

September 2019

# The National NOTARY®

## IN THIS ISSUE

- 15 Notaries In Pop Culture
- 18 'Loose Seals Sink Deals': Protect Your Notary Seal From Misuse
- 20 Privacy Law Trends



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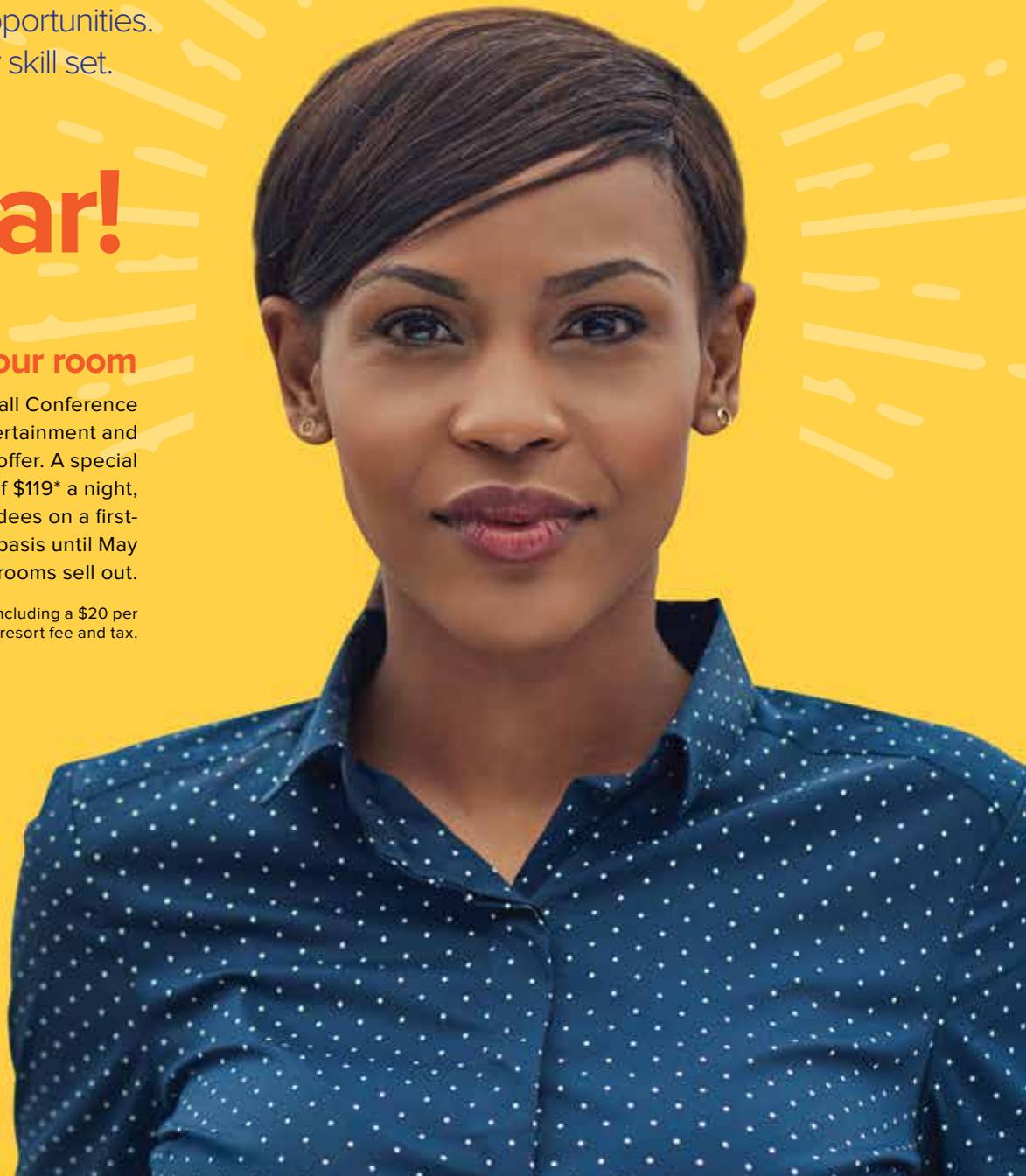
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## OUR MISSION

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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## TABLE OF CONTENTS



## COVER STORY

# 10

## Sorry, Boss, No Can Do!

*Kelly Rush*

Office Notaries must balance their workplace duties with their responsibilities as public officials. This isn't a problem if a Notary's boss understands and respects state laws — but a boss who asks Notaries to break the rules or ignore the law can make your job miserable. But Notaries aren't helpless in these situations. There are resources to turn to when you need to refuse an improper work request, including Notary reference materials, your office human resources department and tips for diplomatically handling conflicts.

## 12 Employer-Employee Liabilities

## 13 Heading Off Potential Conflict Before It Arises

## DEPARTMENTS

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

## FEATURES

# 15

## Notaries In Pop Culture

*Kelly Rush*

While the role of Notaries is often misunderstood by the public, Notaries have a surprisingly long and rich tradition of showing up in pop culture. Here's a look at some examples from popular television shows such as "Parks and Recreation" and "The Big Bang Theory."

# 18

## 'Loose Seals Sink Deals': Protect Your Notary Seal From Misuse

*Michael Closen*

Failing to keep your Notary seal from falling into the wrong hands can lead to fraud that can cost your clients business deals and financial losses. Attorney and Notary law expert Michael Closen discusses the best ways to protect your seal from unauthorized use, and why these steps are an important defense against potential lawsuits for negligence.

# 20

## Privacy Law Trends

*David Thun*

In the past several months, many state lawmakers have been taking a closer look at privacy breaches arising during notarizations. Learn more about new state privacy laws impacting Notaries that took effect this year, along with tips to spot and avoid possible privacy problems both during and after a notarization.



## Remote Online Notarization: Pros And Cons Amongst Notaries

**ALREADY EFFECTIVE IN SEVERAL STATES, notarizing remotely is getting much attention but not much praise ... yet.**

"I will likely get out of the Notary business when California passes this. There's too much opportunity for fraud and abuse, and too much liability for the Notary."

*James Kistner, San Diego, CA*

"I am for this. The digital age is here, and like other industries, the involvement of technology is inevitable. How many accounts of fraud have been documented already is my question."

*Anonymous*

"How am I supposed to examine an ID to see if it's genuine or fake? There are lots of little built-in nuances on state IDs that tell if it's genuine. How am I supposed to make a good signature comparison with the ID? How are the signers to sign in my journal? This is very problematic, too many disconnects."

*Joy Olsen, Lakewood, MI*

"I feel that technology is here to stay, and it's to our benefit to embrace it and see what we can do to make it better. I look at this as 'the glass being half full' not 'half empty.'"

*Elaine Wright Harris, Mitchellville, MD*

"Look, I'm all for technology. Without it, I wouldn't be able to receive jobs and scan docs back immediately without my cell phone, the apps and my mobile scanner. But the potential for fraud is too great."

*Julie Rice, West Hills, CA*

"I'm totally against this."

*Robbin Trice, Newland, NC*

"Where do we learn exactly how to carry out a remote notarization? I think it is important to know exactly what it entails before making a decision as to whether or not I will do it."

