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The National NOTARY®

January 2010



THE MAGAZINE FOR PROFESSIONAL NOTARIES

**The Importance of
Properly Screening
Identities 14**

**Three Pervasive
Notary Myths 26**

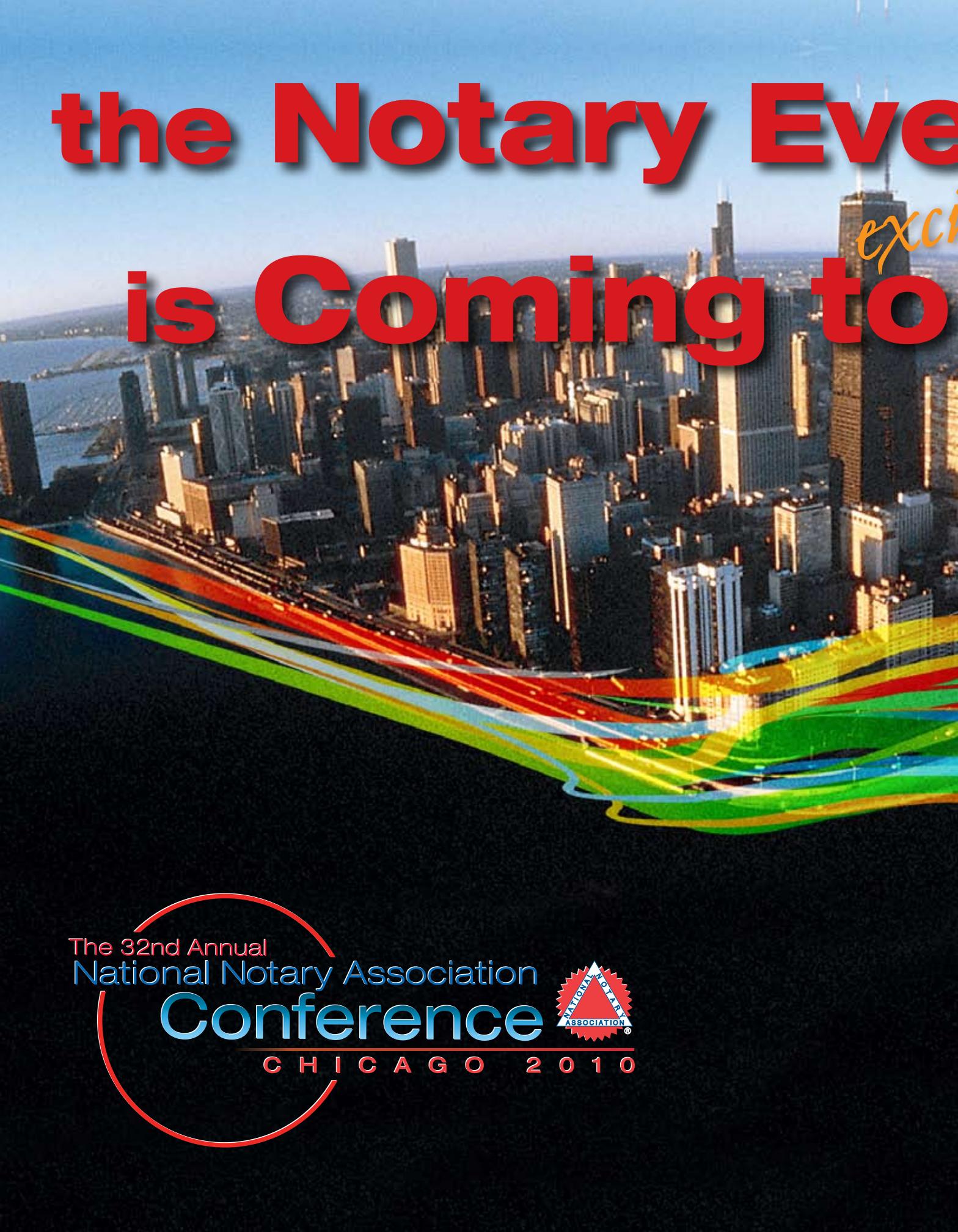
**Protect Yourself
By Keeping
Detailed Records 29**

the new
Standard
of Care



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Vol. LIII, No. 1, January 2010

Published by the
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THE NATIONAL NOTARY

THE NATIONAL NOTARY is the official publication of the National Notary Association. We enjoy a nationwide circulation, with subscribers in several foreign countries as well, and welcome the readership of all those interested in the important work of Notaries.

PUBLICATION POLICY

The objectives of THE NATIONAL NOTARY are to: (1) publish only quality articles on Notaries, notarization and related subjects; (2) inform our readers of important developments in the field of notarization; and (3) focus on Notary issues and related subjects that are helpful, educational and informative to Notaries and others interested in the field.

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From The Senior Managing Editor



How Much Do You 'Care'?

Consider this: You visit a new doctor for a routine physical and, upon arrival, you notice there is no medical school degree, license to practice or even a professional certification hanging on the wall. You raise

the question and the medical assistant responds: "The doctor never got formal training, but he's really good at what he does." What would you do?

Or maybe you're looking for a credit counselor to help reduce your debt. You find an office that promises to settle your outstanding balances for pennies on the dollar, but they cannot provide evidence of experience with banking, finance or credit law. They don't even have a CPA on staff. What would you do?

A person with any measurable intelligence would run the other way. Why? Because anyone who performs professional services without proper training is dangerous to the public.

It has always perplexed me why most employers of Notaries — and even some Notaries themselves — have pigeonholed their central role as an impartial witness and identity screener into the category of "not important because anyone can do it." But while far too much of this sentiment continues to exist, there is now a growing rededication by Notaries to their role as the public's trusted gatekeepers, and the shield against fraud and liability for those who use their services.

There is a growing understanding that an improper notarization is dangerous to the public, that liability concerns are increasing, and that most state laws fall short of mandating the best practices needed to protect our most vital transactions. This is exactly why the Notary's "New Standard of Care" (Page 20) is being embraced and put into practice by Notaries across the nation.

Many Notaries and companies that employ them are now seeking quality training — like the NNA's Trusted Notary™ Certification program — to increase their standard of care in vetting identities (page 14), and properly completing journal entries (page 29), and to dispel common misconceptions (page 26) about Notaries and notarization, among other best practice subjects.

