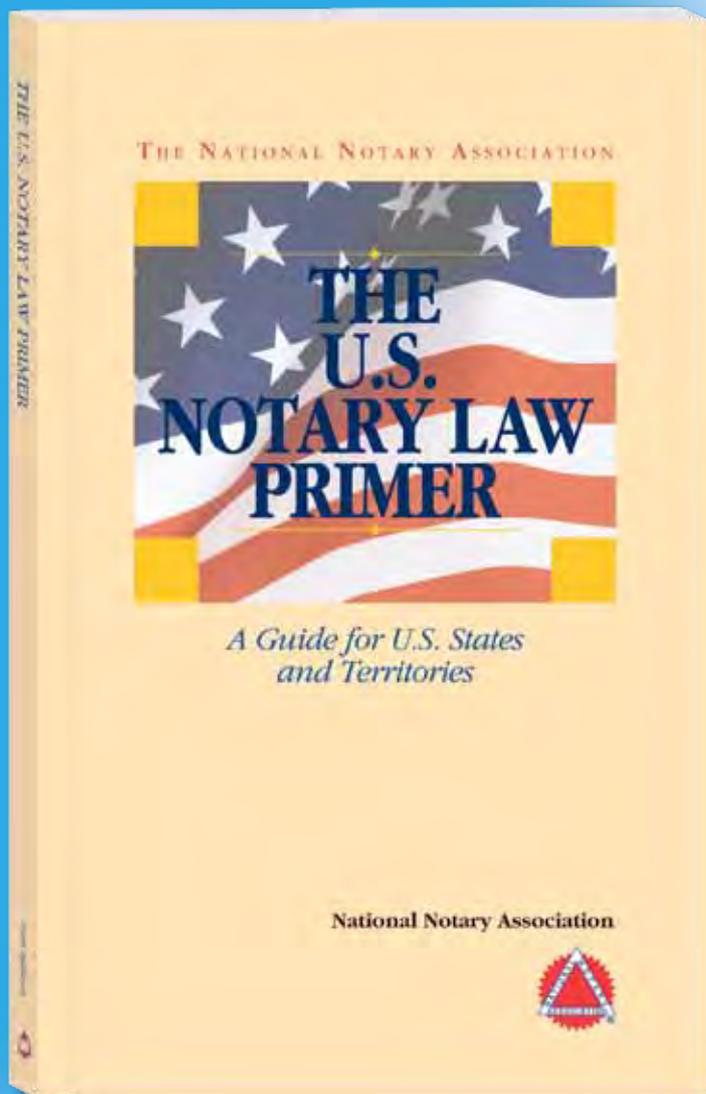




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The Notary office is above all a position of trust. But events like the subprime mortgage meltdown, the foreclosure crisis, and our nation's most serious economic crisis since the Great Depression have weakened the vital sense of trust that allows our economy and institutions to function smoothly. Trusted Notary® is the NNA program that now enables Notaries and their employers proactively to help restore consumer trust in our economy and institutions.

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## Protected By A Thumbprint

I received a call one evening from a young man who needed mobile Notary services. He asked me to come to the home of his aunt and notarize a quitclaim deed that would transfer a \$700,000 home to the man.

When I arrived, I talked with the young man and his aunt for several minutes. I observed nothing to cause alarm when I spoke with the aunt, though personally I thought the request was unusual. But I refrained from giving any unauthorized advice and proceeded to complete the notarization. I recorded the notarization in my journal and took the signer's thumbprint.

About three months later, I received a phone call from a law firm wanting to see my Notary journal entry regarding the aunt's property. I complied with their request and provided a photocopy of the entry in my journal. The law firm wanted to see the thumbprint and determined it was, in fact, genuine. I was later told that the nephew was trying to make a fast cash sale of the property without the aunt's knowledge. Having a properly acquired thumbprint in my journal entry prevented any further legal action against me as the Notary Public. I never heard from the law firm again.

Fortunately, California requires a thumbprint for every signing involving the transfer of any real estate property. I acquire a thumbprint for every notarization and have never had a signer refuse to provide one, regardless of the purpose for the signing.

**Gaylor Vaughn Smith, Oceanside, California**

## Helpful Reminders

Thank you for THE NATIONAL NOTARY magazine. I don't do notarizations as often as other people, so the frequent reminders of what I should look for and recommendations on best practices are very helpful.

**Karen Dickey, Phoenix, Arizona**

## Improper Notarizations

Shame on loan signing companies that encourage improper notarizations — they know better. It is illegal to backdate a loan document. If you have done this, you put your Notary commission at risk, and could get your commission suspended, face heavy fines and even jail time. A few years ago, a loan officer asked me to

backdate a whole loan package. I refused. I found out later that the officer had lost her job due to "downsizing."

**Ellen Michaels, Canoga Park, California**

## Conflict Over Practices

In the "Notaries And The Foreclosure Crisis" article in your January 2012 issue, Shari Olefson said that if you are working for an employer that wants you to illegally close mortgages, you should quit. I was working in Indiana for a credit union, and in Indiana a Notary has to hold an Indiana Insurance Producers License in order to close mortgages. I tried to explain this to my supervisors, but they said I was wrong. Eventually, I quit that credit union due to this and other things that this credit union was doing with mortgages that concerned me, but I could not get unemployment. Even after explaining the situation to the unemployment officer, he said that I should have just done the mortgages as I was told to do! It is still Notaries and employees that are the ones who pay for questionable practices.

**Toni Pugh, Frankfort, Indiana**

## Importance Of E&O

Though I have never been in a situation where I had to use my E&O insurance policy, I think it's necessary to provide me with protection from mistakes that could cause liability. I think a Notary needs to have a minimum of \$50,000 in E&O insurance.

**Karen Sublett, Williamsburg, Virginia**

## WE WANT TO HEAR FROM YOU!

In our continuing efforts to address the topics and issues facing Notaries today, THE NATIONAL NOTARY wants to hear from you! Whether it's your thoughts on business opportunities, challenges in your office or on signings, we want to know about your day-to-day experiences and observations, and what information and resources you may need to help guide you through them. You can send us comments via e-mail at [publications@nationalnotary.org](mailto:publications@nationalnotary.org). Or write us at: National Notary Association, Attention: Editorial Department-David Thun, 9350 De Soto Avenue, Chatsworth, CA 91311. Please be sure to include your city and state and if you are willing to have your letter published.

# Celebrating The Populist Traditions Of American Notaries



There is something soul-satisfying about traveling: taking a long trip and coming home. You go with an expectation of discovery and adventure and arrive back at your doorstep

appreciating where you are.

Traveling reminds you of the things you take for granted, everything from safe drinking water to traffic lights. Traveling can even make you see the nature of the Notary office in a different way.

Throughout the world, Notaries are unique in the services they provide, particularly the security their signatures and seals deliver. But generally, with the exception of the United States and a few other jurisdictions, the number of Notaries is strictly limited. For instance, in the city of Paris, like many European locations, the appointment to become a Notary is issued by a judge or minister of justice, and a Notary must retire or die before another can be appointed.

Throughout South America, Notary offices are situated like congressional districts. Office hours are posted and long lines can form of those requiring various documents to be prepared or authenticated.

Document signers anticipate the wait and the expense. They endure it as we would in going to the Department of Motor Vehicles.

Here in the U.S. though, the total Notary population is as large as that of some of the world's greatest cities. While we may suffer from pangs of inadequacy from comparisons made between civil law Notaries, professionally trained as lawyers, and ourselves, we can be proud of the democratic nature of our selection process which reflects our heritage and culture.

In contrast to the colonial days and the years prior to women gaining the right to vote when restrictions were in force, today there are few barriers to becoming a Notary in this country. An age requirement,

the ability to read and write English, and a reputation for honesty and integrity in the community are typically all that is required.

An appointment or commission doesn't require an apprenticeship or a college degree. Nor is the office passed down from generation to generation as it may be in other countries. Surely the American tradition of opportunity and equality impresses itself on the Notary office.

Here, a Notary does not even have to be a U.S. citizen. Because we focus too often on the ease of obtaining a commission or the reaction of document signers to our appearing as an impediment to their transaction, we don't often consider the social parity that we represent.

Though some states may require education, others do not. It is up to each of us whether to seek more education or greater understanding of notarial responsibilities. We determine where we want to provide our services and what hours we choose to do so.

Becoming a Trusted Notary<sup>®</sup>, as featured in this issue, is a personal choice to be made, and not government mandated. The choice is ours.

Though we may often feel that our contribution to agreements and transactions is more burdensome than meaningful, throughout the world our signatures and seals convey the same significance as that of our foreign counterparts.

But we have the virtue of more truly representing the people and communities that we serve.

---

*Deborah M. Thaw can be reached at [dmtbaw@nationalnotary.org](mailto:dmtbaw@nationalnotary.org)*

## Mortgage Fraud And Forged Notary Seals

Amid the continuing epidemic of mortgage fraud, a persistent and disturbing pattern has emerged: Scammers are forging seals of real Notaries to aid their schemes.

That trend was illustrated recently by two California cases, including one that involved a forged seal of NNA 2007 Notary of the Year Joan Sampson.

In that case, 29-year-old Christopher Warren of Sacramento pleaded guilty in federal court in a \$19 million fraud scheme, according to federal authorities. In an interview, Sampson said she discovered that Warren had used a forged version of her seal when a local title company asked about several suspicious documents.

In another federal case, a Glendale man pleaded guilty to bilking \$5 million from lenders using fraudulent documents that bore “forged and fraudulent signatures of Notaries,” according to the FBI.

