, indications are that the problem began decades ago and reached crisis levels during the 2016 presidential campaign. In a 2017 study titled *Civility In America VII: The State Of Civility*, researchers established the top five causes:

- The behavior of politicians, role models and systemic issues in government
- The rise of the internet and social media
- The competitive mainstream media and the 24/hour news cycle
- America's youth culture
- Demonstrators and protestors

Additionally the study, conducted by Weber Shandwick and Powell Tate in partnership with KR Research, revealed that most Americans are reluctant to take responsibility for the crisis. In fact, 94 percent of people polled said they always or usually act civil, and are respectful of others.

"All of these elements have driven us to the state we are currently in, as we have developed a culture of reactivity instead of personal reflection," said Carolyn J. Lukensmeyer, Ph.D., Executive Director of the National Institute for Civil Discourse (NICD).

"We have watched the behavior of our leaders and role models decline amid hyper-partisanship. The 24-hour competitive news cycle has led to instant reactions and opinions where news is being reported before the facts are clear. And the anonymity of social media has emboldened those with more extreme positions to reach and embolden countless others to spread those beliefs," Lukensmeyer continued. "What we are now seeing is three decades of structural and cultural problems that have led us to this level of vicious rhetoric and behavior."

One of the most telling examples is the mood in America following the 2016 presidential election, which

## Civility: A Core Ideal For Notaries

Civility and impartiality are at the core of a Notary's duty to serve the public. And with incivility being at crisis stages today, many Notaries are facing various levels of conflict during notarizations. For a deeper dive into this issue, see our article about Notary impartiality on [page 23 in "Beyond the Basics"](#).

vaulted uncivil, venomous rhetoric in politics to levels never before seen in our country's history. Now 11 months after the election, Americans continue to demonize and attack those who voted against their candidate of choice.

But following the 2000 election — a similar controversial contest in which George W. Bush won the presidency — America's reaction was much different. "People kept their discontent focused on Bush — a singular person," Lukensmeyer said. "None of it was about your neighbors, friends or family like it is today."

America's mood is also having a significant impact on our country's workforce and productivity. The NICD is increasingly receiving inquiries from executives at major U.S. corporations which need to rebuild trust and cooperation in their workforce. "They tell us that most of their important teams have not recovered their capacity to work at the same level of productivity since the election, and they want our help. This is so surprising to me," Lukensmeyer said.

It's obvious that the civility crisis has become a chronic condition. Americans have become accepting of behaviors that would have been shameful not too long ago. And in some cases, uncivil behavior is applauded and rewarded.

## It Wasn't Always This Way

*"Be civil to all, sociable to many, familiar with few, friend to one, enemy to none."*

Benjamin Franklin

Ironically, what many Americans have forgotten is that our current crisis of incivility is occurring in a country that was founded on the very ideals of civility, partnership and compromise. We would not have a U.S. Constitution were it not for the Great Compromise of 1787.

But even though conflict and hatred is winning most of today's headlines and social media posts, we are surrounded by reminders — past and present — that keep our country's core ideals alive. To be sure, we have not always been this uncivil.

America's Notaries, for example, often serve document signers whose beliefs or lifestyles run contrary to their own. But even if the document being notarized is tied to issues like same-sex marriage, abortion, immigration or other hot-button social

issues, Notaries remain impartial and uphold their central duty to serve the public and protect them from fraud.

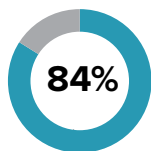
Medical professionals face even more daunting civility challenges. Their patients can be of any race, national origin, belief system or education level, and they are often sick or suffering. As a result, medical professionals repeatedly face slights, rebuffs, injustices, rudeness, embarrassments and many other uncivil acts. But again, most medical professionals take the high road.

At a macro level, great things have been achieved in our country during times when our leaders and role models acted more civilly, and patriotism took precedence over partisanship.

On June 10, 1964, 27 republican senators partnered with 44 democrats to vote in favor of the Civil Rights Act of 1964. President Lyndon Johnson signed the act into law nine days later. Getting there, however, wasn't easy. At the time Democrats controlled the Senate with 67 members. But 21 southern Democrats opposed the bill and launched the longest filibuster in Senate history. Then-Democratic majority leader Mike Mansfield and his counterpart, Republican Senator Everett Dirksen, joined together and rallied across party lines to end the filibuster and pass the historic Act, which included

## Of Americans Surveyed...

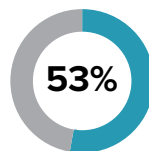
### INCIVILITY EXPERIENCES



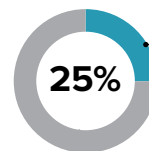
Experienced incivility



Quit paying attention to politics because of incivility



Stopped buying from a company because of uncivil representatives



Experienced cyberbullying

Nearly **3X** increase since 2011

### INCIVILITY PERCEPTIONS



Think incivility has risen to crisis levels



Describe the 2016 presidential election as uncivil



Thinks incivility leads to intimidation and threats



Expect incivility to get worse

**Why?**  
Politicians 75%  
Internet and social media 69%  
News media 59%

Source: National Institute for Civil Discourse, ICMA, Weber Shandwick, Powell Tate.