Today's successful Notary is concerned with protecting the public and properly serving it, armed with the education and certification they need to prove they are qualified to handle the nation's most important transactions. Notaries truly are beginning to care.

The question now is, how much do you care?

An improper
notarization is
dangerous to
the public...

COVER STORY

20 • The New Standard Of Care

Notaries, their employers and state governments across the nation increasingly are taking aggressive action to ensure that the notarizations performed on their watch are handled with care, professionalism and integrity. This new wave of attention focused on the notarial process comes amid a growing rededication by Notaries in their role as a shield against fraud and liability. An improper notarization is dangerous to the public, which is exactly why the Notary's New Standard of Care is being put into practice by security-conscious Notaries from coast to coast.



FEATURES

14 • Positively Identified



Notaries play an important role in protecting the public from fraud, and an important aspect of that role is verifying the identity of a signer. Besides protecting the public, careful ID checking protects the Notary from liability by helping ensure that signers are who they say they are.

26 • Three Myths About Working As A Notary

The public, and even the firms and companies that employ Notaries, often has an incorrect perception of the duties the office entails. This misunderstanding can lead some people to believe Notaries are able to perform duties that are prohibited. It's up to us to educate the people we deal with every day.

29 • Every Record Book Tells A Story



One of the pillars of notarial practice is meticulous recordkeeping. A well-maintained journal with complete information on each transaction can be useful for many reasons, particularly for helping you recall the transaction should you ever need to. Even small details can jog your memory and help you recall the specifics of a notarization.

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ON THE WEB

'Red Flags Rules' Require A New Standard Of Care

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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 READERS' RIGHT

Deeds And Fraud

I am puzzled why county recorders can't do more to stop fraud involving deeds and other recordable documents. To my knowledge, there is nothing that states that a document must be recorded in a specified length of time. If this is true, prior to recording a quitclaim deed why can't recording offices notify the current legal deed owners that a new deed is in the process of being recorded on their property?

As this appears to be a problem everywhere, I think it would be helpful to have standardized recording procedures enacted in all states.

Jessie Hinton, Chicago, Illinois

Call For eDocuments

The mortgage industry is still gun-shy when it comes to the use of eDocuments and eNotarization. It's faster and more reliable, so why don't they want to use it more? Change is inevitable. Get with it, mortgage industry! I am ready, willing and able to assist.

Tracy Moring, Gainesville, Florida

Need For Training

In New Jersey, many Notaries are grossly uneducated, and this causes signers to complain that Notaries who follow best practices are "bad guys." When I pulled my journal out [recently], one signer complained, saying, "No one else ever has!" Ask for a thumbprint, explaining the FBI recommends it, and a signer will say, "Maybe I will just go to the other Notary I use! She never does any of this!" If I review a document for completeness, they claim other Notaries "just stamp it and sign it!" I am now dedicated to helping train every Notary I work with in order to overcome this bad attitude that signers have toward Notaries.

Christine Whitby, Mount Laurel, New Jersey

Ohio Notary Concerns

We need to have ID cards for our Notaries. This would assist in the fight against fraud. Also, the state of Ohio needs to update its Notary laws to incorporate recent developments in Notary best practices.

Tom Franklin, Youngstown, Ohio

Letters To THE NATIONAL NOTARY

We welcome letters, comments and questions from you and reserve the right to edit for space and clarity.

Contact us at publications@nationalnotary.org or by fax at (818) 700-1942. Mail can also be sent to National Notary Association, Editorial Department, 9350 De Soto Ave., P.O. Box 2402, Chatsworth, CA 91313-2402.



A New Year Means A New Appreciation For Our Work

There are two things we usually do at the beginning of a new year. We evaluate what we did in the last year and decide what we want to do better in the new one.

The lists usually look pretty similar from years past: spend more time with the family, save money or budget more intelligently what there is, take a class for self-improvement or work to develop better professional skills.

Ultimately, wherever our thoughts take us, we are constantly balancing time and money. Determining how much we have and calculating how we will use it to our best advantage.

Most of us remember when Notaries were constantly in demand, the nation's economy was in high gear, everyone wanted our cell phone number and time was precious.

Now, times are different, and though there is less clamor for our services, still the value we provide in the final steps of a business or personal transaction is no less important. Indeed, in hard times that value becomes even more important.

The assurance of integrity and authenticity that accompanies every notarized document constitutes our promise to the signer, the document recipient and society at large. Our activities that ensure each signer's identity, presence and awareness are vital to a document's integrity.

Much has been written and reported about the excesses that caused our current economic situation, particularly the speed and pressure under which modern business transactions are completed. While some might belittle the notarial process, few can dispute that it provided an anchor of honesty and trustworthiness that was, we subsequently learned, surprisingly lacking in the greater business community.

Admittedly, it may have been exciting

to be a player in the mortgage and real estate booms, but we must not lower our guard as society's front line of defense against document fraud even in this sluggish business environment.

Today, those of us who are less busy must avoid becoming apathetic about our role and responsibilities.

Notaries must understand the duty of constant vigilance that they shoulder. Whether obtaining a commission at the request of an employer, or to satisfy an entrepreneurial desire to work independently as a Signing Agent, or just to fill out a resume and make oneself more "salable" on the job market, that commission imposes the same unvarying responsibility. We may all have our different reasons for becoming a Notary, but after that we all have the same mission.

Unfortunately, some of us may not take that mission seriously. If that happens, the notarial office loses a bit of its value and all of us are diminished.

Perhaps, our greatest danger in the coming year is to think less of ourselves and the service we provide.

Unfortunately, all of us have witnessed what happens when interest or confidence is lost in any human endeavor and value thereby is compromised.

This is the challenge before us in the New Year. We need to maintain an understanding of our value and appreciate that a function performed less often is nonetheless worth doing.

Deborah M. Thaw can be reached at dmtbaw@nationalnotary.org

Sealing The Deal On Collectible Authenticity



An increasing need for authentication of genuine collectibles is bolstering the need for Notaries in the burgeoning celebrity memorabilia industry.