While there is little Notaries can do to keep scammers from forging their seals and signatures, Sampson and others have said they used their journal records to prove they did not notarize the fraudulent documents.



Joan Sampson

## Federal E-Records Push Could Encourage Electronic Notarization

One of the biggest impediments to the widespread use of electronic notarization has been the slow pace of government agencies adopting digital recordkeeping technologies. But that may be changing as the federal government speeds up its plans to use e-records to replace mountains of paper.

The Obama Administration recently issued a memorandum directing federal agencies to consider a variety of technologies that would end their reliance on paper records. The National Archives and Records Administration, for example, collects 475 million pages of documents a year.

The Administration’s memo directed all federal agencies to submit a plan this spring outlining efforts to adopt digital recordkeeping technologies. For years, the healthcare industry — pushed by the U.S. Department of Health and Human Services — has been rapidly expanding its use of electronic records.

As more agencies embrace electronic recordkeeping and document processing, more transactions requiring notarization will be able to take place completely electronically.

### The National NOTARY

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#### NATIONAL NOTARY FOUNDATION

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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 only the highest ethical standards of conduct and sound notarial practice.

#### OUR CORE VALUES OF MEMBERSHIP

Membership in the National Notary Association is the single most important action a Notary can take when assuming the important responsibilities of the office and performing official notarial acts.

Our Core Values of Membership:

COMPLIANCE

LIABILITY PROTECTION

RISK MANAGEMENT

PROFESSIONALISM

OPPORTUNITIES

## Pete Rose Sells Notarized Papers Banning Him From Major League

Controversial former baseball star Pete Rose is auctioning off the documents banishing him from the game of baseball — and to prove they're genuine, he had them notarized.

The former Cincinnati Reds player, who was banned from the sport after being accused of betting on baseball games, posted the official papers for sale at \$500 on his official website, [www.peterose.com](http://www.peterose.com), with a description that includes "...notarized by a Nevada Notary. Nevada Notary stamp and seal guarantees authenticity."

Concerns about sales of counterfeit items in the sports memorabilia industry have led many sellers to turn to Notaries to help verify authenticity. Buyers are often provided with notarized documents confirming that sports souvenirs purchased by collectors are genuine.



## 'Robo-Signing' Brings Uncle Sam Knocking

Notaries working for mortgage servicing companies, brokers and other nonbank financial businesses soon may have Uncle Sam looking over their shoulders.

The Consumer Financial Protection Bureau (CFPB), created by Congress last year in response to improper conduct exposed by the "robo-signing" crisis and the collapse of the housing market, has launched the federal government's first program to actively supervise nonbank companies.

A day after taking office earlier this year, the agency's first director, Richard Cordray, announced the launch of the program. Until now, many of the types of companies at the center of the "robo-signing" crisis — such as loan servicing firms — operated without federal supervision.

Now CFPB examiners will conduct reviews of nonbank business practices, holding companies "accountable to consumer financial laws," Cordray said.

## Moving Study Shows More People Relocating to D.C., Mid-Atlantic States

Notaries working in regions such as Virginia, North Carolina and the District of Columbia may want to keep an ear to the ground for assignments related to home purchases — according to a study of U.S. relocation trends by an international moving company, these areas saw some of the highest number of relocating people arrive in 2011.

The 2011 Migration Patterns study by Atlas Van Lines reported that many people are moving out of Midwestern states such as Wisconsin, Nebraska and Kansas, and relocating to communities in Texas, New Mexico, North Carolina, and Virginia.

The study reported Ohio as the state with the highest percentage of outbound moves in 2011. Washington, D.C., has retained the highest percentage of inbound moves for six years, the study said.

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## NNA Conference 2012 Designed For Today's Notary And Employer

The 34th Annual  
National Notary Association  
Conference  
San Diego 2012

Featuring a new format, exciting programs, and a gala celebration of the NNA's 55th Anniversary, Conference 2012 will be a valuable, informative and fun-filled event that should not be missed. The "Notary Event of the Year," themed "Service, Integrity, Trust – Working Together for 55 Years," will be held June 3-6 at the Sheraton San Diego Hotel & Marina.

With liability protection and fraud among the program's leading topics, experts will also focus on risk management issues pertaining to employer and Notary-employee relationships.

This year's Conference ushers in a new format featuring customized workshops designed for Notaries in various industries and stages of their careers — New Notaries, Advanced Notaries, Notary Businesses, Notary Signing Agents, and Supervisors. Workshops will feature more roundtable and panel-style discussions with increased interaction between attendees and expert presenters.

As has been tradition for decades, the NNA will recognize the annual March Fong Eu Achievement Award recipient, the five Notary of the Year finalists (see page 22), and the 2012 Notary of the Year, who will be announced and honored at the Conference's Gala Banquet.

For more information about Conference 2012, visit [www.NationalNotary.org/conference](http://www.NationalNotary.org/conference) or call (800) 876-6827.



### Member Advocates Making A Difference For Notaries Public

The NNA's growing Member Advocate Program is providing an opportunity for leaders in the Notary Public community to make a difference their local communities. Dedicated members who champion Notary causes and have a keen interest in serving as proponents for NNA initiatives are being tapped to join this exclusive group.

In addition to interacting with influential state officials about crucial Notary issues, Member Advocates promote the importance of NNA membership. To apply to be a Member Advocate and participate in a rewarding Referral Program that provides exclusive discounts, recognition, and other benefit opportunities, visit [NationalNotary.org/MemberAdvocate](http://NationalNotary.org/MemberAdvocate).

### Facebook Sweepstakes Sends Member To Conference

NNA member Amber Hall, of Tomball, Texas, is the lucky recipient of a full package to San Diego this June after participating in NNA's Conference 2012 Sweepstakes on Facebook.

The package includes Conference registration for two, round trip airfare to San Diego, and four nights hotel stay.

As a Signing Agent, Hall is looking forward to meeting others in the

Notary community and learning as much as she can at Conference. In fact, the NNA was instrumental in launching her career as an NSA.

"When we had our home refinanced I asked the Signing Agent who worked with us a lot of questions," Hall said. "She mentioned the NNA and told me all the steps I had to take to become a Notary Signing Agent."

After the Conference Sweepstakes

winner was announced, the NNA launched its 55th Anniversary Sweepstakes featuring a grand prize Visa gift card worth \$550. 55 special weekly prizes are being awarded to entrants who register for a chance to win at [NationalNotary.org/](http://NationalNotary.org/) sweepstakes. Prize recipients are announced online.



Amber Hall

All New 2012-13 Edition

# The Definitive Word on Notarization for All 50 States 'U.S. Notary Reference Manual'

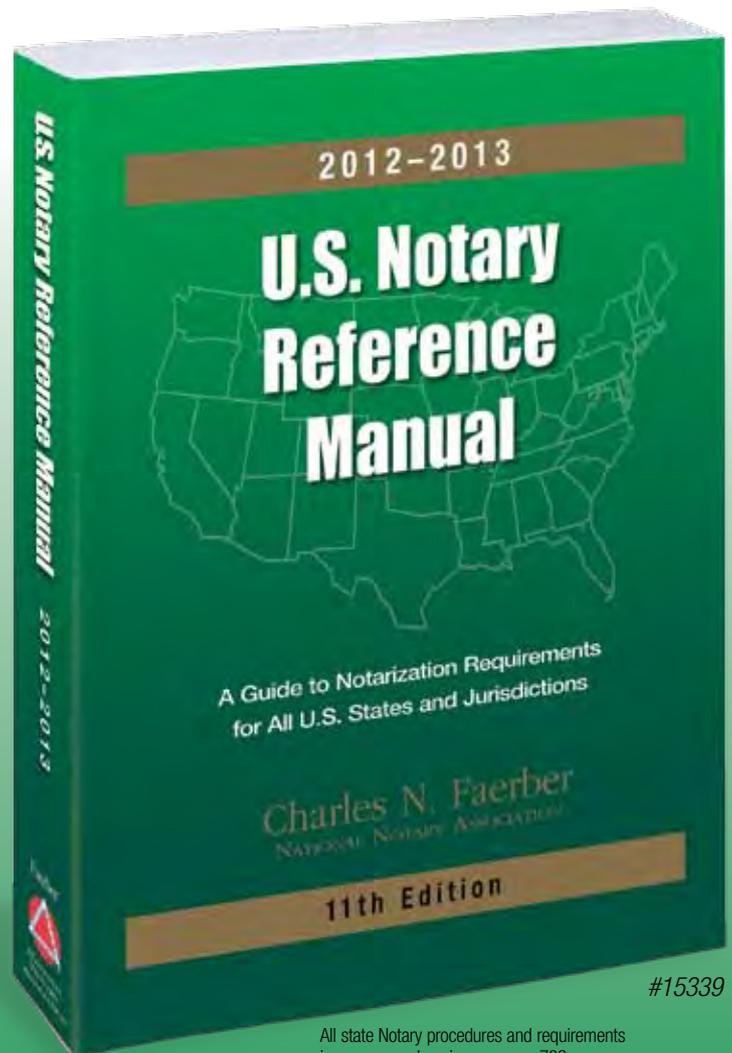
## *All the Information You Need to Handle Any Notarization*

If you prepare papers for another state or receive documents from out of state, here's the one resource that has the answers you need.

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- Notary certificate wording requirements
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- Authentication procedures for notarial acts
- Wording for oaths and affirmations
- Notary procedures, fees, disqualifications and recordkeeping requirements
- How to find a particular Notary and how to obtain those Notaries' records
- State offices that can answer questions about Notaries and procedures
- County offices that can provide assistance
- Citations of pertinent state laws, regulations, court cases and official directives
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This manual is a must for every professional who works with notarized documents.