*Linda Sheffield, Glendale, CA*

## See Something, Say Something

**NOTARIES ARE IN POSITIONS** where the potential for fraud runs high. When you see it taking place, or are asked to do something unlawful, what do you do?

"I walked out on one (signing) at a hospital where the family was saying, 'Sign here, mama.' She thought they were discharge papers to go home. The paperwork was actually to sell her house."

*Keithley Notary Services, Tulare, CA*

"I would never notarize anything I did not feel is right. I worked hard to get my business going and I will not jeopardize it for anyone."

*Wanda Torres, Meridian, ID*

"I was once called to a hospice and found the signer in a coma. Her cousin said to me, 'Look, I'm going to hold her hand, so you can see she's signing.' Needless to say, I refused."

*Debra Lane, Santa Monica, CA*



## Staying Safe During Mobile Notarizations

**WHILE MANY NOTARIES ONLY PERFORM** their duties in an office environment, some meet with customers after hours and on weekends. We asked the mobile Notary community to share their most important safety precautions when out performing a mobile notarization.



“The most important thing is situational awareness. Always have two exits out of any room. Have a plan to leave as soon as you arrive. Never let anyone sit between you and your exit.”

*Justin R. Jones, Cookeville, TN*

“I meet in public places with visible and operational cameras; I also have a dashcam and tell my family where I’m going and who I’m meeting.”

*Foxy Starnes, Oklahoma City, OK*

“I prefer to meet in a public, well-lit place, and I always let someone know where I will be.”

*Cristal Nash, Chesnee, SC*

“I always Google the address to check out the neighborhood (photos and cam). Always leave an address where I am going. I always talk with the client on the phone before meeting and rely on my gut feeling.”

*Ellen Millour, South Lake County, FL*

“Always be aware of your surroundings and keep your mobile phone close.”

*Martha Hendrickson Bailey, Old Hickory, TN*

“Only go to private residences during daylight hours, trust your gut when

it’s telling you something isn’t right, and always make sure somebody knows where you are going.”

*Paul McCool, Orange, CA*

“I am often called into the mountains and off the beaten path — literally. My husband drives me there. He makes sure the client sees him in the car, and he stays outside in the car. If I am longer than an hour he texts me. He is also on speed dial. No problems yet, knock on wood!”

*Gail Pinkham Nelson, Florence, CO*

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## Show Me The Money, Notary Style

**TECHNOLOGY MAKES IT EASY TO receive payment no matter where you are. Still, some Notaries insist on cold, hard cash. What is your preferred method of payment when receiving Notary fees?**

“Cash and PayPal. I do not want to handle credit cards. If they want to pay with a credit card, they can do so through PayPal. If I know the person I will accept a check.”

*Terri Poster-Taylor, Jacksonville, FL*

“Cash from citizens, direct deposit from companies.”

*Donna J. Runnels, Burnham, ME*

“Cash, check, PayPal sent as friends/family, Venmo, and Flint app for credit cards (like Square but it doesn’t need outside hardware).”

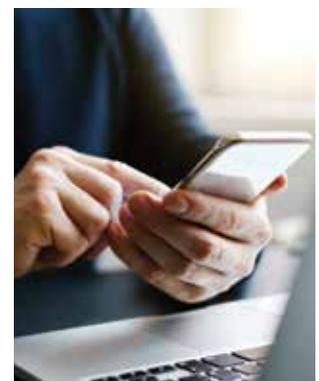
*Amanda Keene Lang, Visalia, CA*

“I accept checks/direct deposit from vendors/lenders/title companies. I accept only cash or PayPal from locals requesting individual notarizations.”

*Betty Dedman, Champaign, IL*

“To be on the safe side, cash only, and prior to the signing!”

*Dianna J. Forrest, Modesto, CA*



### 2020 Notary of the Year: Open to All Notaries

**EACH YEAR, THE NNA RECOGNIZES** outstanding achievement by a Notary when it presents the Notary of the Year Award at the NNA Conference.

Since 1990, the Notary of the Year designation has been the highest honor an American Notary Public can earn. Anyone can submit a nomination, and any Notary may be nominated — not only NNA members.

We encourage you to look at yourself and your fellow Notaries, and nominate anyone who stands out by demonstrating a selfless dedication to public service and makes you proud to be a part of the Notary Public office.

Submit your nomination at [bitly.com/NOTYForm](https://bitly.com/NOTYForm) by November 1.



The chosen Notary of the Year must be able to attend the NNA Conference in Scottsdale, Arizona, June 7-10, 2020. Travel and room accommodations for the NOTY are complimentary.

### Keep Up With New Laws

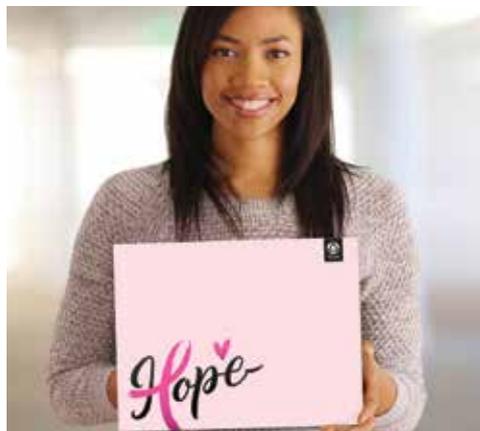
**NNA NEW LAW ALERT EMAILS** help you to stay updated on any changes made to your state Notary laws. Changes can occur at any time and often will affect your commission or the way you notarize.

Ohio Notaries who are NNA members were recently alerted to changes which include Notaries now being required to take training and to pass an exam and a background check.

Sweeping changes made to requirements for becoming a Notary or renewing a Notary commission, journals and seal stamps, and the most recent states to adopt Remote Online Notarization (RON) are just some developments communicated in New Law Alert emails.

New Law Alert emails are sent throughout the year anytime a change occurs; be sure your email address on record with the NNA is up to date.

### Help Support City Of Hope's Mission 'To Eliminate Cancer'



**EVERY DAY THE CITY OF HOPE** works to fulfill their mission to eliminate cancer, and the National Notary Foundation (NNF) continues to participate in the fulfillment of that mission

**with donations to the Linda Bazar Breast Cancer Fund from the Notary community.**

Established in the name of the NNA's late and beloved VP and Chief Financial Officer, the Linda Bazar Breast Cancer Fund benefits national cancer research programs, including the City of Hope, to battle the disease that robbed us all of our good friend and colleague.

You can help support the Linda Bazar Breast Cancer Fund and continue much-needed research by purchasing this year's edition of the NNA's Breast Cancer Awareness Notary journal. Five dollars from each journal sold will be donated to the Fund, in addition to the National Notary Foundation's annual donation of \$10,000.

Eliminating cancer, imagine that.



## Notary Hotel Opens In Philadelphia



“We’re thrilled to be welcoming our first guests this summer,” said the hotel’s general manager, Jim McSwigan. “Our team has worked diligently to create a hospitality experience worthy of this iconic building and the vibrancy of this great city. The end result is a hotel that will leave its own distinguished mark on the city for years to come.”



**UNUSUAL HOTELS ARE** all the rage these days — there are underwater hotels, railroad hotels and even hotels made of ice. But did you know that a Notary-themed hotel has just opened in Philadelphia, Pennsylvania?