Many sports figures already authenticate their autographs on auctioned souvenirs, using notarized affidavits, especially for items sold on Web sites. Prominent sports memorabilia companies that sell everything from hockey pucks to footballs to sneakers typically provide affidavits authenticating the athlete's signatures on the items.

That trend is being picked up by the sellers of such things as autographed books and Beatles items after a 47-year-old Reading,

Pennsylvania, man admitted forging the autographs of famous authors — including Anne Rice, Truman Capote and John Grisham — on books he sold on eBay.

In another case, a British auction house sold an autographed photograph signed by all of the Beatles dating from the 1960s. It was later revealed to have been penned solely by George Harrison, apparently a common practice among the Fab Four.

The reliance on Notaries is moving beyond the sports memorabilia field. A Web site recently sold Marilyn Monroe's sequined blouse — along with a certificate of authenticity bearing a jurat from the late star's secretary.

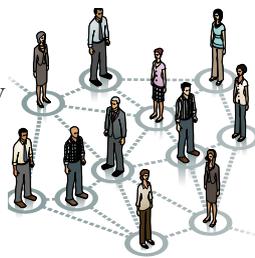
Market Your Business On Facebook

For Notary entrepreneurs in all professions, social networking using Web sites such as Facebook, Flickr and LinkedIn to market yourself can open the door to millions of potential clients. Facebook alone has 200 million users; LinkedIn, a site for business professionals, has 30 million.

A key advantage, experts and Web vets say, is that these sites typically are free. It just takes a little

time to get comfortable with how they work. Then Notaries — from Signing Agents to retail business

owners — can proactively search for potential clients rather than wait for clients to find them.



By The NUMBERS

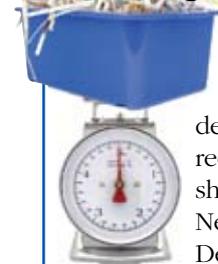
36% ↑ Increase in the number of reports of suspected mortgage fraud made to federal authorities in 2008.



Number of identity theft complaints reported to the FTC's Consumer Sentinel Network in 2008.

313,982

11,540



Pounds of paper documents containing consumer information destroyed during a recent community shredding event in New Castle County, Delaware.

Number of states with some type of notarization or witness requirement for absentee ballots.

26



29 The number of South Dakota Notaries who forgot to write in their commission expiration dates, causing a voter initiative to be kicked off the ballot.

eRecording Campaign Spreads To More States

Officials in Michigan and New York are joining the push toward paperless transactions by urging their respective legislatures to enact laws allowing county recorders to accept electronic documents.

In Michigan, state Senator Gerald Van Woerkom has introduced a bill that would adopt the Uniform Real Property Electronic Recording Act (URPERA). Drafted by the National Conference of Commissioners on Uniform State Laws, URPERA creates a uniform set of standards by which county recorders can accept documents submitted electronically.

In New York, county recorders are drumming up support to convince their state legislature to enact a similar law. By recording documents electronically, the mortgage and real estate industries and county officials can save considerable time and expense, and make real estate transactions more secure.

To date, 22 states have adopted URPERA and several more are considering it.



U.S. Military Marches Toward Paperless Medical Records

The U.S. Department of Defense is the latest federal agency to move toward paperless records in which digital signatures, electronic notarizations and face-to-face identity managers are being used regularly. For example, the Pentagon recently launched a pilot program to create an electronic medical records system for military personnel and their families.

The move ultimately may require patients and medical

personnel to obtain digital identity credentials to access the records — a potential boon for identity managers like Notaries.

That's because security will be a major concern for the digital "MiCare" program, according to Pentagon officials. They expect 50,000 visits a day when it's active. The move is

as another step toward moving all government recordkeeping to a 21st century, digital format. A number of other agencies have already made the transition.



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TRENDS & OPPORTUNITIES

Travel Agencies Drumming Up Business With Notarizations

When three separate travel agencies in Marshallton, Delaware, recently announced that they were moving into the town's new business center, they made sure to promote Notary services among their offerings. And they are not alone.

Travel agencies from coast to coast are finding that combining notarizations with vacation and business trip planning

make a natural fit. That is especially true when making plans to travel outside the United States.

Many countries require visa applications and supporting documents to be notarized. A parent traveling with a minor child often must present a letter from the other parent acknowledged before a Notary that permits the child to leave the country.



Cost Effective Marketing With Press Releases

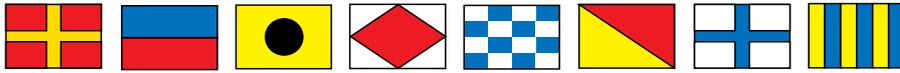
Effective marketing is essential to any entrepreneur's success. And Notaries are discovering that press releases are a good, low-cost way of promoting themselves.

Just ask Paralegal Associates LLC of Toledo, Illinois, which issued a press release when it opened its doors for business recently. Nevada Notary Professionals took a slightly different approach to its recent press release. It offered advice to homebound seniors in need of a valid ID.

Experts offer a few tips for crafting press releases, starting with the need to tie them to a "newsworthy" event. It could be something as simple as adding a service or taking on a new client. Or it could be winning an award or taking part in a public service or charitable event. Given the important fraud-fighting role Notaries fulfill, offering advice and tips to potential clients could be an effective way to become known in your community.

When writing the release, get to the point quickly; and include a few quotes from yourself and a third party. If you don't consider yourself a writer, seek out a friend or colleague who writes well. Also, get to know the business editors of your local media outlets.

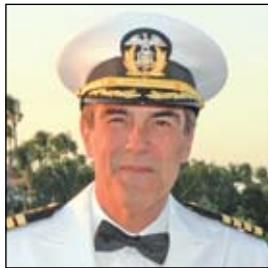




Ship Captain Says ‘I Do’ To A Seafaring Commission

Jim Albert of Naples, Florida, is one of a growing class of Notaries taking their role a step further by combining their commissions with their passions to create a truly rewarding career.

A risk assessment consultant for the insurance industry, Albert decided to broaden his horizons a while back and obtain his ship captain’s license. When he went to work as a skipper on the commercial yacht *Naples Princess* he decided to get his Notary commission. THE NATIONAL NOTARY recently spoke with Albert about his budding new career.