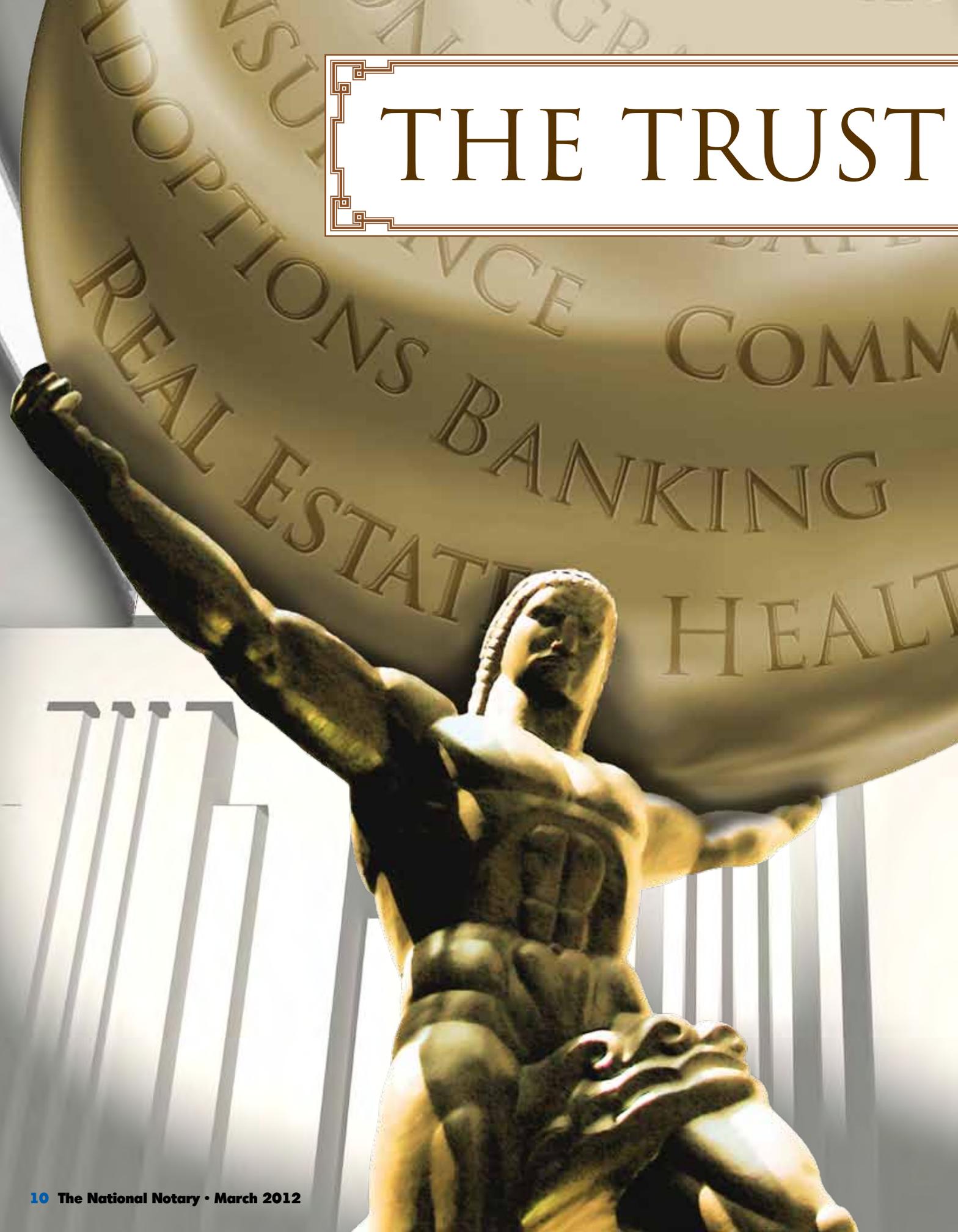
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# THE TRUST



# ED NOTARY®

**I**t was 55 years ago — back in 1957 — when the National Notary Association was born as the nation's first-ever national organization dedicated to teaching Notaries what they need to know to serve and protect the public from document fraud.

The NNA was born at an almost magical time in the 1950s at the crest of the greatest economic boom the world had ever seen. An unprecedented rising tide of opportunity and profit brought post-war America the greatest prosperity in world history.

In the 1950s as industrial dynamos like General Electric and General Motors grew strong, a new phenomenon began to appear. Technical innovators like Bill Hewlett and David Packard — and, later, Steve Wozniak and Steve Jobs — began to start companies in their own garages. This was personal entrepreneurship such as no one had ever seen. Steve Jobs, for example, born a year before the NNA, created and built Apple into the most valuable company in the world.

If one could distill into a single word the feeling that permeated those heady days of the 1950s, perhaps it would be the word "trust." Trust that hard work and innovation will be rewarded. Trust that our system of laws works fairly and will always compensate the deserving.

Few would dispute that there has been in recent years a noticeable erosion of the trust that makes our society work. Events like the subprime mortgage meltdown, the foreclosure distress, and our nation's most serious economic crisis since the Great Depression have weakened the vital sense of trust that allows our economy and institutions to function smoothly. And the shocking "robo-signing" revelations have undermined the reputation

of the Notary Public office.

If there is an upside to the "robo-signing" scandal of the past two years, it is that the public — and to a great degree Notaries themselves and their employers — now better understand the value of a sound and legal notarial act and the trust and confidence it engenders in our economy.

The Notary Public office is above all a position of trust. In a society where assets of great value are often exchanged between perfect strangers, the Notary exists to impart integrity and thereby trustworthiness to the essential documentary transactions of commerce and law — from property deeds to powers of attorney to wills to affidavits.

It was of course forged foreclosure affidavits — some of them notarized — that were at the center of the "robo-signing" abuses. While there were undeniable legal and ethical violations by some Notaries, to lend perspective it should also be pointed out that it was largely the outraged protests of many other Notaries that brought these abuses to light. What was the common denominator among those whistle-blowing Notaries? In a word — education. Either on their own, at the behest of an employer or as a requirement of state law, these Notaries had been educated about the legal and ethical demands of the Notary office.

**"The Notary Public office is above all a position of trust."**

## A PROGRAM TO RESTORE TRUST

In response to what amounts to a national crisis, the National Notary Association has carefully crafted and put in place a program that represents the culmination of 55 years of NNA leadership, expertise and service to the Notary community. It will enable the nation's more than four million Notaries to be a critical factor in restoring trust and consumer confidence to

the American economy and its financial institutions. And it will do so by reinforcing the need for Notaries to commit to ethical best practices in performing their official acts, even when such practices are not dictated by law.

Trusted Notary® is the NNA program that now enables Notaries and their employers proactively to help restore consumer trust in our economy and institutions — and in the Notary Public office. This program was formalized last year and is already in place and working well.

NNA-designated Trusted Notaries® undergo in-depth training on best practices and ethical standards that mitigate liability risk not only to signers, clients, employers and the public at large, but also risk to Notaries themselves. This training incorporates a set of NNA-recommended practices addressing “robo-signing” abuses that became widely circulated by the nation’s media. It also embraces state-of-the-art strategies for addressing identity theft in an era of proliferating real estate fraud.

Complementary to Trusted Notary® is another NNA program called Notary Supervisor Training. This is an online course specifically designed for managers, supervisors and employers of Notaries. Starting with an insightful overview of the Notary office and of the state laws that govern Notaries, this course enables any private or public organization to set up an effective Notary management program. In particular, it will equip the organization to put in place appropriate internal rules for Notaries; to train, supervise and review these Notaries for proper performance; to track the status of Notaries’ commissions, applications, bonds and insurance; and to appreciate the unique challenges and pressures imposed on a Notary as both a public officer and a private employee.

The strong and proven rules of best practice and ethical conduct that are implemented through Trusted Notary® and Notary Supervisor Training offer any organization employing Notaries the gold

standard for reducing risk and protecting reputation—and, of course, for restoring trust nationally in the office of Notary. This is the industry’s best possible response to the robo-signing revelations.

#### A RESPONSE TO ‘VANCURA’

It is also the best possible response to the aftermath of the recent, much awaited *Vancura v. Katris* decision of the Illinois Supreme Court, which had sparked national interest. In a decision that is expected to influence other courts around the nation, the Illinois high court ruled in *Vancura* that Notaries essentially are on their own and independent of any employer when it comes to liability for the notarizations they perform — but there is a

notable exception. That exception occurs when a Notary notarizes improperly and the employer has knowledge of the misconduct and consents to it. Thus, for example, if it is an expected company policy not to trouble customers to pull out an ID card for a notarization or not even to require them to show up for the notarization, then that company is a ripe target for a lawsuit.

A major aftermath of “robo-signing” is that a number of state attorneys general began investigations to determine and punish accountability for any damages suffered by mort-

gage holders due to the false affidavits. As a result, criminal and civil lawsuits have been filed against Notaries, their employers and major financial institutions, most recently in Nevada and Massachusetts. And a number of Notaries have had their commissions revoked.

In today’s still recovering economy, with real estate and mortgage fraud at historic highs, state governments are rightfully concerned about protecting consumers. Indeed, legislatively this past year the states have become proactive in targeting such frauds — and in singling out Notaries for special treatment if they knowingly abet these crimes. Across the nation more than 60 laws were enacted in 2011 that strengthened notarial procedures — a

**“The most important asset an organization has is its people, and people need to be trained to keep providing maximum value to the organization.”**

**— Tres Roeder,  
Roeder Consulting**

trend rooted in bolstering consumer protections and increasing accountability and liability for Notary misconduct (see related story on page 25).