the 27 “yes” votes from Republicans. And in 1986, with a Democratic-controlled House and a Republican-controlled Senate, many issues suffered from partisan gridlock. But then-President Ronald Reagan formed an unlikely alliance with two powerful committee chairmen, House Rep. Dan Rostenkowski (D) and Senator Bob Packwood (R), to accomplish what many thought was impossible: passage of the Tax Reform Act of 1986. The result was the largest and most comprehensive overhaul of the tax code in U.S. history, which lowered taxes for most Americans.

## What You Can Do About It

*“We must be ever courteous and patient with those who do not see eye to eye with us. We must resolutely refuse to consider our opponents as enemies.”*

Mahatma Gandhi

Civility is an important ideal in the American tradition. And while we are amid a crisis threatening the livelihood of that ideal, there are plenty of ideas and tactics we can employ to restore it. It begins by practicing a basic concept: Look in the mirror instead of pointing the finger.

“In my experience, something magic happens when we look at each other and keep the best versions of ourselves, and others in our eyes,” said Tyler Hester, the outgoing Senior Managing Director at Teach for America in Richmond, California — an organization working to improve civility among educators.

“If we see goodness in one another, we bring that goodness out in one another. Conversely, if we see the

worst in one another, that is exactly what we summon into existence,” Hester said in a recent essay published in *The Richmond Standard*.

The good news is, individuals, groups and organizations across the country have begun taking steps to restore civility in their communities. In Maine, motivational speaker Craig Freshley launched a campaign called the “Make Shift Coffee House” — an event that moves from community to community where people with opposing political views can meet, learn from each other and have some good coffee.

In California, peace activist Ken Nwadike Jr. launched the “Free Hugs Project,” which gained popularity after his efforts to de-escalate violence during protests, riots, and political rallies made national news.

In Arizona, the National Institute for Civil Discourse has launched a “Revive Civility” campaign, which empowers groups and individuals to become “Citizens for Reviving Civility.” The program offers guidance, resources and tools to help people combat incivility in their communities.

And Notaries have a rallying point around the *Notary Public Code of Professional Responsibility*, in which the first guiding principle dictates that Notaries “serve all of the public in an honest, fair and unbiased manner.”

In the end, the most important thing you can do is listen to and understand the people with opposing viewpoints, instead of debating them, judging them and trying to force them to have a different opinion.

“When people take time for reflection versus reaction, and when they truly take the time to listen to someone else’s point of view, they have a valuable new experience,” Lukensmeyer said. “On the basis of that new experience people are often willing to take the next step to tackle harder issues. It’s very, very inspiring to see this happen.” ■

## Tips For Restoring Civility

While the methods of practicing civility aren’t new or revolutionary, they are largely being ignored today. However, experts say practicing these common suggestions will have a measurable impact on overcoming incivility.

- Seek out a variety of reliable news sources with different perspectives.
- Allow others to speak, and listen closely to build mutual understanding.
- Don’t blame your opponent for everything that goes wrong.
- Understand that people aren’t morally bankrupt if they hold an opposing viewpoint.
- Speak calmly and avoid shouting.
- Don’t try to win arguments at any cost.
- Avoid social media conflicts, and refrain from posting inflammatory content.
- Don’t lie or exaggerate to convince people of your point.
- Seek common ground in your conversations.
- Avoid rumors and gossip, and don’t perpetuate them.
- Be cordial and welcoming so it’s safe for the other person to have a dialogue with you.
- Don’t jump to conclusions or assume you know what another person’s thinking.
- Start or join a civility group in your workplace.

Source: National Institute for Civil Discourse, ICMA, Weber Shandwick, Powell Tate.



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# WHEN THE LAW IS SILENT, FOLLOW THE STANDARD OF CARE

By David Thun

**N**OTARIES ARE REQUIRED TO FOLLOW THE RULES when they perform their duties — and there are a lot of rules to follow. Stay impartial. Follow proper procedure. Ensure the signer is properly identified. But no matter how detailed your state’s laws are, eventually you are bound to run into a situation where the law is silent and provides no guidance. What do you do then? You follow the “Standard of Care” — in other words, time-tested practices to ensure you perform your duties in an honest and ethical manner.

During NNA 2017 in Dallas, Texas, three leading experts on Notary laws and procedures talked with attendees about situations where laws lacked guidelines and Notaries had to rely on their own ethics and standards. *The National*

*Notary* magazine spoke with these three experts — Michael Clozen, professor of law emeritus at the John Marshall Law School; Kathleen Butler, Executive Director of the American Society of Notaries; and Ozie Stallworth, Director of

Electronic Notarization and Notary Enforcement for the North Carolina Department of the Secretary of State — about what these standards are, how Notaries can learn about them and how they help and protect Notaries.