The Notary Hotel, which opened in July, is located at the historical City Hall Annex in Penn Square, which was originally built in the 1920s as a municipal building where residents would bring their documents to be notarized. Rooms are decorated with items such as old-fashioned embossers, and concierges even stamp the card sleeve for guests’ keycards with a custom seal.



## Saudi Arabia Opens Up Notary Posts For Women

**IN THE UNITED STATES,** women have served as Notaries for generations. But until recently in Saudi Arabia, only men were permitted to hold government Notary posts.

Saudi Arabia’s Ministry for Justice announced

in July that applications would be accepted from female candidates for new positions as government Notaries in major cities, handling duties related to wills, inheritance, corporate contracts and other services that were

previously restricted to male employees.

The Ministry has also been opening positions for women as legal researchers and legal advisers as part of an effort to expand the role of women in government service.

## Former Mayor Accused Of Misusing Clerk’s Notary Seal

**THE FORMER MAYOR OF Cudahy, Wisconsin,** has pleaded guilty to taking a clerk’s Notary seal without her permission and using it to file a complaint form under a false name.

John Hohenfeldt was charged with falsely acting as a public official after he allegedly submitted an ethics complaint about candidates in a local election.

Hohenfeldt signed the complaint using the name “John Smith” and forged a Notary’s signature and stamp on the document using a Notary seal he took from a clerk’s desk without her knowledge, according to local news reports. The Notary was cleared of wrongdoing by investigators.

As shown in this case, a Notary seal left unattended in the open can potentially be taken by unauthorized persons and used to falsify documents.

Notaries should always protect their seals by making sure they are not left unattended and are stored in a secure area such as a locked drawer or safe when not in use.



**E**VEN THE BEST JOBS COME WITH THEIR SHARE OF STRUGGLES. LONG meetings, longer commutes and flaky colleagues can add frustration to your professional situation, but nothing tops the list of workplace dangers like a difficult boss. It's an even more volatile mix when you throw in the demands of notarizing on the job.

Office Notaries have the dual responsibility of fulfilling their state-commissioned public official duties and pleasing their employers, who may not understand — or care about — the state rules and regulations governing notarial acts. Difficult bosses come in a lot of different flavors — some don't understand Notary law and misbehave out of ignorance. Some act like your best friend and urge you to do them an unethical favor, and others may operate as if they're above the law, as in a recent case that came to the NNA's Notary Hotline.

A caller described being berated by their boss for refusing to put a seal and signature on a document without a certificate. The boss threatened to "take" the Notary's commission, said the Notary had to comply with her demands because the company paid for her commission, then threatened to file a complaint with the Secretary of State's office.

Most situations won't be as extreme as this one, but difficult bosses can come in many forms. They may suffer from poor communication skills; they may not understand the pressure they're putting on you; or they may be ignorant of Notary regulations.

Among the most common demands, bosses may insist that you notarize a document outside the presence of the signer; forgo verifying a signer's ID; notarize incomplete or blank documents; or let co-workers use your seal. In any case, it's important to have savvy strategies to avoid situations where saying the wrong thing could escalate an encounter into an ugly fight while still fulfilling your duties as a Notary.

According to human resources and corporate leadership experts, workers can employ a variety of tactics to stay on the right side of the law and maintain their professional reputations and mental health when faced with bad bosses, whether Godzilla or a Mary Poppins who has no clue flying via umbrella is a violation of local airspace regulations. And those tactics may differ depending on the type of bad boss.

### The Toxic Bully

The bully who makes threats and uses intimidation to get an employee to do something is one of the most challenging scenarios people can face in the workplace. Whether they are a direct supervisor, a senior executive or co-worker, a bully can create a hostile environment, expose themselves and their companies to lawsuits and promote high turnover. In fact, a recent Gallup study showed one in two employees "have left their job to get away from their manager at some point in their career." According to the report, companies fail to choose the candidate with the right talent for the manager job 82% of the time.

There are cases when a complaint to the human resources department may solve the problem if you don't want to walk out the door, but a complaint's success often depends on whether the bully is a low-level employee or a highly placed executive.

It's important to understand that the person you're dealing with is still there for some reason. Maybe the boss is a high performer or is a member of the executive management team. Either way, they're still at the company, and they're still raging.

Mary Abbajay, a leadership and organizational development consultant based in Washington, D.C., said people should know what they're dealing with when they've got the "bully psycho toxic screamer shouter." If you have a boss who leads by rage, "nobody is coming to save you. HR isn't going to come save you," she said. It's very expensive to replace star talent or execs at the top of the org chart. You also need to remember that the same people to whom you might report this boss could be protecting him, such as a CEO or vice president.

She said the key here is to keep your emotional self intact as you consider your options: "When we get depleted, we lose hope." She recommends activating a support network and staying out of the line of fire: try to avoid interactions with this boss, maintain your professionalism even when they don't and start looking for a job. "You're never going to thrive with a toxic boss," she said.

Sometimes bosses use these intimidation tactics because they've worked in the past or they may know they're asking an employee to do something that's unethical or against state law and so try to use extra force. Being asked to break the law ups the stakes.

Terri Hartwell Easter, a human resources expert and organizational change strategist, said people can easily find their livelihoods put to the test in such situations. However, she says "there is always a way to honor the law and your own integrity."

Start a conversation where you make clear that what you're being asked to do would not comply with the law, and stay in the "I" space, she said. Talk about what works or doesn't work for you without impugning the other person. "I don't have to challenge (the boss) that he's doing something illegal. I can just say 'This isn't feeling right for me.'" You can stand your ground without taking a moral position about what the other person is doing.

Some companies also have hotlines or a way to report abusive behavior anonymously, or they have general counsel or an ombudsman who acts as an ethical arbiter.

**"There is always a way to honor the law and your own integrity."**

— Terri Hartwell Easter,  
Human Resources Expert



## Employer-Employee Liabilities

Most Notaries understand that improperly or negligently carrying out their duties can land them in hot water. They could face sanctions from Notary regulators, prosecution by law enforcement agencies, or civil claims filed by any party harmed by your flawed notarizations.

What many employers do not understand is that they, too, can be held liable if they direct Notary-employees to violate the law. Arguably the most sensational example of this occurred in 2010 when the massive “robo-signing crisis” came to light.

Following the collapse of the mortgage finance market, lenders hired a number of document-processing companies and law firms to generate millions of foreclosure documents. To streamline the workload, executives at the companies and law firms required Notary-employees to engage in a variety of improper practices that included:

- Notarizing documents outside the presence of the signers
- Notarizing documents with forged signatures
- Allowing co-workers to use their Notary seals
- Notarizing unsigned documents

When the faulty documents came to light, it caused a nationwide scandal and sparked massive investigations by federal and state law enforcement agencies. The result was the National Mortgage Settlement that cost five major lenders \$25 billion and required them to implement sweeping changes in their business practices.

Moreover, an executive of one document-processing firm was sentenced to five years in federal prison for her role in preparing and filing more than one million fraudulently signed and notarized mortgage-related documents. And the Florida lawyer who ran what the media described as a “foreclosure mill” was disbarred.