### LEGISLATION CRACKS DOWN

For example, the state of Michigan last year enacted a package of eight bills that set stiff criminal penalties, including lengthy prison terms and large fines, for persons engaged in real estate fraud. These new laws carve out special penalties for Notaries who break the law and thereby abet real property frauds, including imprisonment of up to four years.

As a bold consumer-protection measure, the state of Alabama has just raised its Notary bond to the unprecedented level of \$25,000 — a change that is a double-edged sword, in that it affords greater recovery to consumers victimized by fraud, but also encourages lawsuits against Notaries, whether these lawsuits are substantive or groundless.

The NNA's Trusted Notary® program has already begun to have a beneficial impact. For example, Virginia Garrison of Lake Stevens, Washington, who runs her own business restoring and customizing motorcycles, decided she needed additional training to help her deal with the occasional puzzling situations that arise for every Notary. She earned the Trusted Notary® designation to enable her to navigate through these ambiguous and challenging circumstances. "Trusted Notary training has helped me in situations where the right way to notarize wasn't cut and dried," Garrison said. "That knowledge has come in very handy."

### MITIGATES EMPLOYER RISKS

Notary employees who are trained to a higher standard of trust also bring many benefits to the businesses and organizations that employ them, said Tres Roeder of Roeder Consulting in Cleveland, Ohio, a project management training and consulting firm. "The most important asset an organization has is its people, and people need to be trained to keep providing maximum value to the organization," he said. "The most successful companies we see are the ones that keep training going."

Training in ethics also reassures the public that professionals — and by extension, the companies they work for — are adhering to an established code of conduct, Roeder said. "Ethics and best



### What Is A Trusted Notary®?

Notaries work to protect consumers and preserve the integrity of society's most important daily transactions. By verifying the identities, willingness and awareness of document signers, Notaries help invest transactions ranging from real estate conveyances to immigration petitions to ballot measures with a high level of trust and assurance.

Recent events have placed Notaries in the national spotlight and raised questions about their sensitive role and how they carry it out. Consumers and employers alike commonly do not understand the responsibilities of the Notary office, and while the overwhelming majority of Notaries carry out their duties conscientiously, all too often they have little official guidance about what their obligations are.

Notary training and testing requirements vary widely. Some states mandate specific education while others require none. In addition, Notary laws in many states are vaguely written and leave many important issues for the Notary to resolve without guidance — including the matter of what constitutes positive identification.

Recognizing this situation, the Trusted Notary® program was created to provide consumers, employers and government officials with a realistic and uniform expectation for any notarial act. Individuals who achieve the Trusted Notary® designation have gone through training above and beyond the requirements of state law and are committed to upholding sound and effective fraud-deterrent standards of professional practice for the Notary Public office, no matter where they are commissioned.

For consumers concerned about fraud and employers concerned about liability issues, the designation provides a new level of trust and assurance. For Notaries wary of lawsuits, it adds a layer of protection by demonstrating their professionalism and expertise. In addition, with government regulators more closely scrutinizing the activities of Notaries than ever before, businesses that employ Trusted Notaries® send a signal that they are serious about abiding by the law and following proper procedure.

practices training are very important to employers these days,” he added.

Indeed, BDO USA — a leading accounting, tax, financial advisory and consulting firm — recently conducted a survey of corporate boards of directors and found that while risk management is the primary concern of companies nationwide, at the same time less than half of the surveyed companies have officers or committees in place with the specific purpose of reducing liability risk. This illustrates the importance of personal initiative on the part of employee Notaries and middle managers in seeking out ethics and best practices training on their own.

If an employer is hesitant about providing such training, Roeder said, the Notary should explain how it will favorably impact the Notary’s job performance and help the company by keeping it out of legal trouble.

Even without nudging by Notary employees, some companies recognize the importance of having their Notaries notarize properly, as Notary Karen Pracki of Hales Corners, Wisconsin, found. She was asked to take additional training in notarization by her employer, the Mandel Group, a company that manages apartments. “We offer notarizations as a service to residents of our apartments, and my employers wanted me to take the (Trusted Notary®) course to ensure I was following all the procedures as a Notary correctly,” Pracki said.

### EDUCATION PREEMPTS LIABILITY

The value of Notary education as a preemptive measure in protecting both the Notary and the employer from lawsuits and liability is demonstrated by a new Michigan law that recognizes the very existence of an employer’s training program as a mitigating defense against liability in a court of law. There can be no greater recommendation for risk-conscious employers to train their Notaries on notarial law, best practices and ethics than that enlightened Michigan law.

And there is no more well-conceived plan in place to help Notaries and their employers restore consumer trust in our economic institutions — and in the office of Notary Public — than the NNA’s Trusted Notary® training program. 

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Governor of Connecticut  
2004–2011

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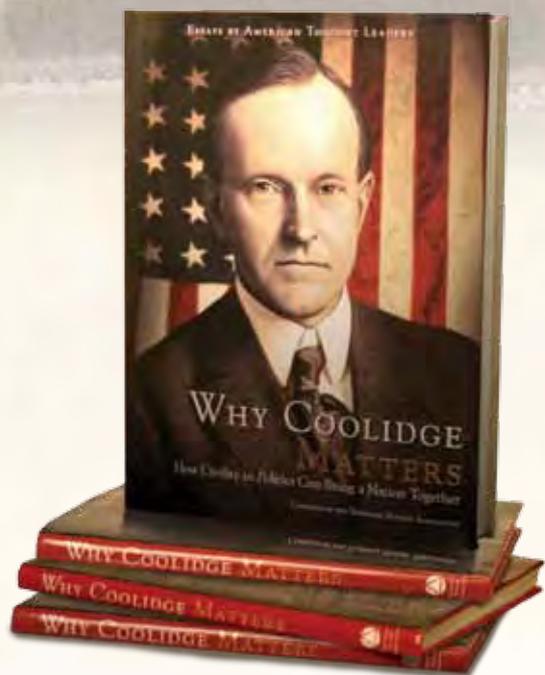
Strikingly designed with seldom-seen photographs and images of a time when civility prevailed, *Why Coolidge Matters* is a *must* for every Notary's coffee table or library.

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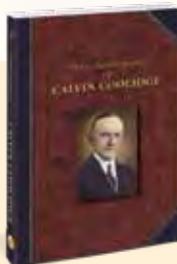
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# THE LESSONS OF THE NEVADA 'ROBO' CASE

The Nevada Attorney General's office sent ripples through the mortgage industry late last year when it brought a sweeping legal action accusing employees of a national mortgage servicing company of running a "massive 'robo-signing' operation" that initiated tens of thousands of foreclosures using forged and improperly notarized documents.

Two Southern California-based supervisors are facing a 606-count indictment, including hundreds of felonies; four Nevada Notary-employees have been charged with misdemeanors; and the company is defending itself against a civil lawsuit.

Beyond the immediate legal ramifications of the case, grand jury testimony from four Notaries who worked for the company provides a detailed look at how such an operation worked — and went wrong — and offers valuable insights and lessons about the often tenuous nature of the employer-Notary relationship.

What ultimately emerges from the case is that everyone connected to important document transactions such as foreclosures is responsible for understanding and abiding by the law and all procedural requirements.

The Nevada Attorney General is accusing the two supervisors for Lender Processing Services Inc. (LPS) of directing their Las Vegas-area Notary employees to forge and notarize their signatures on foreclosure documents filed with the county recorder's office between 2005 and 2008. However, testimony indicates that this was standard company practice for nearly a decade.

## A RELATIONSHIP GONE WRONG

As is common with Notary-employees in many industries, the Notaries in this case all obtained their commissions at the request of their supervisors to perform company-related notarizations. The

testimony describes a Las Vegas office staffed by a handful of employees who were hired to complete the last stage of a document process prior to filing a foreclosure.

It was a typical operation that can be found in offices all across the country and in all types of professions and industries. And, as one witness testified, the employees in the Las Vegas office viewed being a Notary as “just one of my job functions.”

One Notary testified that her employer actually completed and submitted the application for her to become a Notary in addition to paying for the commission, bond and supplies. All the Notary remembers “is going down and taking an oath, and then my stamp and (journal) book was sent to me,” she said.

Another Notary testified that she worked for the company for two years before being asked to obtain her commission in order to handle a growing workload. None of them thought that having a Notary commission carried responsibilities apart from serving their company's needs.

How Notary commissions are viewed in the workplace is the defining element of the employer-Notary relationship and goes a long way toward determining whether a company complies with legal requirements and professional ethics. In the Nevada case, testimony shows that the premium was placed on speed and efficiency rather than following the law.

The procedure followed in the Nevada case was simple though inappropriate: Documents would be emailed from California to the Las Vegas office, where Notaries would sign and notarize their supervisor's signature. Toward the end of the day, the documents would be delivered to the Clark County Recorder's office. One Notary testified that she handled as many as 50 to 60 documents a day. Altogether, she calculated that she signed and notarized her supervisor's signature on 25,000 foreclosure documents.

This practice was described by the Notaries as “standard procedure” or “office policy,” and they were trained to follow it by their supervisors. One Notary also testified that while waiting for her commission,

she was instructed to use a co-worker's Notary seal. None of the Notaries say that their supervisors visited the Las Vegas office more than a few times. One witness noted that she only met her supervisor face-to-face once, at a company holiday party.