Jim Albert

out of the U.S. Navy, so I grew up around the water. I boated with him until he passed away. Being self-employed doing risk management assessments for insurance companies, I can choose how I split my time between the office and the yacht.

Has offering wedding services helped the bottom line?

It’s a real business advantage because you can book larger parties. Having the ceremony on board allows them to have the marriage and reception with family and friends.

What do you like most about performing weddings?

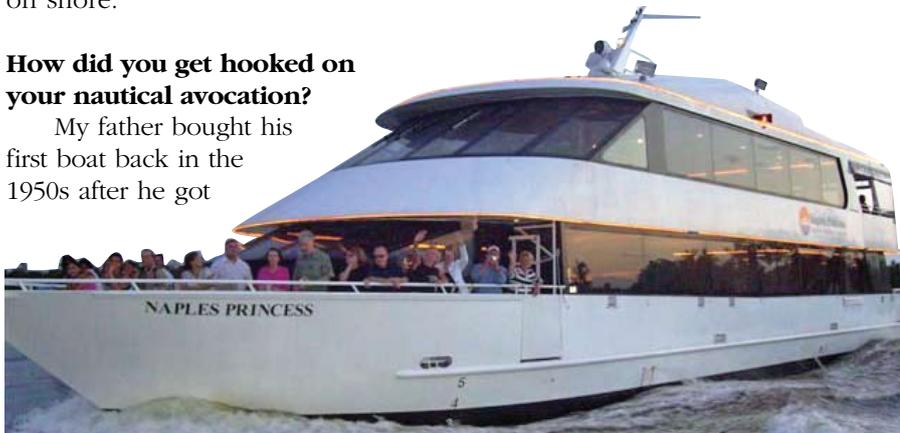
It’s a very joyous time for people taking a cruise who want to get married. It’s a big thrill for them to have a ship captain do the ceremony. I love to have ceremonies on the Gulf of Mexico — there are beautiful sunsets, and the aura and mystique of having a ceremony performed on the water.

What made you decide to become a Notary?

I became a Notary in March 2008 because, as a ship captain, I perform wedding ceremonies. You are required to have a commission in order to do those services. On a few occasions, someone on the boat needs a document notarized or someone comes into our office on shore.

How did you get hooked on your nautical avocation?

My father bought his first boat back in the 1950s after he got



Viruses Infecting Cell Phones

Apart from seals and journals, one of the most important tools Notaries have is their cell phone. As technology enables this device to carry out an ever-growing array of tasks — from exchanging eMails to managing the details of a Notary entrepreneur’s daily business — criminals increasingly are targeting them with viruses, malware and spyware.

The latest viruses to hit mobile devices arrive via text messages that ask users to click a link. Once clicked, the phone downloads a program that uses it to transmit malicious messages. Anything stored on the phone can be compromised.

Phones can be targeted via regular eMail and wireless connections. But some simple precautions can keep this lifeline secure:

- As with normal eMail, don’t open text messages from unknown sources.
- Most people, especially business professionals, plug their cell phones into their computers to share information, so keep your computer’s anti-virus software up-to-date.
- Keep your Bluetooth turned off when not using it. A virus can be planted through an “open” connection.

Carcieri, Mollis Receive 2009 Calvin Coolidge Notary Award



From left, NNA Vice President William A. Anderson presented the Calvin Coolidge Notary Award to Rhode Island Governor Donald L. Carcieri and Secretary of State A. Ralph Mollis, supported by Robert Kirby, president of the Calvin Coolidge Memorial Foundation.

In recognition of their bold move to strengthen Notary standards in Rhode Island, Governor Donald L. Carcieri and Secretary of State A. Ralph Mollis were recently honored as the 2009 recipients of the NNA's Calvin Coolidge Notary Award.

In April 2009, Carcieri signed Executive Order 09-08 establishing the state's first Standards of Conduct for its 21,000 Notaries. The decisive action by Carcieri and Mollis came as a result of a surge in mortgage, bank and identity fraud in the state, and because of requests by Rhode Island Notaries seeking stronger standards to strengthen trust in Notaries and help further protect document transactions from fraud.

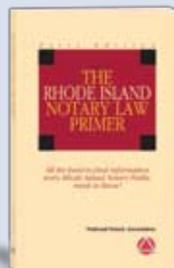
The new Standards — inspired, in part, by the *Model Notary Act* and *The Notary Code of Professional Responsibility* — recommend keeping a journal, define acceptable identification documents and explicitly list prohibited acts. They also set penalties for failing to adhere to proper notarial procedures.

Rhode Island Law Primer Debuts

To help Rhode Island's 21,000 Notaries comply with the state's new Standards of Conduct, the National Notary Association has produced its first-ever Notary Law Primer for the state.

The Rhode Island Notary Law Primer organizes and outlines, in a user-friendly way, state laws and explains the Standards of Conduct in detail along with ways Notaries can comply with them ethically and professionally.

The Standards of Conduct were adopted in part to combat fraud in the state and partly because Notaries were looking for a way to enhance their professionalism and public reputation.



 www.nationalnotary.org/supplies



STATE NEWS

Online 'Bulletin' Brings Issues Directly To You

Of all the new, valuable features of the online NOTARY BULLETIN, one of the most exciting is the repository of State News, which gives you immediate access to vital tips, news and the latest developments happening in your state.

On the right side of the publication at NationalNotary.org/bulletin, you'll see an icon of the United States with the tagline "State News." Select your state from the pull-down menu and all recent and pertinent articles for that state will be displayed. And, don't worry if you miss something the first time around; all the content is archived for your convenience.

The state-searchable index is only one of the many helpful features you'll find on the online NOTARY BULLETIN. In addition, knowledge-based best practice articles, such as quizzes, "How Do I?", "What Is?" and "Tips" are updated regularly.



www.nationalnotary.org/bulletin

TEA Performs First All-Electronic Identity Proofing

A significant advance in electronic identity verification was made recently when U.S. Magistrate Judge John M. Facciola became the first person to obtain a digital credential via an all-electronic identity enrollment performed in Washington, D.C., by a National Notary Association Trusted Enrollment Agent™ (TEA).



U.S. Magistrate Judge John M. Facciola with Trusted Enrollment Agent™ Elaine Wright.