Employers and their Notary-employees should build a good working relationship that fosters sound notarial practices, notes Michael Closen, one of the nation’s leading Notary law scholars. “Such an atmosphere prevents wrongdoing that might otherwise cause liability concerns for both the employers and their Notary-employees.” ■

Easter warned against doing anything illegal for a company because criminal liability can extend beyond a corporation to an employee personally.

Such was the case in 2012 when four Nevada Notary-employees of a mortgage servicing company found themselves facing charges for improperly notarizing tens of thousands of foreclosure-related documents.

“You have to safeguard yourself and your associations,” Easter said.

### The Passive-Aggressive or Apparent Manipulator Boss

Sometimes bad boss behavior isn’t so clear-cut because they’re not threatening, yelling or asking you to do something clearly wrong, as in the case of passive-aggressive bosses who appear to use manipulation to get their way.

First, avoid putting labels on these sorts, Abbajay says. The passive-aggressive boss may simply be a poor communicator; labels set you up to have a strong emotional reaction to the boss’ behavior instead of responding in a measured way. If you feel like you’re being manipulated, check that reaction; it won’t help you make strategic choices.

“Don’t assume their inability to communicate is passive-aggressive,” she says. “The whole part of dealing with difficult bosses is (reframing) to find something that works.” She suggested offering the boss a choice of appropriate ways to accomplish a task and sending an email that recaps in-person conversations in order to get things in writing. You may also want to make sure other people are around when important discussions are happening, so you have witnesses and emotional support.

In cases where the boss is a proven manipulator, sometimes conflict can’t be avoided. “I think calling out that kind of thing is the smart thing to do,” Easter said. “With appropriate feedback, people have the option to alter their behavior.”

The point is to seek clarity without making judgments about the boss’ intentions. She suggested saying something like this: “I hear an undertone in your communications that you’re not pleased with X; that’s what it feels like for me.”

“When there’s not that haze or cloudiness about what’s expected, you can deal with things head-on without an additional layer of distrust,” Easter said.

### The ‘Friend’

There are two types of friend bosses — one who genuinely cares for the team and has a slip-up, and one who pretends to care because it’s expedient. In the case of the former, open communication lines should work with this person. Even good bosses make mistakes and aren’t always aware of the rules and regulations their employees must follow or may not realize they are crossing emotional boundary lines. Schedule a time to have a chat and be honest and forthright without making assumptions about the boss’ behavior. A good leader will appreciate the opportunity to learn and grow from the encounter.

If you're being asked to cut corners and are reassured the "friend" has your back, don't fall for that. "Your work product is your work product," Abbajay said. If you're getting a request in the moment, you decline and pivot. You can say, "I would

You may also want to reconsider having a "friend" relationship with a superior. It's OK to be friendly, but don't be too close: you'll stop getting truthful, constructive feedback, or if they do give you truthful feedback, your feelings may be hurt because

who is putting you in a tough position or making presumptions about personal ethics may not be a friend. It's especially important for those in trust-holding positions, like Notaries, to keep stock of their own boundaries and have great clarity concerning their ethics.

Ultimately, every Notary-employee needs to find a way to balance the demands of the job with their duties as a Notary.

Abbajay advises Notaries to build an "ethical standards" plan so they know their boundaries before they are tested. She tells her coaching clients — particularly women, who have a tendency to shrink when faced with confrontation — to practice in the mirror in the morning.

"You can create a comfort level in letting people know who you are, where you stand and what works for you and what doesn't," she said. ■

In cases where the boss is a proven manipulator, sometimes conflict can't be avoided.

prefer to follow regulations," and change the subject, but do it very tactfully. Be firm and kind and avoid impugning the boss in the moment. "You want to be truthful and tactful; it's not going to be helpful to shame, embarrass or demean."

you thought the boss was your friend. You also run the risk of alienating colleagues if the boss shows you too much attention or favoritism, Abbajay said.

Easter advised employees to consider how they define friendship. Someone

## Heading Off Potential Conflict Before It Arises

Bosses who ask Notaries to cut corners, skip steps or do things that are illegal can make work challenging.

Notaries don't have to wait until someone crosses the line to get proactive about setting boundaries. There's no time like the present to start, according to Terri Hartwell Easter, a human resources expert and organizational change strategist.

You can create a brand around who you are — whether you have just become a Notary or are already established as one.

Build and maintain a good workplace reputation. Consistently showing that you are professional, cooperative and a rule follower will help safeguard you against

people asking you to do things that are unethical. While some bosses may overstep lines, a reputation as a stickler for the rules can discourage improper requests.

Keep your state's Notary Public handbook nearby (usually available from the Secretary of State's office) and obtain other education and reference materials. And share them with you bosses to let them know the position comes with its own set of rules beyond what the company may want. Any changes to Notary law or regulations offer a good opportunity to "remind" supervisors and co-workers of your Notary duties.

Build a good relationship with your boss. This will help avoid problems down the line, said Mary

Abbajay, a leadership and organizational development consultant. When starting a new job, have a coffee meeting in order to find out about them, their work style, preferences, priorities, communication style and pet peeves.

"It's shocking how few people do this," she said. "Right from the start — don't guess what's important to your boss; find out how your boss wants you to disagree with (them)." ■

For a fuller discussion of what you can and cannot do for any signer, check out the book, "Sorry, No Can Do!" ([nationalnotary.org/sorry-no-can-do](http://nationalnotary.org/sorry-no-can-do)).