### **A TOTAL LACK OF EDUCATION**

The case also reveals a total lack of legitimate education for the Notaries. Testimony shows that the only training they received came from their supervisors, who briefed them how to follow company procedure.

“As a Notary, I ... was just to sign (my supervisor's) name and then sign my name,” one witness testified. “I didn't do anything else as a Notary.” The Notary did acknowledge that she practiced signing her supervisor's name.

Another witness said she did not realize that signers had to be physically present at the time their signatures were notarized: “I had spoken to my boss, and she told me that this (signing and notarizing her name) was okay to do, so I just went with it.”

None of the Notaries kept a record of notarial acts performed for LPS, nor did they indicate that they knew

keeping a journal was required by state law. One of the benefits of a journal is that it reminds Notaries of proper notarial procedure.

“The Notary journal is a silent witness to the notarization,” Laura Ethridge, Notary Administrator for the Nevada Secretary of State's office, told the grand jury. “The purpose of the journal is to have a record of the signature on the document, a record of the identification used to identify the document signer.”

Nevada did not require Notary applicants to undergo training until 2007, and all of the Notaries obtained their commissions before then. As a result, their supervisors and co-workers ended up being their primary sources of information about the duties and responsibilities of a Notary Public, and that led to serious repercussions.

That lack of education extends to the indicted supervisors and their bosses. Every manager in the

---

How Notary  
commissions are  
viewed in the workplace  
is the defining element  
of the employer-Notary  
relationship...

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corporate world is under intense pressure to keep costs down. One way to do that is to streamline document procedures, and many managers will see skipping proper notarization procedures as a place to streamline unless they know the consequences of ignoring Notary law.

### **FEAR FOR THEIR JOBS**

The greatest power any employer has over its workers is the power to hire and fire. For employees, the implication is always there: Do the job the way your boss wants or lose your job. That's true whether it's openly said or merely implied. Most people cannot afford to simply lose their jobs. That makes it hard to defy a boss' direct instructions, and LPS' Notary-employees were no exception.

One witness said she knew what they were doing was illegal — and even addressed her concerns to a co-worker — “but I didn't want to bring that up with (my supervisor) because it was my job and I didn't want to risk losing it. To me the risk of losing my job was worse than just signing (my supervisor's) name.”

One of the witnesses said their supervisors never threatened them. One Notary even testified that he refused to sign his supervisor's name, but he did pre-notarize documents for a co-worker to sign later. Another Notary went so far as to confirm her

supervisor's instructions via e-mail as a way to protect herself, to no avail. That Notary pleaded guilty to notarizing a document outside the presence of the signer, and her supervisor now is facing a massive felony indictment.

The ultimate lesson that emerges from this case is that everyone involved in the notarization process needs to take responsibility for protecting the integrity of the process. Not only do Notaries need to make sure they understand the duties and responsibilities of their office, their managers need to as well. **NNA**



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\*Janet Long is currently featured in a LegalZoom television commercial.



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## INTRODUCING 2012 NOTARY OF THE YEAR FINALISTS

For the past 55 years, the National Notary Association has served America's Notaries and, in that time, the NNA staff has been privileged to meet countless amazing people who quietly, steadfastly served the public.

To celebrate all that Notaries do to protect American consumers and commerce, each year the NNA recognizes as Notary of the Year an everyday person who does extraordinary things that exemplify the very best traditions and qualities of the office.

We received hundreds of nominations, and the selection committee faced a daunting task to narrow down the choice to five finalists. All of the Notary of the Year finalists have distinguished themselves through their efforts to go above and beyond in fulfilling their duties, helping other Notaries, and serving their communities.

The finalists will be attending Conference 2012 in June, where the Notary of the Year will be announced.



KELCIA  
CANNON

### *CRUSADING WITH A SENSE OF URGENCY*

**Home:** Minneapolis, Minnesota  
**Occupation:** Executive Assistant at Ameriprise  
**Years She's Been A Notary:** 24  
**Why She Became A Notary:** To create an approved corporate Notary program implementing best practices and reducing liability

When Notary of the Year Finalist Kelcia Cannon first obtained her commission, she was determined to do more than blindly stamp documents. So she decided to get some training. But she discovered that Notaries in Minnesota had few resources. "I've always had a passion for making sure notarizations are done correctly, and the idea of being an extension of the state is important to me."

Shocked by the liability risks her employer was running because of the lack of awareness about notarial issues, she worked hard to set up a corporate Notary education program for in-house Notaries. Cannon keeps up on major topics, reviews weekly information from the NNA and travels to other states to train company Notaries.

Outside of work, Cannon is a member of the Notary Law Institute (NLI) and is active with the International Association of Administrative Professionals (IAAP). Because Cannon believes people need the basics, she's involved with her local Food Shelf network, Habitat for Humanity projects, and other organizations.

— Kelcia Cannon



RUSSELL  
CRUZAN

### *EDUCATION IS HIS RALLYING CRY*

**Home:** San Antonio, Texas  
**Occupation:** Training Officer and Manager at International Bank of Commerce (IBC)  
**Years He's Been A Notary:** 27  
**Why He Became A Notary:** To raise the level of Notary education

As a long-time Notary in the financial industry, Russell Cruzan has championed the cause of education. That passion manifests itself in many ways.

He trains all the Notaries who work for his bank, he continues to urge officials in his home state of Texas to make Notary education and testing mandatory, and he consults with other Notaries and organizations — all with the goal of strengthening Notary professionalism and ethics.

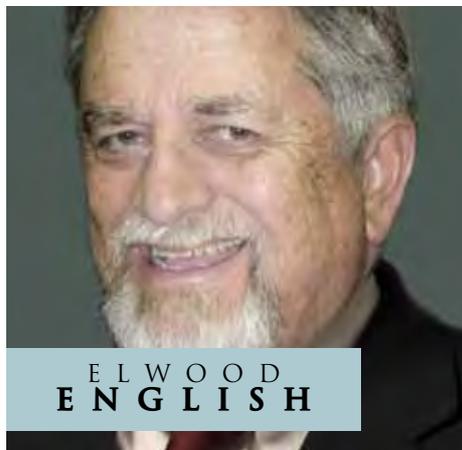
While Cruzan can get frustrated with the "widespread complacency" and misperceptions within his industry, he views recent financial scandals as an opportunity to advance the cause of education. In the past year, Cruzan worked with the NNA to give a presentation to the Texas Bankers Association.

Cruzan sees education as a community service as well. He is involved in the Money Smart program through which financial institutions educate members of the general public about money matters. He also has been a key member of his employer's charitable activities in San Antonio, helping the Leukemia and Lymphoma Society, the Muscular Dystrophy Association, Big Brothers and Big Sisters, among others.

"I believe in the adage that we should stay at school and always be a student."

— Russell Cruzan

# Y OF THE YEAR FINALISTS



ELWOOD  
ENGLISH

**AN ADVOCATE FOR  
SUPERIOR STANDARDS**

**Home:** Billings, Montana

**Occupation:** Attorney

**Years He's Been A Notary:** 10

**Why He Became A Notary:** To be a proponent of the highest professional standards and practices for all Montana Notaries

In his role serving as Chief Legal Counsel for the Montana Secretary of State's office, 2012 Notary of the Year Finalist Elwood English accrued a considerable amount of knowledge of notarial law. Fortunately for other Montana Notaries, that knowledge has grown more extensive over the years, and he's decided to share it.

**"Lawyers and employers often don't know the duties of their Notaries, and I'm trying to upgrade that awareness."**

— *Elwood English*

English earned his Juris Doctorate degree from Harvard Law School. Among professional standards English promoted was the practice for Montana Notaries to keep a journal to record all transactions and the need for improved education.

"Any document that needs to be notarized is important, and Notaries need to pay attention to what they're doing," says English. When his tenure with the Secretary of State ended, English opted to reenter private law practice, but continued his support for Montana's Notaries.

He maintains an active role in the field as founder and director of the Montana Notary Guild and was named Montana Notary of the Year for 2011.



NATHAN  
GANESHAN

**SERVING THE COMMUNITY  
IS HIS PASSION**

**Home:** San Jose, California

**Occupation:** Mobile Notary

**Years He's Been A Notary:** 6

**Why He Became A Notary:** To provide a public service to people in his community.

Since Nathan Ganeshan became a mobile Notary in 2006, he has pioneered new ways to serve the community. From the start, Ganeshan embraced 21st century technology, launching a website and establishing a presence on social media networks. He also created a mobile app for hand-held devices that allows people to contact him with a simple click.

**"When I reflect on my role as a Notary Public, I never think of it as a business, I always think of it as a public service."**

— *Nathan Ganeshan*

"My goal is to serve the public by being available to those who need my services at times when finding a Notary is difficult," he says.

As part of his commitment to public service, Ganeshan volunteers to provide meals to the homeless. He also travels to his local library, senior centers, area hospitals and nursing homes to provide Notary services pro bono to signers aged 50 and older.

For Ganeshan, being a Notary allows him to realize his dream of providing public service. Wherever he goes, his commitment to the highest professional standards and ethics of the Notary office never wavers. "This must always be a priority placed above the financial benefits of doing business."



SHERI  
KESTERKE

**DEDICATED TO PERFORMING  
A PUBLIC SERVICE**

**From:** Berrien Springs Village, Michigan

**Occupation:** Village Clerk

**Years She's Been A Notary:** 10

**Why She Became A Notary:** To help the residents of the Village, and those with special circumstances in need of notarizations

If there's one thing that sets Sheri Kesterke apart from other Notaries, it's her penchant for helping those in need. She will travel to people's homes or other locations, at night or on weekends, to notarize documents even though it is not part of her job description as the Village Clerk.