After confirming Facciola's identity, 2009 Notary of the Year and TEA Elaine Wright electronically signed his application with her own digital credential. TEAs have been actively involved with vetting the identities of those seeking digital identity credentials, but up until now have performed their duties using paper documents only. The enrollment demonstrates that, even in the digital age, identifying individuals face-to-face remains a vital aspect of protecting electronic transactions.

Your Benefits: NSA Hotline

One of the most valuable benefits for Notary Signing Agent Section members is the NSA Hotline. The Hotline is staffed by expert counselors who can answer any notarial question related to a loan signing, and is available to members Monday through Friday, 5 a.m. to 5 p.m. Pacific Standard Time.

Hotline counselors also can answer your questions about general notarial issues for every U.S. Notary jurisdiction related to identification, procedures and keeping a record book. If you need to reach the NSA Hotline, call toll free at (888) 876-0827 or dial directly at (818) 739-4010. Identify yourself as an NSA with a real-estate-related question and an NSA counselor will assist you. NSAs also can eMail questions to Hotline@NationalNotary.org.

E&O Insurance Is A Notary's Best Shield



Even careful Notaries can make unintended mistakes, but there is a way to protect yourself from monetary harm: Errors and Omissions (E&O) insurance. Unlike a bond, which is required in most states and is designed to protect the public, E&O insurance protects you.

The biggest advantage of an E&O policy is that if you are found liable, you won't have to pay the money back to the insurer, unlike a state-required Notary bond. Affordable, high quality E&O insurance policies are available from the NNA. To find out more, call (800) 876-6827.



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Positively Iden

VERIFYING A SIGNER'S ID IS A KEY ELEMENT TO AVOIDING LIABILITY

Verifying identities is one of the most essential tasks a Notary performs. Today, that job is more challenging than ever as most document signers are likely to be strangers. However, those who follow the basic rules of identifying signers — requiring personal appearance and satisfactory evidence of identity — can help deter document fraud, create valuable evidentiary records and protect themselves from liability concerns.

The Notary's role as society's identity manager is increasingly important due to the combined effect of judicial decisions, social and economic realities, governmental priorities, and technological advances. Among the drivers of the change: A landmark decision by an Illinois Appellate Court that found a Chicago-area photocopy business liable for the mistakes of its employee-Notary. The Notary, among other things, failed to properly identify a signer, who then went on to commit real estate fraud. The court ruled in *Vancura v. Katris* that the Notary should have followed the principles of identification found in

the *Model Notary Act*. Another case currently winding its way through the courts in Illinois involves a similar lapse in notarial standards by a Notary working for Bank of America. And both Notaries could have avoided their legal woes by adhering to simple, basic identification procedures. (See "Case Studies In Avoiding Liability," page 19.)

These cases are significant because they reinforce the importance of proper identification in the notarial process. But there are other factors at work as well.

GOVERNMENT AND BUSINESS PRIORITIES

Recently, the President's National Security Telecommunications Advisory Committee released a report calling for a comprehensive ID management strategy for the nation. This report is



tified



the latest acknowledgment that 21st century society will not be able to function without a strong system of identity management. And there is every reason to believe that Notaries could play a crucial part in this strategy because of their expertise in positively identifying signers. In fact, the Committee noted that one of the three security elements for an effective identity management system would be “Trust Anchors” — individuals who verify identities face-to-face.

The federal government already has made forays into identity management, most notably with its E-Verify Program. The program has been used by private employers, government contractors and others to check the identities of prospective employees and verify that they have a legal right to work in the United States. While not a notarial act, Notaries acting as third-party agents have been involved in the vetting process, which includes filling out an I-9 form. The program is up for renewal, again putting Notaries in a unique position to trade

on their expertise in identifying individuals.

Private industry is keeping pace with the government in making identity verification a priority. Many companies and industries are issuing high-security, digital credentials in order to control access to sensitive databases and facilities. These credentials are dependent on face-to-face identity verification. Notaries acting as Trusted Enrollment Agents™ have been involved with vetting the identities of those working in the aerospace and healthcare industries who need secure, high-assurance digital identity documents.

While these new avenues for Notaries as identity managers are raising the prestige and increasing the responsibilities of the office, the expanding identity management role is building on the central duty Notaries have always fulfilled. And more than ever, as the *Vancura* case established, Notaries will be expected to follow clear-cut guidelines for properly identifying individuals.

THREE STEPS TO PROPER IDENTIFICATION

While Notaries have been identifying signers for thousands of years, this duty is often where the biggest mistakes — the kind that open the door to fraud — are made. But despite all the technological