# NERVOUS ABOUT NOTARIZING?



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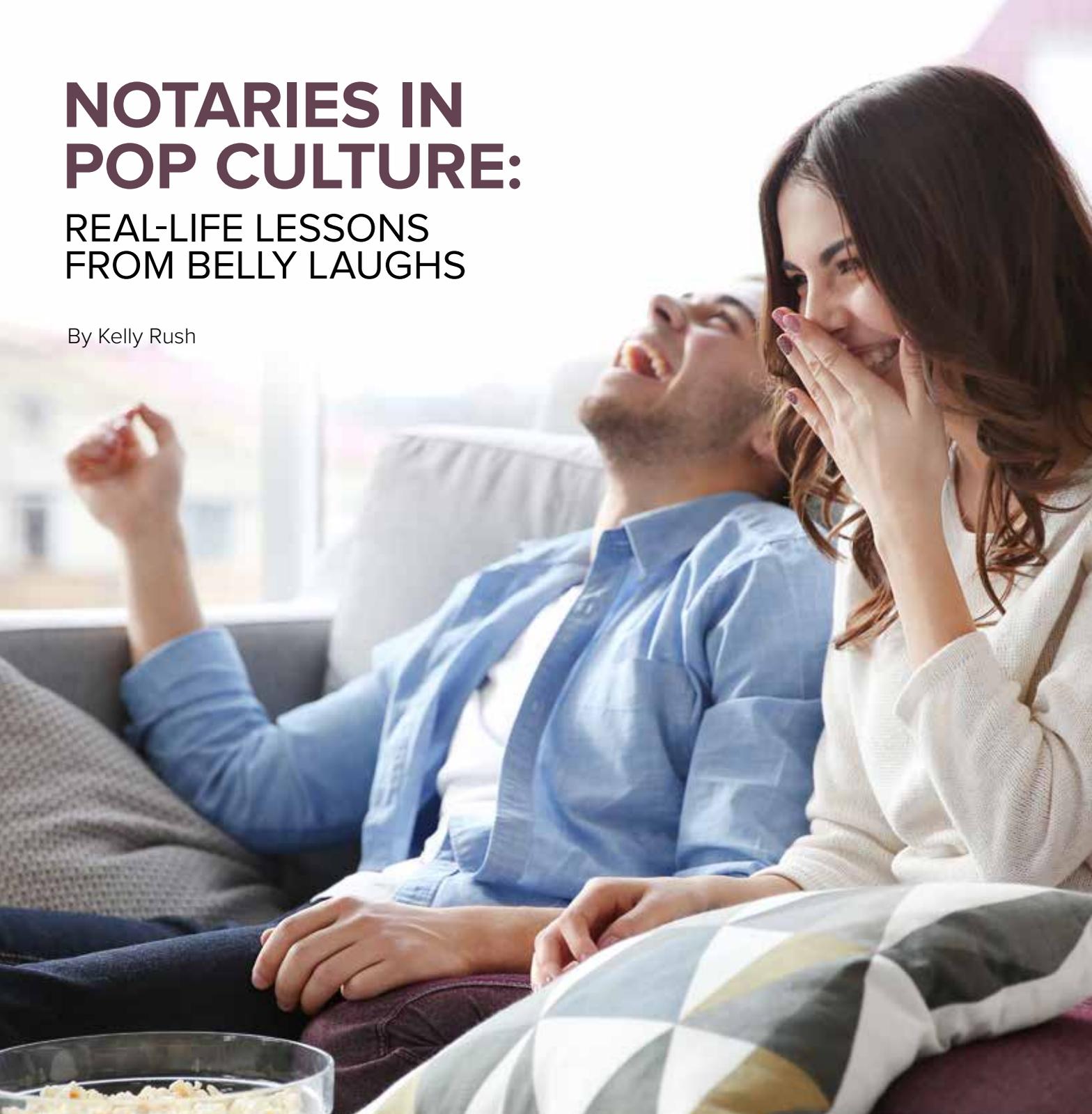
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# NOTARIES IN POP CULTURE:

## REAL-LIFE LESSONS FROM BELLY LAUGHS

By Kelly Rush



**I**N THE FINAL SEASON OF NBC'S COMEDY SERIES "PARKS AND RECREATION," Gary Gergich (also known as Jerry, Larry and Terry), dies peacefully on his 100th birthday and receives the "Indiana Notary Society's" most coveted honor at his funeral — the 21-stamp salute. Notaries gather around the casket with their stamps. Stamp, stamp, stamp. And thus, Gary was sent on his way. Taps could not have lent the moment more solemnity.

Gary was a hard character to watch sometimes. He almost *farted* himself to death while his co-workers gasped for air, and he fell into a stream and injured himself reaching for a burrito. On the other hand, he created stunning artistic works and possessed uncommon sense and a charitable heart. It's the stuff of real life, the best comedy.

Notaries have a lot in common with great comedy — you tell the truth, and you take the everyday realities of life and turn them into something bigger and more meaningful. You're standing by as we sort out our issues, find stability and achieve our dreams (Gary's greatest dream was to become a Notary Public). We live, we buy homes, we proffer ID, we love, we overcome.

If Notaries have their own entries in the journals of our lives, we can expect them to show up in our favorite comedies too. But if you take a closer look, the lessons they teach go beyond the comedic.

### Being A Notary Is Serious Business

In "King of Queens," Arthur Spooner, Carrie's Dad, emerges from his basement apartment and demands his daughter sign a document as homework for his Notary class while he watches. The document declares that Carrie will deliver 15 tons of gravel to a military base, but Arthur explains it's just a fake. "Good," she notes. "Cuz I don't think I have that much gravel."

"DO I MOCK YOUR PROFESSION?" he yells. (Who hasn't struggled with a little job insecurity?) Before they start, Arthur needs to stretch and get loose. Then, just as Carrie signs the document, he gets distracted by a dog barking and looks away. "I signed it, Dad, take my word for it," Carrie says. "If I could take your word, we wouldn't need Notaries, would we?" Good point, Arthur.

Arthur is an unemployed elderly man living in his daughter's basement, and he's trying to find a new career path. His character feels guilty for sponging off his daughter, wants to find a way to contribute, struggles with both anxiety and rage and takes his responsibility very seriously.

Despite his problems, he maintains his integrity and demands that he must witness the signature or the whole thing is moot. He gets the most important part of the job right but is so overwhelmed by the interaction he folds and flees. He is shockingly relatable.

Unfortunately, the stress of the situation is too much for the man, and he folds. "Who was I fooling? I'm not fit to be

a Notary. It's a young man's game," he wails, and throws his supplies in the trash.

### Getting It Right

We get a bit of a different scenario in "The Big Bang Theory," a comedy that made nerds the heroes and got laughs out of role-playing games and math jokes. In one episode, physicist Sheldon decides he needs to cement his relationship with Amy, the woman who has captured his strong and yet non-sexual interest, so he draws up a relationship agreement which he then prepares to notarize himself.

Sheldon's comedic dilemma mirrors a real dilemma notaries face in their work — avoiding conflicts of interest. His personal stake in the matter disqualifies him, but that doesn't stop our guy, who isn't known for being concerned with either the needs of those he serves or the ethics of his own profession.

Who hasn't been tempted to use their insider, professional experience for their own gain, especially when under threat of losing something they care about? Sheldon Cooper is the master of knowledge; the more you know, the more power you have. He's also famously immature and self-centered.

His now-girlfriend Amy has an issue with the no hand-holding portion of the agreement (it's banned in most cases.) Sheldon tells her she's free to consult a lawyer. (I'd consider walking away, but that's just me.)

### Getting Respect

Even great comedy can get a little lost sometimes, like in the case of Jerry Seinfeld's Notary jokes. The

comedian has a strange beef with Notaries going back decades that has critics scratching their heads. Notaries showed up in a bit he used on the "David Letterman Show" in a YouTube clip that appears to be from the 80s, and he skewered them again on his 2017 Netflix special.

What's the beef? In the Letterman bit, he complains he had to see a Notary. It's a special person with special degrees, and only the Notary can use the stamp. "I just want to grab that stamp sometimes and say, 'There, I have the power now!'" He goes on to mock the process for certification. "Do they teach these people? Do they have Notary classes...? Press and stamp and press..."

But not everyone agreed with his point of view.

Some commenters found his take on Notaries in his Netflix special "savage."

"If I could take your word, we wouldn't need Notaries, would we?"

— Arthur Spooner, "King of Queens"

*Vulture* notes: “Seinfeld mocks the self-important aura of the Notary Public, as if that’s a thing that we’re all going to be glad someone finally called out.”

The *Daily Beast* said much the same: “...There are...times when the gags too odiously carry the whiff of privilege (what did public Notaries do to deserve such savage skewering?).”

You’d think a guy with his wealth would be glad someone can’t draw up papers, claim to be Seinfeld, and go his merry way because a Notary would prevent such a transaction from happening. I guess we’ll scratch our heads along with the critics and wish him the best.