## Ambiguous Situations

No matter where they work, Notaries can encounter a surprising variety of requests. Customers come to Notaries with requests to notarize school forms for children, real estate documents, powers of attorney, car title transfers and much more. Notaries may be asked to perform services not only for customers, but for friends and family members as well.

It's small wonder that many Notaries eventually run into situations where state law gives them no instructions.

Finding guidance outside of state law can help you determine the best ethical choice.

For example, Notaries in California are not permitted to notarize documents that give them a direct financial or beneficial interest beyond their Notary fee. But, what if the Notary's husband asks her to notarize a document that grants him a large sum of money? California doesn't prohibit notarizing for a family member, and the money isn't going to the Notary. Is there a conflict of interest because the Notary is married to the signer? In this case, the California Notary would have to rely on recommended professional standards of care instead of clearly defined rules in statute.

## What Is a "Standard of Care" for Notaries?

What exactly is a standard of care, and how does it apply to situations like this? Essentially, it means taking extra steps to ensure you act ethically and professionally when notarizing, even if your state law doesn't specifically tell you to. It means taking a lawful, reasonable and common-sense approach when performing notarizations, even when you don't always have clear-cut instructions.

"Given the high responsibility of the duties Notaries Public perform, what is prudent and reasonable for them?" Butler asked. "To maintain their commissions and perform official acts in strict compliance with applicable laws and rules; to behave ethically in all matters; to follow professional best practices; to use commonsense judgment; and to know the boundaries of their notarial authority."

Finding guidance outside of state law can help you determine the best ethical choice. One resource is *The Notary Public Code of Professional Responsibility*, an ethical code created by the NNA with input from Notary and legal experts to help guide Notaries when state laws aren't clear. While the recommendations in the *Code* aren't mandatory, they are designed to help Notaries make informed and ethical choices in ambiguous situations.

In the situation of the California Notary and her husband above, Article II-B-5 of the *Code* advises against notarizing for a close relative because, even if state law allows it, someone might see the Notary's relationship to the signer as a sign of possible bias and challenge the notarization in court. The woman tells her husband to find a different Notary to ensure that there is no appearance of impropriety — in other words, she has chosen to adhere to the best standard of care.

## Practice Standards of Care

Closen, one of the nation's leading experts on Notary law, said that when statutes don't clearly address a legal dispute involving a notarization, courts will often look to see how the Notary chose to perform his or her duties in the absence of clear instructions.

Extra effort to act ethically and properly can be critical during a court case in deciding whether a Notary has followed a proper standard of care.

"When there is no statute, or statute doesn't cover a topic completely, judges and courts need to fill in those gaps," Closen said. Courts will often consult experts and look closely at how the Notary chose to act in the absence of clear guidelines. If the Notary is shown to have made a reasonable effort to act ethically and follow best practices, the court is more likely to look favorably on the Notary's conduct.

"Best practices have to be time-tested, and more importantly they have to be a method that people of integrity and diligence would follow," he said.

The experts offered examples of sound Notary practices:

*Always using a seal.* A number of states do not require Notaries to use a seal or stamp.

However, it's common for notarized documents without seals to be questioned or even rejected when sent to another state or country.

"In many jurisdictions, the presence of a seal is seen as evidence that the Notary had authority to act and acted in compliance with the law," Closen said. "If you send a notarized U.S. document without a seal to a foreign country, you might as well not have bothered sending it in the first place. If they don't get a seal, it will bounce back."



Closen said that no state forbids the use of a seal and many that don't require it still have recommended guidelines for its use. It is a good standard of professional conduct for Notaries in states that don't require seals to still use them for every notarization.

*Always keep a Notary journal.* While more than half of all U.S. states do not require their Notaries to keep journal records, Stallworth said that making a careful record of your notarizations is one of the best sources of evidence that you acted professionally if you are ever questioned or sued over a notarization in a court case.

"Journals can help establish a verifiable pattern of professional conduct for Notaries," he said. "Being able to demonstrate a consistent, professional and methodical manner in which a Notary consistently performs notarizations will add credibility if a notarial act is ever called into question."