**"There's so much more to being a Notary than looking at an ID and signature."**

— *Sheri Kesterke*

"I regard notarizing as a public service, and I strongly believe in doing it the right way," Kesterke says. She recalls an incident when an elderly man was being pressured by his family to sign a document, which reinforced a valuable lesson: "We need to be trained to say 'no' and not be forced into performing notarizations improperly."

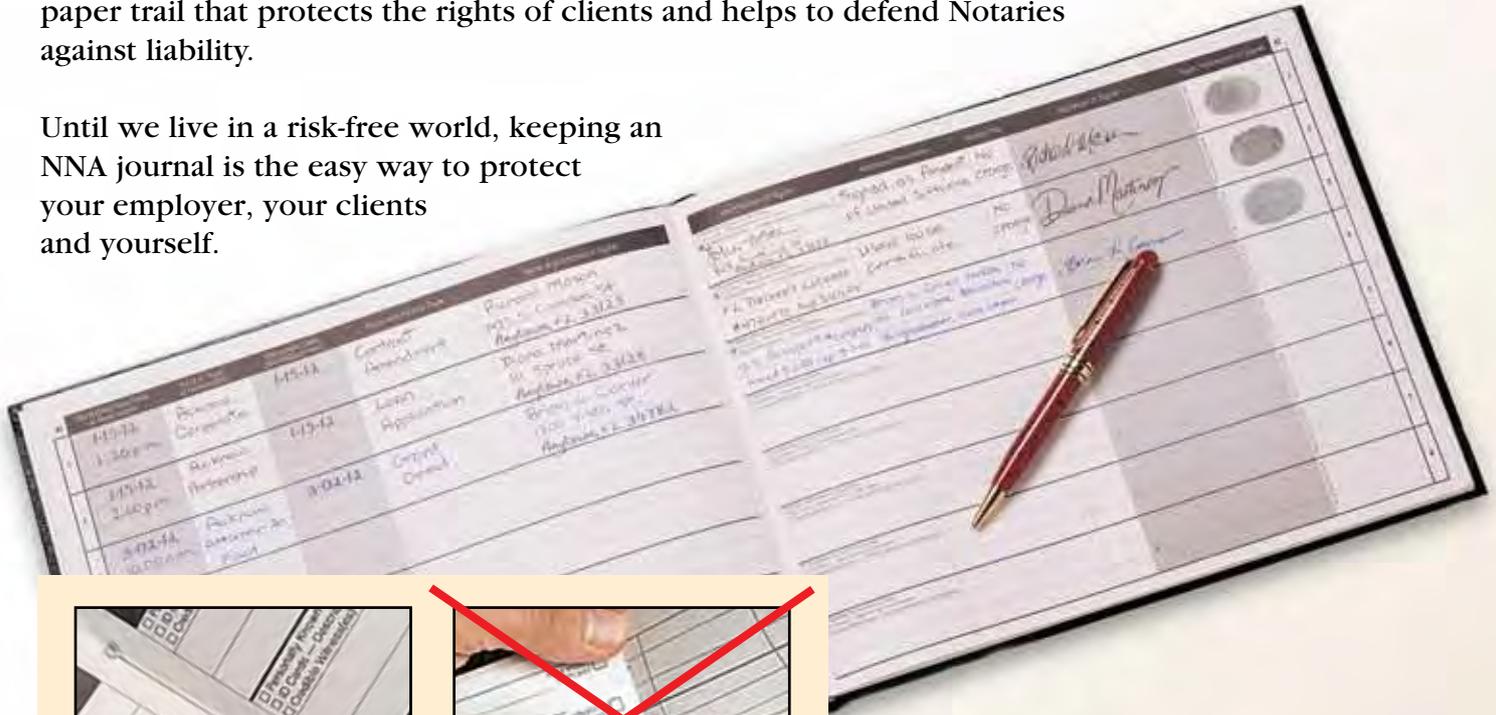
Outside of work, Kesterke founded Christmas Care, a local charitable program that helps those in need during the holiday season.

Whether it's performing a routine notarization for a Village resident or traveling to a hospital, Kesterke is honored to be of service. Her unflagging efforts to help those in need are matched only by her dedication to the highest standards of professionalism and integrity.

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# NEW LAWS, NEW RESPONSIBILITY

ALABAMA, NEVADA AND MICHIGAN

JUST THE BEGINNING

---

When the “robo-signing” crisis became public in late 2010, it represented something of a last straw. America already was frustrated by accounts of the shoddy, often unethical business practices that helped spark the collapse of the housing market and the worst recession since 1929. Then came revelations of improper notarizations, mass falsification of court documents and other improper activities related to countless foreclosure filings across the country.

In the 18 months since, there has been a widespread clamor for greater accountability with society’s most important transactions. Legislators and law enforcement officials nationwide have responded by enacting new laws and taking other actions that are sending a strong and clear signal: Notaries will be held accountable for performing their duties improperly; and so will their employers.

From Massachusetts to Alabama to Nevada and places in between, a new attitude has taken root. It is no longer acceptable for Notaries to say they were

merely following their supervisors’ instructions or for employers to say they didn’t know better. Ignorance of the law is no longer an excuse for improper conduct.

This trend underscores the need for Notaries to take special care to get the training necessary to carry out their duties correctly and minimize their risks and liability exposure.

## GROWING CONSEQUENCES

Long before the “robo-signing” crisis unfolded, a court battle was taking place in Illinois over who bears the responsibility for improper notarizations. The case, *Vancura v. Katris*, stemmed from the 1995 notarization of a forged signature on a mortgage assignment by an employee of a Chicago-area Kinko’s.

The Notary settled with the plaintiff for \$30,000, but the lawsuit sought damages from the Notary’s employer. Ultimately, the Illinois Supreme court ruled that the Notary alone was liable and that the employer did not have a duty to make sure its Notaries under-



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stand and follow proper notarial procedure.

But, as developments of the past year show, that notion is changing, and states are beginning to enact laws that explicitly expand responsibility and significantly increase the consequences for Notary misconduct.

One of the strongest legislative initiatives was a package of bills signed into law in Michigan that gives the state the authority to punish individuals and businesses that deliberately falsify documents and notarizations in real estate transactions. Among other things, Notaries are subject to potentially lengthy prison sentences and steep fines for knowingly violating Notary law. Non-Notaries also face harsh penalties for falsifying real estate-related documents.

Michigan was not the only state to take a hard line. A new law in Nevada makes it a felony to execute or notarize a document while making a false representation concerning title to real property. An individual violation is punishable by up to 5 years in prison and \$10,000 in fines. Under another new Nevada law, employers now are accountable for their Notary-employees' misconduct. The same law also requires Notaries to keep their seals and journals in a secure location when not in use.

Alabama took a different approach to Notary accountability, passing a law that now requires individuals applying for or renewing Notary commissions to post a \$25,000 surety bond — the highest in the country and a 150 percent increase from the state's previous bond requirement.

The common theme for all of these new laws is increased responsibility and liability.

## COURT CASES

That theme isn't just playing out in state legislatures with the passage of new statutes. Authorities are aggressively using existing laws and the courts to expand the degree of accountability for misconduct far beyond the Notary.

Perhaps the best example is in Nevada, where the state Attorney General launched a multi-faceted legal campaign to hold a national mortgage servicing company accountable for running a massive "robo-signing" operation.

For years Nevada has held the dubious distinct of having the nation's highest foreclosure rate. Responding to complaints from homeowners, the state Attorney General's office investigated the business practices of Lender Processing Services (LPS) in filing tens of thousands of foreclosures on behalf of mortgage lenders. The investigation

resulted in a series of criminal and civil court cases accusing the company and its employees of systematically forging and improperly notarizing thousands of foreclosure documents (see related story on page 16).

Specifically, four Notary employees, who agreed to testify before a grand jury, have been charged with single misdemeanor counts of notarizing documents outside the presence of the signer. Two California-based supervisors have been charged in a 606-count criminal indictment with directing the Notaries to sign and notarize their signatures on foreclosure documents. And a civil suit has been filed against LPS, accusing it of engaging in a pattern of conduct that included fraudulently notarizing documents "without ensuring that the Notary did so in the presence" of the signer and implementing "a widespread scheme to forge signatures on key documents to ensure that volume and speed quotas were met."

This multi-faceted approach sends a strong message that everyone involved in inappropriate conduct will be held accountable, and it could well provide a model for other states.

Nevada is not the only state taking action. Massachusetts Attorney General Martha Coakley has filed a comprehensive "robo-signing" lawsuit against five national banks, accusing them of "the pervasive use" of false documents notarized outside the presence of the signers in order to pursue foreclosures against thousands of homeowners.

The suit also comes at a time when a group of other state Attorneys General are negotiating what could become a \$25 billion nationwide settlement with a number of banks over "robo-signing" practices.

At the end of the day, recent legal developments demonstrate that consequences for engaging in misconduct are becoming much more serious. Notaries and their employers will need to understand what is expected of them, what constitutes misconduct, and make sure they rigorously follow the law and notarial procedure. 