Notaries, like every other public servant, occasionally take abuse, but sometimes the nice guy wins in the end. In “Parks and Recreation,”

Gary, the government worker, says he finally pursued his Notary commission after an illness made him realize he needed to chase his dreams before it was too late.

His affable manner and quick forgiveness made him a target for abuse, but when it came time to find his dream, he chose a pursuit that protected vulnerable people. Then he became the mayor and kept on getting re-elected by a citizenry that had formerly shown him little but scorn.

Sure, his name might have been misspelled on his tombstone, but he was surrounded by loved ones at the time of his death, and he received perhaps the most unique salute at his funeral in television history. What more could a nice guy want? ■



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# LOOSE SEALS SINK DEALS

By Michael Closen



**T**HE NOTARY SEAL IS CRITICAL FOR EVERY NOTARIZATION. TOGETHER WITH the Notary's signature, the seal authenticates the notarization and makes the notarized document recordable in land records, admissible as evidence in legal proceedings and acceptable when sent to other states and territories. Hence, a

fraudster would like nothing more than to obtain an authentic Notary seal to help in forging notarizations and carrying out document fraud.

We Notary educators talk a great deal about Notary seal security, and experienced Notaries have probably heard us many times before. But it's worth repeating, because Notary seals keep getting stolen. Sometimes it's because Notaries neglect to protect their seals, and sometimes it's because

an old seal was not disposed of properly. But whatever the reason, when criminals get their hands on a genuine Notary seal, forged notarizations are always the result.

Recently a North Carolina lawyer took his legal assistant's Notary seal from her unlocked desk while she was away from the office. This law-breaking attorney then forged a notarization by signing his assistant's name and affixing her seal on a document, and then returning the seal to

her desk — all without her knowledge. Unfortunately, there are other attorneys, employers and co-workers who try to cheat the Notary system by “borrowing” seals and engaging in this kind of misconduct. Unless you take steps to protect your seal, anyone — even a family member, friend, boss or co-worker — could take it and misuse it.

During World War II, information secrecy and security was important to Allied success. Spies used information picked up in casual conversations to help guide enemy attacks, so the public was often warned, “Loose lips sink ships.” Today, we are in a war against document fraud, so it is crucial to prevent false notarizations. So the mantra could be, “Loose seals sink deals.” In other words, Notaries who carelessly allow their seals to be pilfered and misused may be liable for financial losses involving their stolen Notary tools.

### **Avoiding Negligence**

Too many Notaries leave their seals unattended and lying openly around their work spaces, with no safeguards against unauthorized use or theft. In an Illinois case in which I testified as an expert witness, a Notary who worked in a busy office regularly left his Notary seal in an unlocked drawer of a desk that was shared by several co-workers. Lots of people could have taken the seal and used it to falsify notarizations.

If a Notary negligently allows their seal to be borrowed or stolen, or improperly gives away or sells an expired seal that is later used to forge notarizations, they are legally liable for any financial injuries resulting from the forgery. The key word in the liability rule is “negligently,” so here are some tips on how to protect yourself from liability.

### **Protecting Your Seal**

First and foremost, always follow your state’s requirements, and use reasonable care to protect the security of the Notary seal. If you have

taken precautions against theft of your seal, but a skillful fraudster still manages to take it, you are much less likely to be held liable than if you carelessly left it out in the open.

Remember, your seal belongs exclusively to you. Your name appears on its image. You should never allow anyone else to possess or even to handle your seal. This is true even if your employer paid for the commission, and you leave the job before your Notary commission expires.

Secure the seal at all times. When you are not using it (such as between notarizations), either keep it in your immediate possession or store it

and probably should be kept together; it is considered a best practice always to have both tools with you when performing a notarization.

### **Do Not Sell Or Give Away Current Or Expired Seals**

When you decide to stop being a Notary, or if your Notary commission expires, the old seal should be destroyed or defaced to render it unusable. Even an expired seal can be quite valuable to a fraudster who wants to backdate a document and forge a notarization.

Unfortunately, current and expired Notary seals are often found at garage sales, thrift stores, flea markets,

Today, we are in a war against document fraud, so it is crucial to prevent false notarizations.

under lock and key under your exclusive control (in fact, this is required by law for California Notaries).

For instance, you might lock the seal in a desk drawer, file cabinet, safe, lockbox, or room — provided no one else has a key to the storage space. Simply leaving a seal on your desk in a locked office, won’t protect the seal if someone else has a pass key for the office. In that circumstance, a court might perceive that you have not used reasonable care. You could be held liable if the seal is taken and used to commit document fraud which injures somebody.

If you travel to a notarization appointment, don’t leave the seal out in plain view in your vehicle where a potential thief might see it. Instead, lock the seal in the glove compartment, and be sure to lock the car too.

Incidentally, the same precautions apply when protecting your Notary journal. The seal and journal could

antique shops and through online sites. Never sell, give away or carelessly discard working seals. Here, too, you could be held liable for not exercising reasonable care to protect the security of an old seal, which was then used to commit fraud.

### **Conclusion — Don’t Let ‘Loose Seals Sink Deals’**

Hopefully, I have said enough to scare you a little about potential liability to alert you to the importance of Notary seal security. But hopefully I have also explained the basic precautions you can easily take to guard your seal from misuse and protect yourself from legal liability. Remember: Loose seals sink deals. ■

*Michael Closen is Professor Emeritus at the John Marshall Law School in Chicago, Illinois. A respected consultant on model Notary statutes and legislation, Closen served on the drafting committees for The Notary Public Code of Professional Responsibility and various editions of the Model Notary Act, and recently authored the book, Professor Closen’s Notary Best Practices.*



# PROTECTING NOTARIZATIONS FROM PRIVACY BREACHES: WHAT YOU NEED TO KNOW

By David Thun

**N**OTARIES OFTEN ARE EXPOSED TO SENSITIVE INFORMATION ABOUT THEIR signers when performing notarizations. This includes addresses, phone numbers, birthdates, identification serial numbers and more. As a Notary you must take appropriate steps to handle this information properly to ensure the privacy of your

customers and to prevent any possible breaches of this information. Here's a look at important practices and laws you must follow to avoid potential privacy breaches — along with some of the possible complications that can make protecting privacy challenging for Notaries.

## **New State Notary Privacy Laws**

State lawmakers have been focused on privacy issues in recent months. Arizona and Iowa, for example, have enacted special privacy laws that their Notaries need to know.

Arizona currently permits its Notaries to keep a separate journal for any acts that are not public records, such as notarizations containing information covered by attorney-client privilege or information classified as confidential under federal or state law. Arizona Notary journals for nonpublic records must be kept confidential and are considered the property of the Notary's employer. Effective July 1, 2020, Arizona Notaries will be required to keep a separate journal for nonpublic notarizations.

Also effective July 1, 2020, Iowa Notaries will be prohibited from selling, offering for sale, using or transferring for use to another individual personally identifiable information collected when performing a notarization, except as required for the notarization or the transaction for which the information was provided. Certain exemptions to this broad privacy provision are noted in the new law, including when a signer expressly consents to the use of the information. However, the new Iowa law could pose potential problems for the state's Notaries in the future, said NNA Vice President of Government Affairs Bill Anderson.