### Where to Go for Guidance?

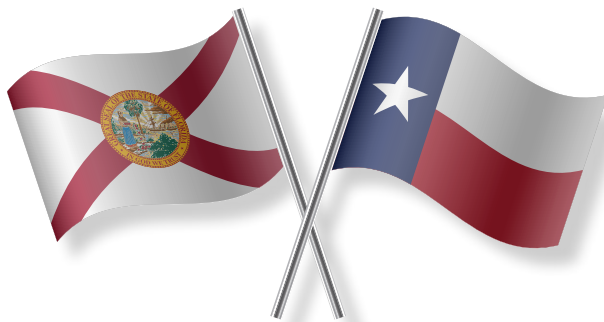
If the laws of your state don't cover a situation you run into, where can you turn for help? Here are a few suggestions:

*State Notary-regulating agencies:* Even if state law doesn't

provide you with instructions, you may be able to get help by calling your state's Notary regulating office. Many states also publish complimentary handbooks or manuals for Notaries that cover statutory requirements and sometimes offer recommendations for situations not spelled out in the law. It's also a good idea to study and familiarize yourself with state law so that if you do encounter an unusual situation you'll at least know whether or not your state provides instructions in statute.

*Professional Associations:* Professional associations for Notaries such as the National Notary Association and the American Society of Notaries provide assistance, information and publications on state Notary laws and recommended ethical practices to members. These associations can help point you in the right decision if you run into a situation where you're unsure how to proceed.

*RULONA:* The Revised Uniform Law On Notarial Acts (RULONA) has not only been adopted as law by many states, but also provides guidelines and recommendations for many unusual notarial situations that aren't always covered by formal rules in every jurisdiction. More information about RULONA can be found at [uniformlaws.org](http://uniformlaws.org). ■



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With millions of people affected by the recent hurricanes, Notaries are coming together for the greater good. Rescue and relief organizations need our support to continue saving lives and providing comfort. Your donations matter, and there are two ways you can help:

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You can also **purchase a Texas or Florida Journal and we'll donate all proceeds.** Visit [NationalNotary.org](http://NationalNotary.org) to purchase a State Flag Journal, discounted to \$25. Show your support and get a supply item you need.

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# HOW TO REINVENT YOURSELF

By Laura Biewer

**A** **S A NOTARY SIGNING AGENT IN 2008**, I derived about 95 percent of my business income from mortgage transactions. When the real estate industry crashed, banks stopped lending, and credit tightened, so consumers weren't getting loans. That means about 95 percent of my work dried up, too.

At that time, I knew the market would rebound, but in the meantime, I needed other ways to generate income from sources that were not as volatile, sources that would carry me through the tough times when the real estate market was dry. Alternate sources of revenue are also a good supplement even in good times; you can't

make your best living going back to the same old sources again and again.

Almost 10 years later, I've reinvented my business model to include multiple streams of revenue that include everything from marital trusts to Notary consulting and speaking engagements. And if the real estate market

crashes again, I'm covered, because loan signings only comprise about 10 percent of my business.

If you want to successfully weather dry spells and grow the kind of business that thrives no matter what the market is doing, you need a variety of roots that go deep. You need to learn how to reinvent yourself. But how do you figure out exactly what else you might be capable of doing that also pays well?

### Consider Past Lives

Often, we've been doing the same thing for so long that we forget who we were before we became NSAs. People forget they have a past life, but that can limit you. Take a look at yourself in terms of your life experiences, and the contacts you had before you started mobile Notary work.

I know someone who used to work as an interpreter but is now a Notary. But there's a market for mobile interpretation services; these are services she could provide and charge for in addition to Notary work.

Many NSAs come from other professions or industries that mesh well with mobile Notary work. This is particularly true in the real estate sector. Loan originators and real estate agents have skill sets they developed in those professions that can easily transfer to your mobile Notary business. Consider the education you've obtained, the work you used to do and the transferable skills you learned. Everything from public speaking to word processing skills can be repurposed.

### Consider Niches

One of the first things I did after the market crashed was investigate niches. What kinds of documents exist in the legal industry? What documents do attorneys need notarized? What do their clients need notarized? Prenuptial agreements, or marital settlement agreements, need to be notarized. I later hooked up with a company to get trained on the documents in a trust. I now understand the documents in a trust package like an NSA would know about the documents in a loan package. I leveraged skills I already had and then used them in a different industry.

I'm also preparing to take the state fiduciary exam, which means I will soon be able to manage the financial affairs of someone who can't do it for themselves. Fiduciaries can make a high hourly wage — around \$90 an hour. I had to go back to school and make a financial investment in myself, but it's one that will easily pay off.

About one-third of my business comes from mobile Notary work. I specialize in documents that people in hospitals

need notarized, such as power of attorney documents and advanced healthcare directives. Every day, I'm being called by patients in such places who need mobile services. These hospital visits pay me about half what a loan signing costs, but I have no printer or maintenance costs and no certification costs. I show up with my tools, and the assignment doesn't take an hour.

About another 20 percent of my business comes from consulting services I provide to other Notaries who are also trying to reinvent themselves and get into other lines of work. I'm teaching other people to do what I've done.

### Consider Others

Your everyday experiences often lead to opportunities if you keep your eyes open and consider whatever comes your way. I developed some of my trust business because someone came to me and told me Notaries do trust work; why wasn't I doing it? I didn't know, so I found out. It took about six months from the time the work was suggested to me to the time I began doing trusts.