*Nevada Attorney General  
Catherine Cortez Masto*



*Massachusetts Attorney General  
Martha Coakley*

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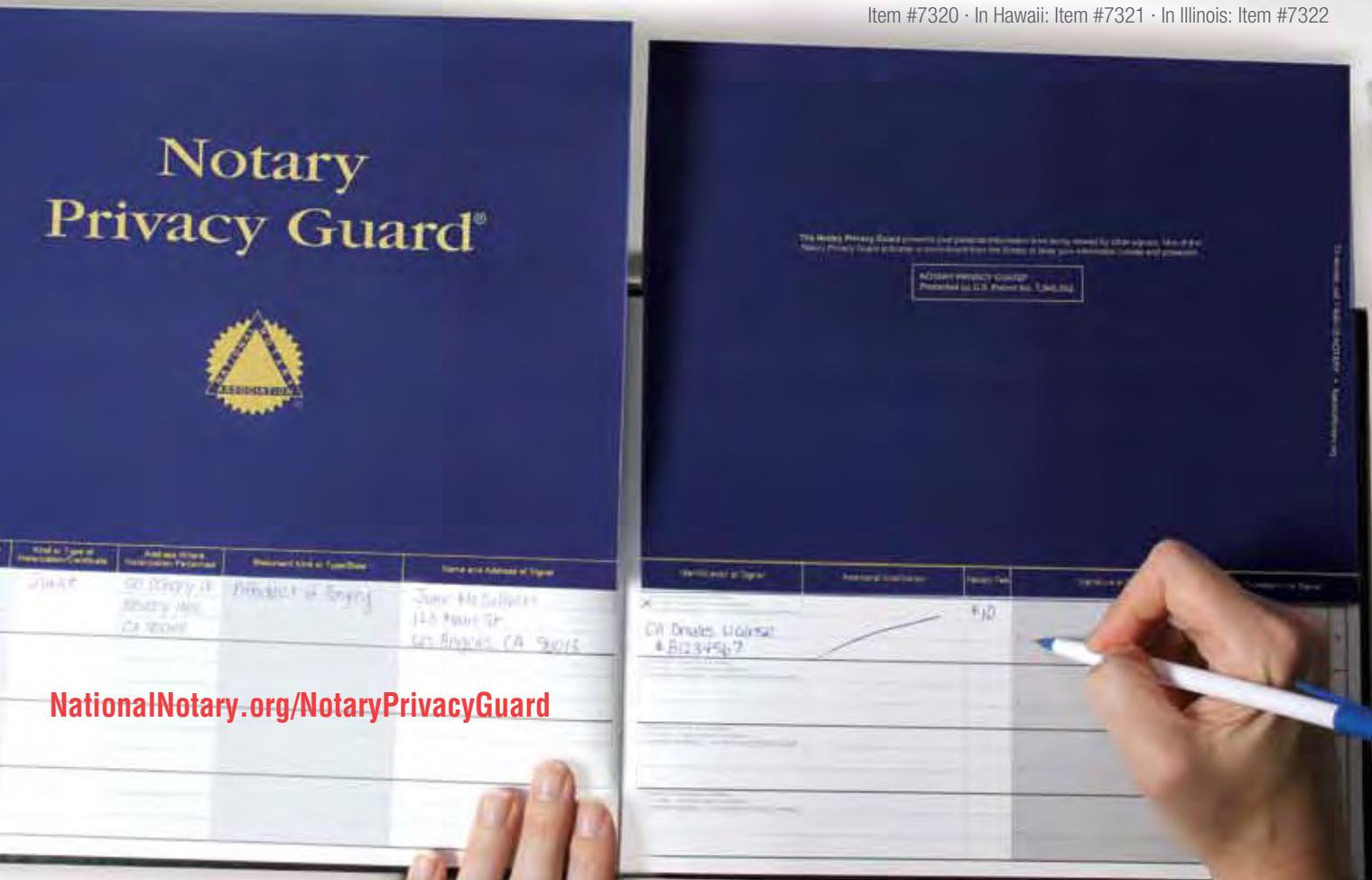
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# Loose Certificates, Unauthorized Advice And Keeping Copies Of Documents



Notaries across the country rely on the NNA's Notary Hotline to answer challenging questions. The following questions were among the thousands our Information Services team receives each month.

**Are Illinois Notaries allowed to use loose certificates when notarizing documents? I've found nothing in my state information that specifies if I can do this or not.**

**D.R., Chicago, Illinois**

When appropriate certificate wording is not preprinted on the document, Illinois Notaries may complete and attach a "loose" certificate that contains the needed wording. Normally, this form is stapled to the document's left margin on the signature page.

**I received a request to do a loan signing. I was told that part of my job would be to explain the loan documents to the borrower. I have been notarizing for many years and it has always been my understanding that Notaries are not supposed to explain documents during a loan signing, but instead have the borrower call the loan officer if there are any questions instead. Is that still correct?**

**D.L., Kentfield, California**

You are correct — a nonattorney Notary would be violating the prohibition against the unauthorized practice of law by answering questions or providing advice about the loan. The Notary should inform the signer of the Notary's limited role when scheduling the appointment. The signer should be told that the Notary is not acquainted with the loan and is not authorized to answer specific questions about it that do not pertain to

the notarization. The Notary should inform the signer to direct all such questions to the lender prior to the appointment.

**I would like to know if I should keep copies of all documents I notarize and if so, for how long?**

**L.R., Jersey City, New Jersey**

You should not keep copies of documents that you notarize. In fact, many signers would object to this as an unnecessary invasion of their privacy. However, you can protect yourself from liability by keeping a complete entry for each act you perform in a journal of notarial acts.

**My Notary commission has been processed and I received my seal. Could you tell me if I should order an embosser? Is it required when I notarize?**

**S.S., State College, Pennsylvania**

Pennsylvania Notaries retain the option of using an embosser seal in addition to the mandatory inking seal, but it is not required. If you wish, you may notarize using your inking seal without an embosser.

**I am a Notary in Florida. My husband is the president of our homeowners association (HOA). He asked if I would be able to notarize documents for the HOA that he must sign as the president. My belief is that since we are related, even though this is association**

*You can reach all our experienced Notary Hotline counselors at*

**1-888-876-0827**

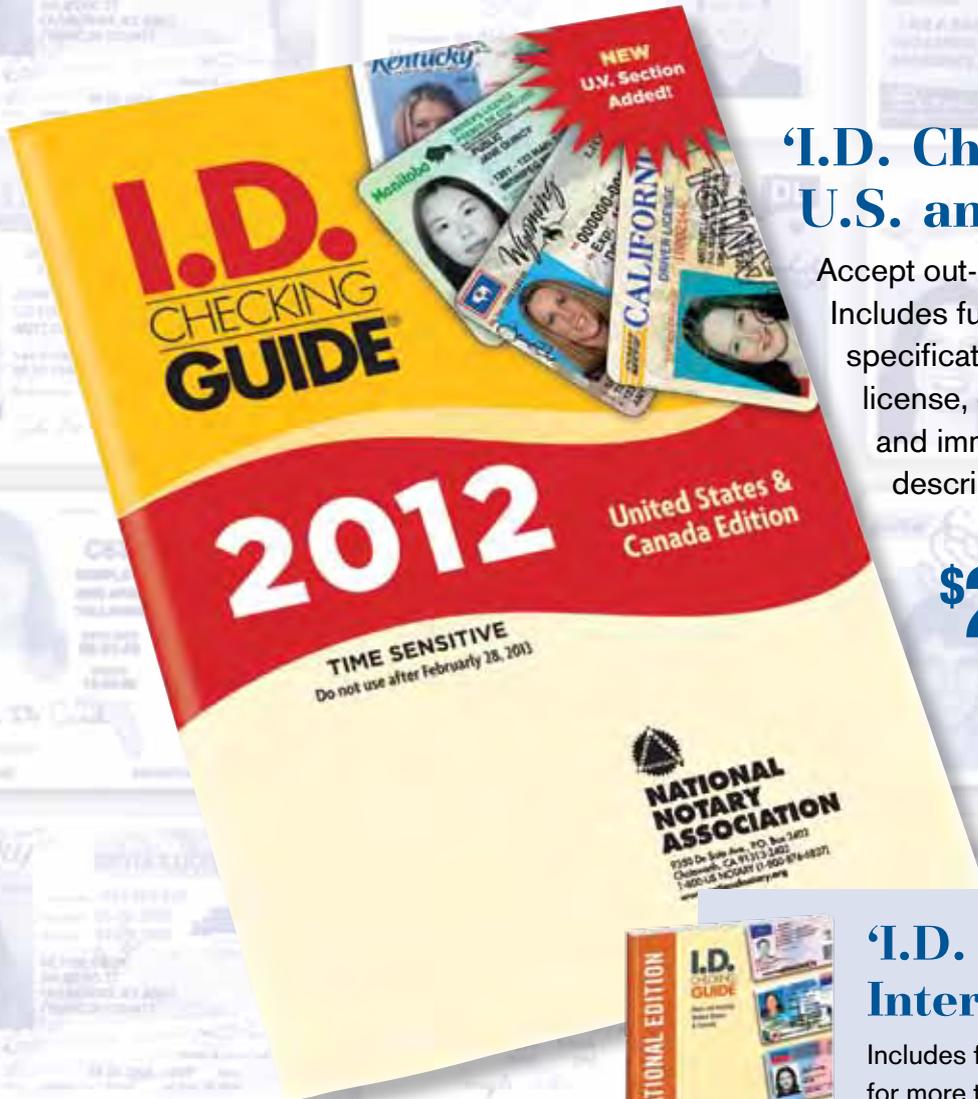
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**business and not personal business, I still should not notarize for a family member, am I correct in this?**

**G.W., Clearwater, Florida**

You are correct. A Florida Notary may not notarize documents for a spouse, son, daughter, mother or father (FS 117.107 [11]). Your husband instead should find an unrelated Notary to notarize the documents he signs.