Continued on page 17

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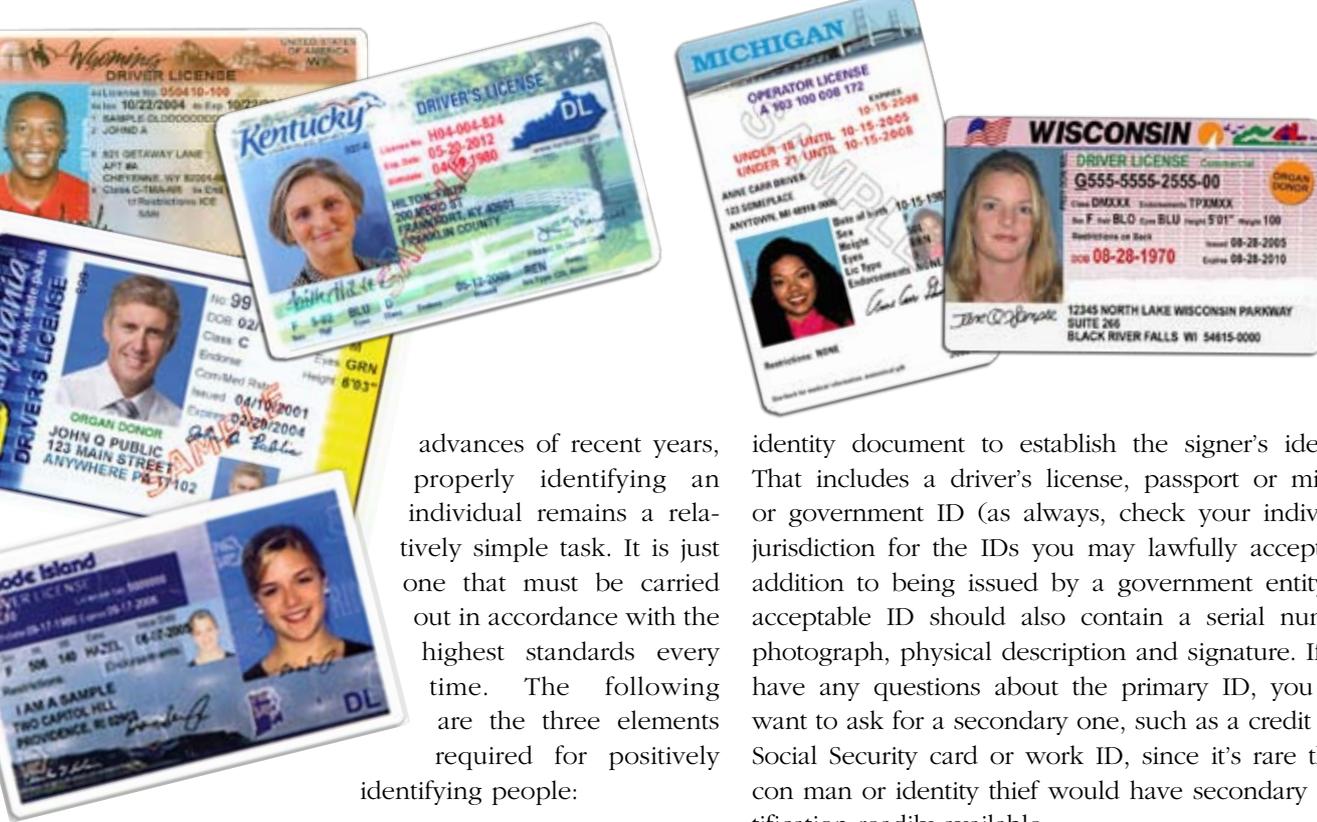
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advances of recent years, properly identifying an individual remains a relatively simple task. It is just one that must be carried out in accordance with the highest standards every time. The following are the three elements required for positively identifying people:

1. Personal Appearance
2. Satisfactory Evidence Of Identity
3. Recordkeeping

PERSONAL APPEARANCE

It doesn't matter whether your signer is a close friend or a complete stranger. Every signer must appear before you at the time of the notarization. This is the only way you can properly identify signers and verify that they understand the document and are willingly signing it.

Skipping this most basic step is a common cause for legal action against Notaries and their employers. It should raise a red flag any time you are asked to notarize a document for an absent person, whether a friend, acquaintance, stranger or your boss.

SATISFACTORY EVIDENCE OF IDENTITY

In some cases, personally knowing your signer will be sufficient to establish identity. California remains the only state to prohibit personal knowledge as a means of identification. However, because so many clients are likely to be strangers, you may use a government-issued

identity document to establish the signer's identity. That includes a driver's license, passport or military or government ID (as always, check your individual jurisdiction for the IDs you may lawfully accept). In addition to being issued by a government entity, an acceptable ID should also contain a serial number, photograph, physical description and signature. If you have any questions about the primary ID, you may want to ask for a secondary one, such as a credit card, Social Security card or work ID, since it's rare that a con man or identity thief would have secondary identification readily available.

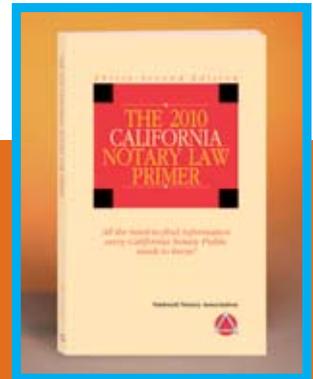
There may be unusual circumstances when signers do not have a valid ID or have one you can't read (such as a foreign-language passport). The signers will need one or two credible identifying witnesses to vouch for them under oath. These witnesses are the document signers' living ID cards. You will have to identify the credible identifying witness using the appropriate procedures for your jurisdiction.

RECORDKEEPING

While it might not seem like it, your journal is a key part of creating an identity chain. This repository of ID information — names, serial numbers and signatures — is your evidence that the verification was done correctly and thoroughly. While few states require Notaries to record the thumbprints of signers, it's a good idea to do it anyway for every notarization. A thumbprint is incontrovertible proof that a particular individual appeared before you and provides powerful identifying information if a notarization is called into question. In addition, criminals tend to be reluctant to leave a thumbprint behind if they are trying to perpetrate a fraud. You should always fill in your journal at the beginning of the transaction and not wait until the signer has left.

Continued on page 19





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As numerous incidents of fraud have demonstrated, identity is perhaps the most precious commodity any of us have. And being readily identifiable by Notaries and other trusted parties is the key to a viable, functional document transaction.

THE END OF ANONYMITY

Living in an advanced, digital society, we are coming to realize that each of us must be prepared to be identified at every turn. And because of this, anonymity is becoming an outmoded concept. But this is good news. Anonymous interactions — especially online ones — are rife with danger and the primary reason that identity fraud has become such a problem.

Eliminating anonymity on the Internet is among the federal government's top priorities. This isn't because it wants to become an Orwellian "Big Brother." Instead, the government's aim is to bring transparency and accountability to Web-related interactions. With a strong identity management system in place — including digital identity credentials and a face-to-face verification process — the Internet will become a much safer place to operate.

Because of the national priority being given to identity security, the Notary Public office — because of its essential function to identify signers and secure the most sensitive transactions — will remain relevant long into the future. **NNA**



CASE STUDIES IN AVOIDING LIABILITY

Issues regarding proper identification formed the backbone of the Illinois Appellate Court's decision in *Vancura v. Katris*, and highlight the importance of proper identification to the notarial process. Among the fundamental mistakes made by the Notary in the *Vancura* case was accepting a pictureless ID card and only checking that the signatures on the ID and documents were similar. That made it very easy for the impostor to commit a \$100,000 real estate fraud.

The Notary did keep a journal, but in a spiral notebook, which was subsequently lost along with any potential evidence related to the fraud.

The Appellate Court ruled that the Notary followed unsound practices in the way he identified signers. Prior to trial, the Notary settled with the plaintiff for \$30,000.