According to Anderson, Iowa's upcoming privacy restrictions are so strict, they may conflict with federal privacy laws — which could cause potential problems for Notary-employees or other Notaries whose job duties require handling sensitive customer information. Under Iowa's new law, such Notaries potentially could not use personal information obtained during a notarization even if federal



law normally permits them to use that information for certain purposes. One example is the Gramm-Leach-Bliley Act (GLBA), which permits anyone — including Notaries — to transfer information to the attorneys, accountants and auditors of the financial institution for which they work (15 U.S.C. 6802(e)(4) and Regulation P, 12 C.F.R. 1016.14).

“The NNA supports commonsense privacy protection rules, but Iowa’s new rules go too far,” Anderson said. “The new privacy laws single out Notaries and could prohibit legitimate uses of personal information that are now allowed under federal privacy laws.”

### **Follow State Privacy Rules When Recording Your Journal Entries**

Always be sure to follow any Notary laws for recording information in your journal. Some jurisdictions prohibit Notaries from recording certain kinds of information in a journal entry. For example, Texas prohibits its Notaries from recording any type of number that can identify a signer (such as a Social Security or driver’s license number). Montana forbids its Notaries from recording the same identifiers as well as birthdates.

Under a new Notary law in Ohio taking effect September 20, 2019, Ohio Notaries who perform online notarizations cannot record Social Security numbers in their journals when entering information about a remote notarization.

### **Notary Signing Agents And Federal Privacy Laws**

Lenders, title companies, closing agents and their third-party service providers — including Notary Signing Agents — are obligated to protect any sensitive consumer information related to loan document signings under relevant federal laws, including the GLBA. Because of this, Signing

Agents should not allow a title company to inspect their Notary journal as a condition to receiving assignments, unless the request complies with your jurisdiction’s Notary laws. For example, in some states, an individual must present a written request with certain required information in order to receive a copy of a journal entry.

### **Securing Your Notary Journal**

It’s very important to protect customer information in your journal from prying eyes. You should never leave your journal unattended or out in the open where unauthorized persons can read it. Some states require storing Notary journals in a secure location when not in use. Even if your state does not, you should, as a standard of professional practice, secure your journal.

Also, you should never let unauthorized persons look randomly through your journal for information. If, as in some states, Notary journal entries are considered public records,

the public may legitimately ask to inspect an entry for a notarial act. Notaries should conceal unrelated entries on the same page to avoid exposing sensitive information that is not related to the requested journal entry or entries.

### **Thumbprints And Signer Privacy**

A signer’s thumbprint in your journal entry can be a strong deterrent against fraud because it positively identifies the person who appeared before you during a notarization. At the same time, however, Notaries must be careful to respect signer privacy when asking for a thumbprint. Currently, California is the only state that requires Notaries to obtain a thumbprint record for journal entries — and even then, only for notarizations involving real property documents and powers of attorney.

Texas prohibits Notaries from asking for a signer’s thumbprint when recording a journal entry, and Texas Notaries

Some jurisdictions prohibit Notaries from recording certain information in a journal entry.

who perform remote online notarizations may not release audiovisual recordings of a notarization that includes a signer's biometric data without the person's permission, a court order or a request from the Secretary of State.

If you are a Notary in a jurisdiction other than California, keep in mind that you cannot refuse the notarization if you ask for a thumbprint and the signer refuses to provide one. And, if you are a California Notary, and the notarization doesn't require you to obtain a journal thumbprint under state law, you also cannot refuse to notarize if the signer objects to giving you a thumbprint.

The Florida Department of State's website specifically cautions Notaries about this issue: "If there is no objection from the signer, you may record a thumbprint in your journal.

However, you should not refuse to provide notary services based solely on the person's refusal to provide a fingerprint in your record book."

### Other Notary Privacy Guidelines

Even if your jurisdiction does not provide specific guidance how Notaries should handle private information, it's still important to avoid exposing any personal or proprietary information provided by a signer during a notarization. *The Notary Public Code of Professional Responsibility* recommends the following practices to protect document signers:

#### **Don't discuss details about notarizations you perform with people who aren't involved in the transaction.**

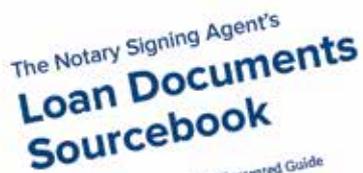
For example, a Notary should never discuss his or her work with friends or family.

#### **Don't read a signer's document.**

The Notary should only review the document to confirm that it is complete, does not include any blank spaces or missing pages, or to note any information required by state law for the journal entry (such as the type of document or document date in some states).

#### **Don't make or keep copies of signer documents and information.**

You should never keep photocopies of documents as evidence that the notarization was performed properly. It is unnecessary and could be seen as an intrusion into the signer's personal affairs. In most cases, the only signer information that you should keep is the specific information that is required by your Notary statute in creating a detailed journal entry for the notarization. ■



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# Understanding Apostilles And Authentication Certificates



An *apostille* is a certificate — often attached to the document by an appropriate government official after it is notarized. While you are not responsible for obtaining an *apostille*, signers often ask about them, so it's helpful to understand what they are and how they work.

### Apostille Or Authentication Certificates?

*Apostilles* and authentication certificates validate the seal and signature of a Notary on a document so that it can be accepted in a foreign country. Both verify that you held a Notary commission at the time you notarized the document.

*Apostilles* are used when public documents are being transferred between countries that are party to the Hague Apostille Convention of 1961. This international treaty streamlined the cumbersome, traditional procedure for authenticating documents.

An *apostille* is issued by your Secretary of State's office or Notary commissioning agency. The single *apostille* is the only certification needed. Once

prepared and verified, the *apostille* is attached to and sent along with the notarized documents. Notaries cannot issue *apostilles* themselves. This all happens after the notarization and requires no action on your part.

Authentication certificates are used for destination nations that are not part of the Hague Convention. Instead of a single *apostille*, the document needs several authentication certificates, including those from your commissioning agency, the U.S. Department of State, the consul of the destination country and potentially another government official in the destination country.

The requirements and processing time for authentication certificates will vary from country to country.

### Getting A Notarization Authenticated

According to the U.S. Department of State, documents that may require authentication for use abroad include: affidavits, agreements, articles of incorporation, company bylaws, deeds of assignment, diplomas, home study,

income verification, powers of attorney, transcripts, trademarks, warrants, extraditions, certificates of good standing and other general business documents. Also, parents wanting to adopt a child living in another country must have their adoption dossiers properly authenticated.

But your client is responsible for requesting the authentication — not you.

Requests for an *apostille* or authentication certificate are generally submitted in writing to your state's Notary commissioning authority (usually the Secretary of State's office) and should contain:

- An explanation of why the *apostille* or authentication is needed.
- The original document, including the Notary's completed notarial certificate.
- The final destination of the document.
- A postage-paid return envelope addressed to either the document custodian or the document's final destination.
- The required fee (varies by state).

- The commissioning office determines whether the document requires an *apostille* or authentication certificate, based on the document's final destination.

### What's The Notary's Role?

Your only responsibility is to notarize the document itself. Because the document is destined for another country, the notarization must be performed perfectly to ensure that there aren't any problems on the receiving end. For example, some judges presiding over adoption cases in other countries may reject documents not properly notarized.