**Can a California Driver's License with a Post Office box listed on the address be used as acceptable identification for a signer in California?**

**R.S., Woodland Hills, California**

A California Notary can accept a California Driver's License that lists a Post Office box as an address for identification of a signer. The type of address listed on the license is not part of the state's identification requirement for signers, so a Post Office Box would be fine.

**I am commissioned as a Notary in Wisconsin, where I work, but I live in the state of Illinois. Which state's Notary laws do I need to follow when I notarize documents, since I only notarize when I am at work?**

**M.K., Racine, Wisconsin**

You would need to follow the laws, rules and regulations for the state of Wisconsin, as that is where you would be performing your notarizations, and that is the state that issued your commission.

**Could a Notary in New York notarize a power of attorney for an uncle who wants to appoint other relatives of the Notary to act on the uncle's behalf?**

**R.S., North Boston, New York**

Although New York law does not expressly prohibit notarizing for family members, Notaries who do so may violate the rules prohibiting a direct beneficial interest. Besides the possibility of a disqualifying financial interest in notarizing for a relative, there may be an emotional interest that can prevent the Notary from acting impartially. Even if a Notary has no direct beneficial interest in the document and does not attempt to influence

the signer, notarizing for a relative could subject the document to a legal challenge if other parties to the transaction allege that the Notary could not have acted impartially. The best practice is to never notarize for a relative.

**I had a scheduled notarization, but while filling out my journal the signers changed their mind and wanted to reschedule for another time. While nothing was notarized, I filled out journal entries. Should I use correction fluid to blot out the entries or draw a line through them?**

**A.V., Elk Grove, California**

If you are in a situation where you started or completed a journal entry but the notarization was not finished for whatever reason, it would be in your best interest to preserve the entry. In the "Additional Information" column, you should explain why the notarization was not completed, in case the transaction is ever questioned.

*Hotline answers are based on laws in the state where the question originated and may not reflect the laws of other states. If in doubt, always refer to your own state statutes.*  
— The Editors

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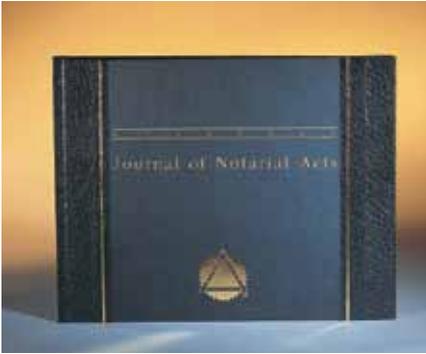
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# Know Your Journal Entries And How They Protect You

WHETHER OR NOT IT'S REQUIRED BY STATE LAW, KEEPING A JOURNAL IS ONE OF YOUR BEST PROTECTIONS AGAINST LIABILITY

Your Notary journal provides a written record that can protect you if you're ever accused of misconduct or sued. Lawsuits naming Notaries can surface years after a notarization is performed and a thorough, accurate journal could end up being your lifeline. Although requirements for journal entries vary by state, the more information you

record, the more valuable evidence you have should a challenge arise.

Journal entries require different bits of data to reflect the entire scope of a notarization and each bit has a specific purpose. Let's examine the components of a typical journal entry and see how it offers you protection.

### MONTH/DAY/YEAR/TIME OF NOTARIZATION

Journal entries are sequential and dates and recorded times of official acts can be vital in establishing the chronology of pertinent events. Be sure to write legibly and include A.M. or P.M. — having the precise time a person appeared before you can be important.

### ADDRESS WHERE NOTARIZATION WAS PERFORMED

The exact location where you performed a notarization can be a critical memory-jogging detail — especially for mobile Notaries who meet clients at different sites. It will make your testimony before a judge more reliable.

1	Month/Day/Year/Time of Notarization	Kind or Type of Notarization/Certificate	Address Where Notarization Performed
1	1-26-12 12:00 PM	Jurat	123 Any St. Anytown, CA 90001

### KIND OR TYPE OF NOTARIZATION/CERTIFICATE

Noting the exact type of notarial act, such as whether you executed a jurat or just witnessed a signing without an oath, can show you followed proper procedures if you are accused of misconduct.

### DOCUMENT KIND OR TYPE/DATE

Always identify the type of document you are notarizing in order to present a full picture of the notarial act. If a document doesn't have a title, or is a handwritten letter or statement, do your best to describe the document. By doing so you'll have recorded important evidence should the transaction come into question.

### IDENTIFICATION OF SIGNER

This clarifies exactly how the signer was identified — personal knowledge, credible witness or ID card — to prove the Notary's case and allow tracing of this individual at a later time, if necessary.

Document Kind or Type	Name and Address of Signer	Identification of Signer
handwritten letter about charitable donation	John Doe 123 Any St. Anytown, CA 90001	<input type="checkbox"/> Personally Known by the Notary <input checked="" type="checkbox"/> ID Cards — Describe each card below (Describe Witnesses) — Include signature and each witness CA DL EXP 8/14 #12345678  <input type="checkbox"/> Personally Known by the Notary <input type="checkbox"/> ID Cards — Describe each card below

### NAME AND ADDRESS OF SIGNER

This provides indispensable identifying data about the person who appeared before you. There are many John Does, but likely only one living at 123 Any Street, in your community.

### NOTARY FEE

Recording an accurate fee is important — remember that Notary fees must be declared for tax purposes.

### RIGHT THUMBPRINT OF SIGNER

Though not required in every state, the signer's thumbprint protects you by recording compelling biometric evidence that the signer actually appeared before you. A thumbprint is highly valuable to law enforcement.

Additional Information	Notary Fee	Signature of Signer	Right Thumbprint of Signer	
Signer was elderly but appeared alert and responded clearly to questions	\$10	John Doe		2 1

### ADDITIONAL INFORMATION

Was an attorney in fact involved? Did the person sign as a corporate officer? Was the signer missing a right thumb that necessitated an alternate fingerprint? These important additional details can help your case in a court of law.

### SIGNATURE OF SIGNER

This is the only item not filled out by the Notary (besides the thumbprint, if required in your state). It can prove valuable protection in proving the signer actually appeared and in allowing comparison of the journal signature with the signature on any ID.



# Three Rules For Dealing With Reluctant Signers

CAN YOU PROCEED WITH A NOTARIZATION IF A SIGNER REFUSES TO PERFORM ANY ASPECT OF THE NOTARIAL PROCESS?

Notarization isn't clearly understood by most people. Many signers mistakenly assume that a Notary simply signs and stamps a document, and they sometimes get uncomfortable when they learn there's more to the process, like producing satisfactory evidence of identity or signing a journal. But if a signer tells the Notary "Can we skip this part? It makes me uncomfortable," what's the next step? Should the Notary call off the notarization entirely, or can the signer be accommodated? The answer depends on what the signer objects to and why. It also requires the Notary to make a common-sense assessment of the signer's behavior. The following three rules will help guide Notaries in such situations.



Have you ever dealt with a reluctant signer? Share your story with the NNA community at [www.facebook.com/nationalnotary](http://www.facebook.com/nationalnotary)

## **RULE ONE: IF IT'S REQUIRED BY LAW, IT HAS TO BE DONE**

If state law requires a certain procedure to complete a notarization, that procedure can't be skipped or ignored, even if the signer objects to it. For example, if a signer doesn't want to present you with a satisfactory form of ID required by law because of privacy concerns, you must call off the notarization, or the signer must produce another form of identification acceptable under state law.

If the signer expresses hesitation about a mandatory element of a notarization, you may explain the reason that particular step in the process is necessary. Also communicate that as the Notary, you are responsible for keeping their information private. Then ask the signer if he or she is comfortable moving forward.

If the signer still doesn't wish to proceed, stop the process. Record that the

notarization was halted in your journal entry, and log the signer's reason.

## **RULE TWO: HAVE A CONSISTENT POLICY FOR BEST PRACTICES**

Things get trickier if the signer balks at a best practice policy you follow that's not required by state law. When adopting this kind of policy, set clear guidelines on how it will be applied when notarizing. For example, if taking a thumbprint for journal entries is optional in your state, you will need to decide if a print will be requested for every notarization, or only for specific categories of documents — but once the policy is established, make sure to follow it consistently. Once you establish the guidelines, inform signers prior to the notarization about the policy.

## **RULE THREE: DON'T BE INTIMIDATED INTO MAKING A MISTAKE**

Remember to avoid improper conduct that leads to legal problems when trying to help someone. A dishonest signer might pretend to be upset with part of a notarization in order to intimidate you into skipping or ignoring key elements of the notarization, making it easier to get away with document fraud. If a signer objects to something during a notarization, be sure to take other factors into account. Was the signer's ID questionable, or is the signer behaving suspiciously? Is the signer pressuring you to complete the notarization quickly, or inconsistently responding to questions? If there are warning signs the transaction may be shady or the signer is unwilling to sign the document for other reasons, don't proceed with the notarization.

# When you become a Trusted Notary<sup>®</sup>, you receive more than a special designation

As a Trusted Notary, you will help restore trust and confidence to the American economy, its financial institutions and the millions of consumers who have been battered by mortgage problems, foreclosures, real estate fraud and identity theft.



Responding to the economic crisis and the “robo signing” calamity, the NNA introduced Trusted Notary<sup>®</sup> Program. It provides in-depth training on best practices and ethical standards to mitigate liability risks for signers, clients, employers, the public at large, and especially for Notaries. The Program provides guidance on the professional standards of practice beyond your state’s laws.

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