It took just a few months for the *Vancura* decision to be cited as precedent in a similar case involving a Notary working for an Illinois branch of the Bank of America. While both cases involved improper notarizations stemming from poor identification practices, the Bank of America Notary appears to have made a more fundamental mistake. The plaintiff in that case claims that his signature was notarized without his being present. The Appellate Court ruled in that case that the plaintiff could seek damages from the bank, and the case is pending.

Both cases would have been avoided had the Notaries merely followed the standard of care outlined in the *Model Notary Act* and *The Notary Public Code of Professional Responsibility*. By following simple, sound notarial procedures, the Notaries would have protected themselves from liability and kept their employers, their clients and the public at large safe from potential fraud. The lesson of these two cases is clear: Always properly identify your signers and you'll have little to worry about.



The New Standard

“Hold yourself responsible for a higher standard than anybody else expects of you.”

— Henry Ward Beecher

Notaries, their employers and state governments across the nation increasingly are taking aggressive action to ensure that the notarizations performed on their watch are handled with care, professionalism and integrity. This new wave of attention focused on the notarial process comes amid a growing rededication by Notaries in their role as the public’s trusted gatekeepers, and shield against fraud and liability for those who use their services.

The resurgent focus on Notaries is born out of recent heavy losses due to fraud and forgery, the economic recession, the growth of electronic transactions, and lawsuits that have resulted in major liability payouts from Notaries and their employers for gravely mishandled notarial acts. And amid these developments comes the public realization that many state Notary laws fall short of mandating the best practices needed to protect our most vital transactions.

An improper notarization is dangerous to the public, which is exactly why the Notary’s New Standard of Care is being embraced and put into practice by security-conscious Notaries from coast-to-coast.

To be sure, the New Standard of Care for today’s Notaries is nothing particularly new. Its tenets have been prescribed for decades in widely recognized, public domain documents: *The Notary Public Code*

of Professional Responsibility and the *Model Notary Act*. What is new is the widespread realization that the guidance provided in these documents — if followed conscientiously and with care — will help protect the public from fraud and forgery, and will help keep Notaries and their employers from being on the losing end of a lawsuit. And, in most cases, that means Notaries must abide by a professional Standard of Care that goes above and beyond state laws.

As a result, Notaries are demanding more education and training to guide them down the path to professionalism. Employers are taking aggressive steps to make sure their employee-Notaries are properly trained and supervised. And state governments have taken major steps — either through lawmaking or Executive Order — to raise their standards for Notaries to better protect their constituencies, systems of commerce and economies.

Rhode Island, for example, recently enacted a historic, sweeping and comprehensive Executive Order for Notaries which established much-needed rules of conduct to assist the state’s Notaries in performing their official acts.

“Notaries Public play an important role in preventing fraud and verifying the identity of individuals,” said Rhode Island Secretary of State A. Ralph Mollis.



By David S. Thun
dthun@nationalnotary.org

“Government, business and the public depend on the integrity of Notaries, and we have an obligation ... to ensure Notaries possess the honesty, integrity and knowledge necessary to fulfill the responsibilities of their commissioned office.”

Why Notaries Are Drawing Attention

The focus on Notaries, quite simply, comes from the realization that businesses and industries can no longer afford to ignore how their Notaries operate in serving the public.

State officials also are now more aware than ever that Notaries need training and education to prevent harm to the public. Several states — including Colorado, Hawaii, Illinois and Montana — recently have enacted laws that have increased their Notaries’ standard of care to protect the public.

In Colorado, for example, the focus has been on Notary education — and for good reason. In 2008, 33 percent of reported violations of the state’s Notary Public Act involved Notaries who failed to require personal appearance of the signer. That number shot up to 44 percent in 2009. And that’s not counting the complaints about disqualifying interest, unauthorized practice of law and other violations.

While the task of upholding a new standard of care may seem daunting, the important steps are clearly defined. Following the fundamental rules of notarization — requiring the signer’s personal appearance,

Important Best Practices To Always Follow

- Require personal appearance by the signer
- Require the signer provide ID with a photo, signature and physical description
- Keep a record of each notarial act performed, even if not required by state law
- Do not lend your Notary seal, records or tools to anyone else
- Keep your seal and other tools securely stored and locked away when not in use

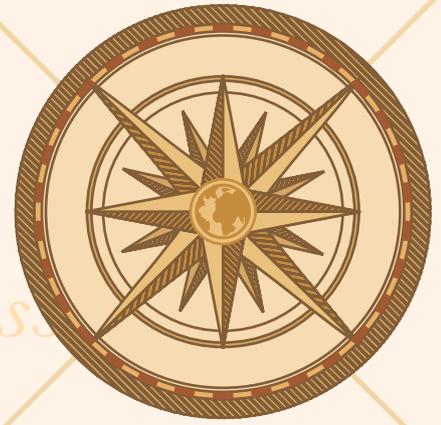
making sure to ask for satisfactory identification and writing down the details in a record book — are an initial step toward eliminating some of the biggest liability risks for Notaries. There are plenty of examples of Notaries who got into serious trouble by ignoring these basics — but how many cases have made headlines where Notaries got into serious trouble by following sound practices?

Another major factor is the state of the real estate market. The lax practices by lenders, brokers and appraisers that contributed to the meltdown of the housing industry have driven lawmakers and the public to look closely at every aspect of the real estate lending and settlement process. And this means that regulators are putting Notaries under the microscope as well.

Unfortunately, there have also been cases where a Notary was tricked or misled into enabling fraud by a boss who persuaded the Notary to do “just one

Model Notary Act

The Notary Code of Professional Ethics



favor” or skip identifying a signer to make things more convenient only to find out later that “one little favor” led to a very big theft via mortgage fraud.

Those who don’t believe Notary misconduct causes any harm should take a hard look at the \$30,000 the Notary in the *Vancura v. Katris* case had to pay to settle the claims against him. The message is clear: People expect Notaries to meet a high standard of care — and when they don’t, severe consequences follow.