Don't overlook your friends. When you develop a network, you help support the growth of that network. Then each person in your network helps others grow, too. That's when your growth will explode. Whatever you give, you get back 10-fold.

I started sending work to three or four Notaries and coaching them. I got them to help other Notaries. Now I've got 50 Notaries around the state of California and we send work back and forth to each other.

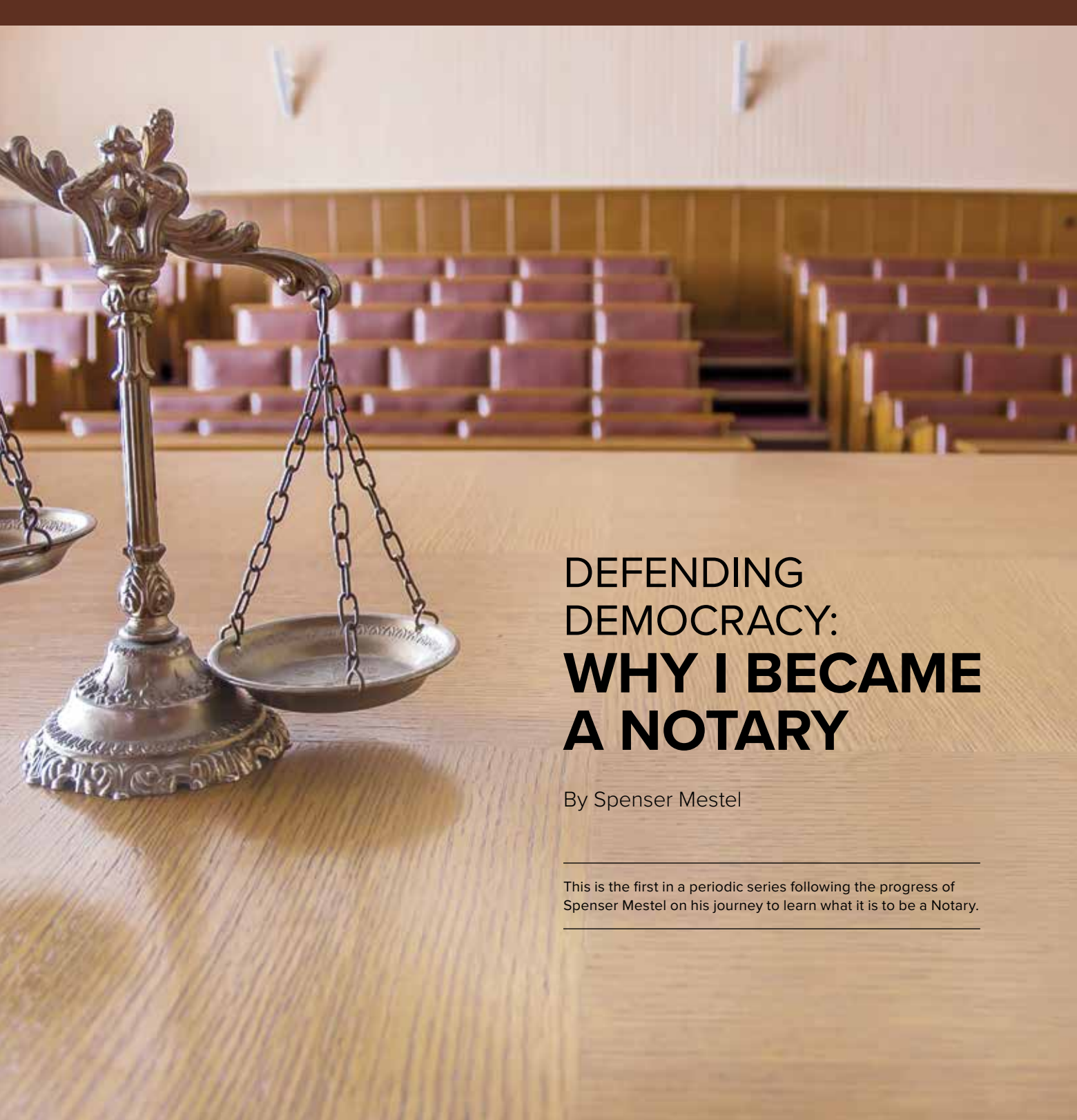
Don't be concerned with competition. I see some Notaries who are worried about shipping centers, for example, but people who visit those places aren't your customers — you're mobile! I made friends with the managers at those companies and when they need a mobile Notary, they refer me. And I send business their way, too.

### Don't Be Afraid

When you're trying to reinvent yourself, it's easy to come from a place of fear. But if you're afraid, you hoard, and you'll choke the life out of your business. I'm coming from a place of abundance; I know I can share, and it will come back to me in greater measure.