### Can Notaries Provide Apostille Services?

Some enterprising Notaries who live near their Secretary of State's office offer "*apostille services*" as a way to generate income.

They essentially provide a courier service to deliver and return the paperwork to customers. These are not considered "notarial" acts, so the Notary may establish any relevant service fees with the client.



## Notarizing For Family, Certificates, Journal Entries, Notary Supplies

**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** My niece is having a civil wedding ceremony and would like me to notarize her marriage documents. I know I can't notarize documents for immediate family members, but what about nieces?  
*U.C., Florida*

**A** You are not prohibited from notarizing the signature of your niece on her marriage documents. The statute only prohibits notarizing the signature of a spouse, son, daughter, mother or father (F.S. 117.107(11)).

**Q** I am scheduled to notarize 11 documents for three people; do I need to do a journal entry for each signature?  
*M.S., California*

**A** Yes, a journal entry is required for each signature notarized on each document. So, if three people will be signing 11 separate documents, this would require 33 complete and separate journal entries.

**Q** I am a Notary commissioned in Clay County, Missouri. When I notarize documents, do I indicate the county I am commissioned in or the county where I am performing the Notary act?  
*S.D., Missouri*

**A** The name of the county you enter in your notarial certificate always must be the county where you performed the notarization.

**Q** I made an error on a notarial certificate, and my customer has brought it back to me. Can I make corrections on the certificate?  
*L.R., Nevada*

**A** Nevada law does not

address corrections on a notarial certificate. In the absence of a statute, we recommend following the standard of professional practice when making a correction. To correct a notarial certificate:

- Line through the incorrect information.
- Legibly print the correct information.
- Initial and date the correction.
- Make a notation in your journal entry.

**Q** Can a Notary notarize a financial power of attorney form for my brother-in-law?  
*V.A., Virginia*

**A** Yes, notarizing your brother-in-law's signature is fine since under the Virginia Notary Act the only family member you may not notarize for is a spouse (COV 47.1-30).

**Q** When I start a new job, can I take my Notary supplies with me, or do I need to turn them over to my old employer since they paid for them?

*G.G., Pennsylvania*

**A** You would keep your Notary stamp and journal when you leave your employment. A Notary stamp and journal belong to the Notary, regardless of who paid for them.



**Q** Do any unnecessary pronouns listed in California acknowledgment certificates need to be crossed out to complete the certificate?

*A.W., California*

**A** No, the pronouns (“he/she/they”) do not need to be crossed out. In fact, they are required to be included in the certificate wording.

**Q** Can a document in a foreign language be notarized?

*M.P., Maryland*

**A** Yes, a document in a foreign language can be notarized. However, any notarial certificate wording that you complete must be in English. The act of

signature witnessing is also permitted, when called for, without specific notarial wording. You may perform a signature witnessing on a foreign-language document.

**Q** My mom is wanting to sign a power of attorney to make medical decisions for my grandma. Am I allowed to notarize their signatures?

*K.A., Iowa*

**A** According to Iowa Code 9B.4, the answer depends on whether you or your spouse is a party to or have a direct beneficial interest in the document. If yes, then you may not notarize your mother’s signature.

However, as a professional standard of practice, we recommend that you find an impartial person to notarize your grandmother’s signature. This would better protect the notarization from possible legal challenges.

**Q** A client would like to donate burial plots to families who have lost young children. I only need to notarize the letter which states what they are donating, correct?

*C.Y., Minnesota*

**A** It sounds like you are asking us to provide legal advice on the question of how to ensure the burial plots are properly donated.

That’s not a question that we or a Notary may answer. If the client asks you to notarize their signature on the letter, you may proceed.

**Q** When should an oath or affirmation be administered?

*N.J., Idaho*

**A** An oath or affirmation must be administered any time a notarial certificate mentions that the signer has ‘sworn’ to or ‘affirmed’ the statements in the document. In addition, an oath or affirmation is required when a credible witness comes to identify a document signer who is unknown to you and who does not present written identification. (See Idaho Code 51-107[1][b].)

**Q** In California, can you notarize a signature on an undated document?

*J.B., California*

**A** Yes, you may notarize an undated document except when there is a blank space requiring a date that is not completed with a date. In California, Notaries may not notarize a document that contains blank spaces.





## Is An Expired ID Acceptable For A Notarization?

Notaries are presented with expired IDs more often than you might think. The elderly, disabled, impoverished, or any person who doesn't drive regularly often let their identification documents expire. But they still need notarizations from time to time.

While some states offer clear direction on handling expired IDs, other states do not, which leaves Notaries responsible for determining whether the ID is acceptable. That's why it's so important to be familiar with your state's requirements.

### Know Your State's Requirements

Some states only permit Notaries to accept an expired ID if it was issued within a certain time period.

In California, any signer ID allowed under California law must either be current, or, if expired, must have been issued within the past five years. An expired ID that was issued more than five years prior to the date the notarization takes place may not be accepted. This requirement applies to signer ID presented for both acknowledgments and jurats.

Florida also permits Notaries to accept expired IDs from a signer provided the expired ID was issued within the past five years and includes a serial identifying number. This includes driver's licenses and ID cards issued by U.S. states and territories, Canada, or Mexico; U.S. passports or foreign passports stamped by U.S. Citizenship and Immigration Services (USCIS); U.S. military IDs; veterans' health ID cards issued by the U.S. Department of Veterans Affairs; U.S. Bureau of Federal Prisons IDs for inmates in custody or ID cards issued by USCIS.

A number of states have adopted the Revised Uniform Law On Notarial Acts (RULONA), which allows an ID to be accepted up to three years after it has expired. If you're a Notary in Iowa, Montana, North Dakota, Oregon or West Virginia, then you may accept an expired ID that falls within the three-year period.

Thirteen states require Notaries to accept a "current" ID. Pennsylvania, for example, requires "a

current, government-issued identification card..." Texas requires an identification card presented by a signer to be current and issued by the federal or state government. One state, Illinois, requires IDs to be valid at the time of the notarial act and Arizona, Delaware and Virginia require IDs to be current and unexpired.

So far, this accounts for less than half of U.S. states and jurisdictions. More than half of all states have laws which do not say an ID must be current, valid or unexpired.

If your state's Notary laws do not specifically spell out what to do in the case of an expired ID, then the NNA recommends that you make it your professional standard of practice to accept only unexpired IDs.

### If A Notary Cannot Accept An Expired ID

If you're not allowed to accept an expired state or locally issued ID there may

be alternatives, but these also vary by state. In most cases, a valid, unexpired U.S. passport would be acceptable. U.S. passports are valid for 10 years, typically double that of most driver's licenses and state IDs. Considering that more than 125 million people, or about half of all U.S. adults, currently hold passports, that is a workable option.

In most states, signers may also be identified through the use of one or more credible witnesses if the witnesses meet all statutory requirements. In Pennsylvania, for example, a credible witness must personally know both the signer and the Notary. Florida, on the other hand, allows the use of two credible witnesses who do not personally know the Notary. In this case, the witnesses must present valid, state-approved ID to the Notary, and sign a sworn written statement.

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

Be confident.  
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