Investigate niches, look at the abundant skills you already have, and leverage your network. Reinventing yourself takes time, like any worthwhile endeavor. Some of my efforts took years before they bore fruit, so don't wait to start. Don't be afraid to spend money on education or new certifications — you will never regret making an investment in yourself. ■

Everything from  
public speaking to  
word processing skills  
can be repurposed.



# DEFENDING DEMOCRACY: **WHY I BECAME A NOTARY**

By Spenser Mestel

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This is the first in a periodic series following the progress of Spenser Mestel on his journey to learn what it is to be a Notary.

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**I'M SITTING IN THE JAMES A. BYRNE FEDERAL COURTROOM**, in Philadelphia, listening to arguments from Green Party candidate Jill Stein's lawyers about why the presidential vote recount in Pennsylvania must proceed. The case, which I'm covering for the *Huffington Post*, rests heavily on technical arguments related to the voting machine used by Pennsylvania.

What stands out to me, however, is something far more mundane: In order to initiate a statewide recount, 27,474 voters in 9,158 districts must each bring a petition to their county election boards, and each one must be notarized.

My parents are lawyers, so I grew up around Notaries, but they were only an abstract idea. When I hear about the role they play in Pennsylvania's recount process, they feel concrete, like another public official who offers seemingly small but crucial services: the poll worker, which I've been for the 2012 and 2016 presidential elections in New York City. Helping voters makes me feel like I'm fulfilling my civic duty, and while I know I'm not qualified to fix Pennsylvania's voting machines — or any other state's, for that matter — I can contribute by becoming a Notary.

I decide to take the test in Manhattan, a thirty-minute subway ride from my apartment in Brooklyn.

### Preparing for the Test

New York is one of 18 states that require some education or training, so I check out a Notary exam study guide from the library. I have to wait over a month for one of the three copies, and then I browse the glossary. I already know some of the words: defendant, affidavit, oath. A few I've never seen before, and I enter their definitions into a flashcard app I have on my phone. However, even then, their utility isn't always clear. "Latches?" I ask my dad next time we speak on the phone. "Laches," he says, pronouncing the long "e." "It says it's an unreasonable delay in making an assertion or claim," I tell him, "but how does that relate to being a Notary?" He pauses. "I'm not really sure." Regardless, I memorize the definition.

Next, I take a practice test and am surprised by how many questions ask about the fees that Notaries can charge, which seems like something I can easily look up after the fact. Still, I put it in my phone: "Fee for duplicate card: \$10." Then, as I get on the subway for the next few weeks, I try to remember not to text, tweet, or scroll through Facebook. Instead, I review the difference between acknowledgment, attestation, and consideration.

### Angsting Over Test Questions

On a Wednesday morning, I walk into the testing center, a room bursting with fluorescent light in Manhattan's Financial District, and sit down at a desk on the far right side. Behind me is a woman in her mid-twenties, dressed in a grey pencil skirt and matching blazer, cross-legged, tapping a black heel on the ground. Next to me is a man in his forties, in a polo one size too large, with faded tattoos up and down his forearms. Of the fifty or so prospective Notaries, a few are in their early twenties, a couple years younger than me, and the oldest is probably in his late fifties. While we wait, most study from the notebooks on their laps.

Since I have twenty minutes to kill, I decide to take another practice test on my phone. The familiar questions pop up — what's the fee to administer an oath, who can offer a certified copy — but this test, unlike my study guide, also asks about the minimum sentences for felonies. I panic. When I went through the study guide, it seemed like every Notary-related infraction was a misdemeanor, so I went on auto-pilot: If I see "penalty," I choose "misdemeanor." As I'm frantically searching for the sentencing guidelines for class "D" and "E" felonies, they tell us to put everything but a pencil and our IDs under the desk. I take a deep breath. I need to correctly answer only 70 percent of the 40 questions.

I'm certain about my answers on the first page of questions but get nervous halfway through. "Sworn statements that are notarized are considered what kind of evidence?" In my studying, I've never gotten past the point that witnesses attest, which seemed like where my responsibility ended. So, I try and reason out the most logical answer. At first, I mark "direct evidence" because it's going directly from the witness to the trial. When I check over my answers, though, I change it to "presumptive." Based on my reasoning, which is derived much more from "Law & Order" than from

watching my parents arbitrate, I figure that lawyers have to submit evidence to the court. Until then, it's just presumptive.

I obsess over a few other questions, but after counting my sure-things, I figure I'm safe and hand off the scantron. Within two weeks, the Department of Licensing will mail me my results, and I text my parents

as soon as I'm out of the building: "After a witness attests to something, is it direct or presumptive evidence?" They tell me direct. "I'm sorry," I text back. "I've dishonored the family name."

Ten days later, I get my passing grade. All I have to do now is fill out my information, include a \$60 check, and sign the attached oath, which, of course, must be notarized. I go to a nearby lawyers' office, where the secretary hands my form and driver's license to a lawyer. I'm excited to see exactly what he does — how long he studies the ID, whether he reads the form in question (my mom said he should never) — but he walks back to his desk, too far away.

He returns with my form, and I want to ask him whether the city will mail me my own stamp but am too embarrassed, so I walk to the nearest mailbox and drop in the envelope. Then a new feeling hits — excitement at the prospect of using my new status as a Notary to do my civic duty. I just haven't figured out how to do that yet. ■

*Spenser Mestel graduated from the University of Iowa's Nonfiction Writing Program in 2016 and has been freelancing ever since. His biggest accomplishment so far is competing on season seven of "American Ninja Warrior."*

"Helping voters makes me feel like I'm fulfilling my civic duty."

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# Notaries and Impartiality



One of the most important aspects of a Notary's duties is serving as an impartial witness to document signings. But what does impartiality require of you? Here are some guidelines to help explain when you need to stay unbiased, and why.

### Avoiding Discrimination Against Document Signers

Notaries are public officials in most states. When you are commissioned as a Notary, that means you have accepted a duty to provide services when someone makes a reasonable and lawful request for a notarization.

You should not refuse a notarization over matters that amount to discrimination. Standard I-A-3 of *The Notary Public Code Of Professional Responsibility* states, "The Notary shall not refuse to perform a lawful and proper notarial act because of the signer's race, nationality, ethnicity, citizenship, religion, politics, lifestyle, age, disability, gender or sexual orientation, or because

of disagreement with the statements or purpose of a lawful document." For example, it is not appropriate to refuse a lawful notarization request because the signer belongs to a political party you disagree with.

### Inappropriate Interest in a Document

Obviously, you are going to have problems staying impartial if you are involved in a transaction, or the document provides you with some kind of financial or other material benefit. For example, let's say you were asked to notarize a friend's signature on a document gifting a new car to you. If the friend were unable to appear before you, you might be tempted to ignore the law and improperly notarize the document to make sure you get the new car.

This is why many U.S. jurisdictions have laws prohibiting Notaries from notarizing if they have an interest in or benefit from the document, or if the signer is closely related to the Notary.

Even if your state law

permits notarizing for relatives, it is possible for a signer to challenge the Notary's impartiality in court if a legal dispute arises over notarizing a family member's signature on a document. Because of this, Notaries may wish to avoid any question of possible bias by referring relatives to another Notary.

### Avoiding Bias in the Workplace

When it comes to notarizing for your employer, impartiality issues are a bit trickier. If your boss asks you to limit your Notary services only to employees or clients of your business, can you do so?

Some states, including California and Texas, permit employers to limit Notary services during business hours. However, the states of Arizona, Hawaii, Iowa, Massachusetts and New Mexico specifically prohibit employers and Notaries from limiting their service to business customers or clients. In states that do not address workplace notarization issues in statute, the NNA recommends following Standard I-A-4 of

*The Notary Public Code of Professional Responsibility*: "The Notary shall not refuse to perform a lawful and proper notarial act solely because the signer is not a client or customer of the Notary or the Notary's employer."

### Impartiality and Charging Notary Fees

Notaries should avoid unfair bias when charging fees. The *Code* discourages basing a signer's fee on ethnicity, citizenship, lifestyle, religion or politics (Standard I-B-1). For example, you should not charge a lower fee for those who share your religious beliefs, while charging higher fees for signers who follow other beliefs.

Lowering or waiving a Notary fee for a signer who is in distress or suffering from financial hardship is not considered inappropriate. Many Notaries offer free or reduced fees when serving members of their communities who are in need. Charitable acts do not show unfair bias or compromise a Notary's impartiality.



## Travel Documents for Children, Translator's Declarations, ID Copies for Records...

**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** Can I notarize a minor travel consent form for a single parent? What documents does this person need?

*D.L., California*

**A** Yes. You can notarize a single parent's signature on a travel consent form. You complete the Notary certificate using only the name of the parent who is appearing before you. The agency requesting or receiving the consent form should advise the individual of the documentation he or she needs.

**Q** If I translate a document and sign the translator's declaration can I notarize it?

*C.K., Florida*

**A** No. If you sign a translator's declaration, you must obtain the services of another Notary to

notarize your signature on the translator's declaration. Florida law prohibits a Notary from notarizing his or her own signature (FS 117.05[1]).

**Q** Am I required to turn in my journal once it is full?

*L.C., California*

**A** No. You must keep all your journals in a secure place until your commission expires without obtaining reappointment, you resign or have your commission revoked. At that point, you must turn in all your journals to the county clerk's office in the county in which your

current oath of office is on file.

**Q** Can I certify a copy of my employer's passport?

*J.F., New York*

**A** No. A New York Notary has no authority to certify copies of a passport or any other documents.

**Q** Are we allowed to do a notarization over the phone?

*E.C., Florida*

**A** No. Notarizations without personal appearance are prohibited by the state of Florida. (FS 117.107).

**Q** In Louisiana, am I required to keep copies of

a signer's identification document and is it necessary to keep copies of documents that I notarize?

*J.R., Louisiana*

**A** No. Professional standards include protecting your signer's privacy by not keeping copies of their identification documents or documents they notarize.

**Q** Where on a California jurat certificate is the venue located?

*L.C., California*

**A** The venue is located below the disclosure statement and above the certificate wording. It includes the words "State of







California, County of \_\_\_\_". See Government Code Section 8202(d).

**Q** What type of identification can we use for non-citizens?

*P.L., Missouri*

**A** Missouri law does not prescribe that you use a certain form of identification for non-citizens. The best form of identification is one that includes a photograph and signature. A valid driver's license is a good source of identification because it contains the signer's photo, physical description, signature and issuance date of the ID. The

signer can also be personally known to the Notary or can be identified by another individual personally known to the Notary and the signer, known as a credible identifying witness (RSMo 442.210).

**Q** Can I use a signature stamp or do I have to hand write my signature for each transaction?

*C.H., California*

**A** California law does not allow you to use a signature stamp. Every time you complete a notarial certificate, you must sign it in your own hand (GC 8205[a] [2] through [4]).

**Q** Can a Notary in Utah prepare and distribute legal documents such as Durable Power of Attorney and Health Care directives?

*C.G., Utah*

**A** No. Unless you are licensed to practice law, you may not assist in drafting, preparing, completing or explaining a document or transaction. (UCA 46-1-11 [1])

**Q** Can I notarize a living trust?

*S.O., California*

**A** Yes. You can notarize a living trust. A living trust is an estate document that

frequently requires notarization.

**Q** My signer signed my journal in the additional information box instead of signature box. Is this okay?

*P.S., Pennsylvania*

**A** Yes. Sometime these things happen. What matters is that you have all the required entries in the journal record. While having your clients sign journal entries is a recommended standard of practice, it is not required under Pennsylvania law.

**Q** Could you tell me how to dispose of my Notary embosser and journal?

*A.S., Maryland*

**A** A Notary Public in Maryland should retain their journal (notarial record) for at least five years from the last entry. The state does not address the disposition of the embosser. Professional practice recommends that you destroy the embosser by disfiguring the plate.





## Determining a Signer's Awareness

While Notaries are not expected to be experts in human consciousness, you should be prepared to make a layperson's determination of the mental awareness of your signers. In some states this critical assessment of a person's willingness to sign and awareness of the transaction is a legal requirement.

Determining a signer's awareness generally means ensuring that signers are mentally "present" enough to properly understand what's going on at the time they sign documents.

### Assessing Awareness

If you suspect that your signer's level of awareness may be compromised, there are simple, non-invasive steps you can take to help make your determination:

- **Introduce/Explain Yourself:** Ease possible tension with a friendly introduction and brief explanation of your role as a signature witness.
- **Ask Questions:** Ask open-ended questions requiring more than "yes" or "no" answers, which will help determine the signer's coherence.

- **Seek Clarification:** If you are unsure whether your signers understand your questions, ask them to describe the key elements of the document they are signing.

### If Your Signer Lacks Awareness

If your signer appears confused, disoriented or fearful, your state may require you to refuse the notarization. Florida, Massachusetts, Mississippi and New Mexico law prohibits Notaries from notarizing under these circumstances.

California does not provide guidelines for Notaries to evaluate a signer's awareness. However, Civil Code 1189 does require signers to acknowledge to a Notary that they are the person who signed the document when an acknowledgment is performed. If the signer is unable to clearly communicate this, California Notaries should not proceed with an acknowledgment. Similarly, a California Notary should not complete a jurat if the signer is unable to respond clearly when the oath

or affirmation is being administered.

Florida specifically prohibits a Notary from performing a notarization if a signer appears unable to understand the nature of the document at the time of notarization, and the state *Reference Manual for Notaries* recommends against notarizing if the signer appears disoriented or under the influence of drugs or medication.

Many states do not specifically require Notaries to determine awareness. However states that have adopted the Revised Uniform Law on Notarial Acts (RULONA) grant Notaries the ability to refuse to perform a notarization if they are not satisfied that the signer is competent or has the capacity to sign. These states include Iowa, North Dakota, Oregon, West Virginia and Montana.

For Notaries commissioned in states without

an express provision, it is considered a recommended practice for a Notary to refuse to perform a notarial act if they doubt the signer understands the consequences of the transaction or of the document requiring the notarizations.

### After Refusing a Notarization

Once you have refused the notarization based on a lack of signer awareness, you should follow these recommended practices:

- **Document Your Refusal:** In your Notary journal, write a detailed explanation of your reason for refusing the notarization, as well as the steps you took to make your determination.
- **Offer to Reschedule:** In the case of inebriated, sick, or heavily medicated signer(s), you may offer to return at a later time when they are in a more coherent state to complete the signing.

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



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



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