A Notary who puts proper procedures first protects consumers from potential harm, even if it inconveniences the signer. Take for example, Christine Whitby of Mount Laurel, New Jersey who recently wrote: “In New Jersey, many Notaries are grossly uneducated, and this causes signers to complain that Notaries who follow best practices are ‘bad guys.’ When I pulled my journal out recently, one signer complained, saying, ‘No one else ever has!’ Ask for a thumbprint, explaining the FBI recommends it, and a signer will say, ‘Maybe I will just go to the other Notary I use! She never does any of this!’ If I review a document for completeness, they claim other Notaries ‘just stamp it and sign it!’ I am now dedicated to helping train every Notary I work with in order to overcome this bad attitude that signers have toward Notaries.”

Following the New Standard of Care may not always be easy, but it is the right thing to do.

New Standards: Beyond The Basics

Learning about and implementing the New Standard of Care will take some work for the uninitiated, but following its tenets will be simple and

straightforward for Notaries who are conscientious about professional standards. The Standard calls for Notaries to follow the same fundamental procedures the NNA has been advocating for years — like ensuring the signer’s personal appearance, requiring satisfactory evidence of identification, and properly screening a signer for willingness and understanding of the document. What is different today is that Notaries must also work with employers and signers to be sure they understand and comply with proper notarial procedures.

Russell Cruzan has been a Notary since the 1980s and, today, he supervises Notary training at the International Bank of Commerce in San Antonio, Texas. He has seen the attitude of local banks rapidly shift from trivializing Notaries to acknowledging their important role.

“At many banks in the 1990s, Notaries were seen as people who rubber stamp whatever bank officials tell them to — an issue we really struggled with,” he said. “Once our bank realized how important Notaries are in protecting transactions, the attitude began to shift and we implemented quality Notary training to prevent liability — not just for the Notary, but for bank officers and managers as well.”

Cruzan also encourages them to speak up and explain to non-Notaries why they are unable to comply with some requests. And Cruzan is always ready to intervene if a Notary receives inappropriate pressure from a supervisor. “If a senior-level person at our bank bears down on a Notary, I will go to bat for that Notary and speak on their behalf to the senior-level person,” he said.

Making sure that people understand why it’s

“Learning about and implementing the New Standard of Care will take some work ... but following its tenets will be simple and straightforward for Notaries who are conscientious about professional standards.”

the new Standard of Care



important that a Notary's duties are performed correctly is one of Cruzan's top priorities. "Most decision-makers in banking aren't Notaries, but they decide who will become a Notary and when notarizations are needed," he said. "They need to know about potential liability issues. Now, especially with the things happening in Illinois, not paying attention to Notary procedures can cause repercussions later on."

'Just Enough' Is Not 'Good Enough'

Many Notaries may not understand why a recent landmark appellate court case in Illinois — *Vancura v. Katris* — has such a national impact on the Notary Public office. In that case, the plaintiff sued a national photocopy chain, claiming that a staff Notary improperly notarized a forgery of his signature without the plaintiff being present, resulting in property fraud costing more than \$110,000. The Notary settled for \$30,000 and testified at the trial. The case is groundbreaking because the Illinois Appellate Court ruled that the Notary's employer was at fault for failing to provide the Notary with proper training and supervision, invoking the common law rather than the Illinois Notary Public Act. The court found that employers

under the common law have a responsibility to train and supervise their Notaries according to a reasonable standard of care that is higher than the minimum standard spelled out in state regulations.

For Notaries, *Vancura* is significant because the court held that a higher standard of care for identifying document signers based upon the Model Notary Act could have prevented the forgery at issue in the case rather than the minimum standard found in statute.

Vancura v. Katris sends a revolutionary new message to Notaries and their employers: "Just enough" is no longer good enough. To defend against accusations of negligence or improper conduct, Notaries must follow best Notary practices that go above and beyond the law in most states. Notary employers are on notice that they are now expected to ensure that their employees holding Notary commissions are fully trained and supervised to fulfill their obligations even when not specifically required by a state law.

Essential Notary Training

The New Standard of Care is the cornerstone of the NNA's Trusted Notary Certification program, which will guide Notaries in abiding by standards of practice that go beyond state law requirements. For more information or to enroll, contact the NNA at (877) 876-0827 or visit NationalNotary.org/TrustedNotary.

Notary Standards In State Laws

In Montana — which enacted its own recordkeeping and education requirements for Notaries last year after consistently
Continued on page 25

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 - Proof of Execution by Subscribing Witness — #5948
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 - Signature-by-Mark Acknowledgment — #5931
 - Disabled Person's Acknowledgment — #5933
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 - Acknowledgment Through Affidavit of Executing Witness — #5941
 - Certification of Facsimile — #5942
 - Jurat with Affiant Statement — #5924

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 - Attorney in Fact Acknowledgment — #5927
 - Representative Acknowledgment — #5917
 - Credible Witness Acknowledgment — #5918
 - Proof of Execution by Subscribing Witness — #5919
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- NEW!** • Signature-by-Mark Acknowledgment — #15945
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- Signature-by-Mark Acknowledgment — #5945
- Proof of Execution by Subscribing Witness — #5944
- Copy Certification by Document Custodian — #5946
- Copy Certification by Notary — #5922
- Jurat with Affiant Statement (8½" x 11") — #5924

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- Representative Short-Form Acknowledgment — #5905
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the new Standard of Care

recommending that Notaries keep a journal for years — Secretary of State Linda McCulloch said the way Notaries perform their duties in recent years has come under greater scrutiny. “There have been an increasing number of lawsuits that question whether some document was notarized properly,” she said. The best thing Notaries can do to make sure they perform their duties properly is to know their state laws, she added. Many Notaries and business owners have expressed strong support for the state’s new, higher standards, McCulloch said. “A few businesses have been concerned about the impact of our new laws on their employees who are Notaries — but I have received great responses from some of the Notaries in those same businesses. They like the new laws,” she said.

One goal McCulloch is trying to achieve is to help the public understand the important role Notaries play. “I don’t think the public appreciates Notaries to the extent I would like them to,” she said. “I believe many people have little idea of the great importance of Notaries in preventing fraud and abuse in many different types of transactions.”

It’s clear that now that people are starting to realize just how critical Notaries are, the demand to meet a high standard of care isn’t going to vanish anytime soon. By learning and following best practices, continually educating themselves, and working with their colleagues and employers, Notaries are establishing themselves as an ironclad rock of integrity in the stormy seas of business today. 



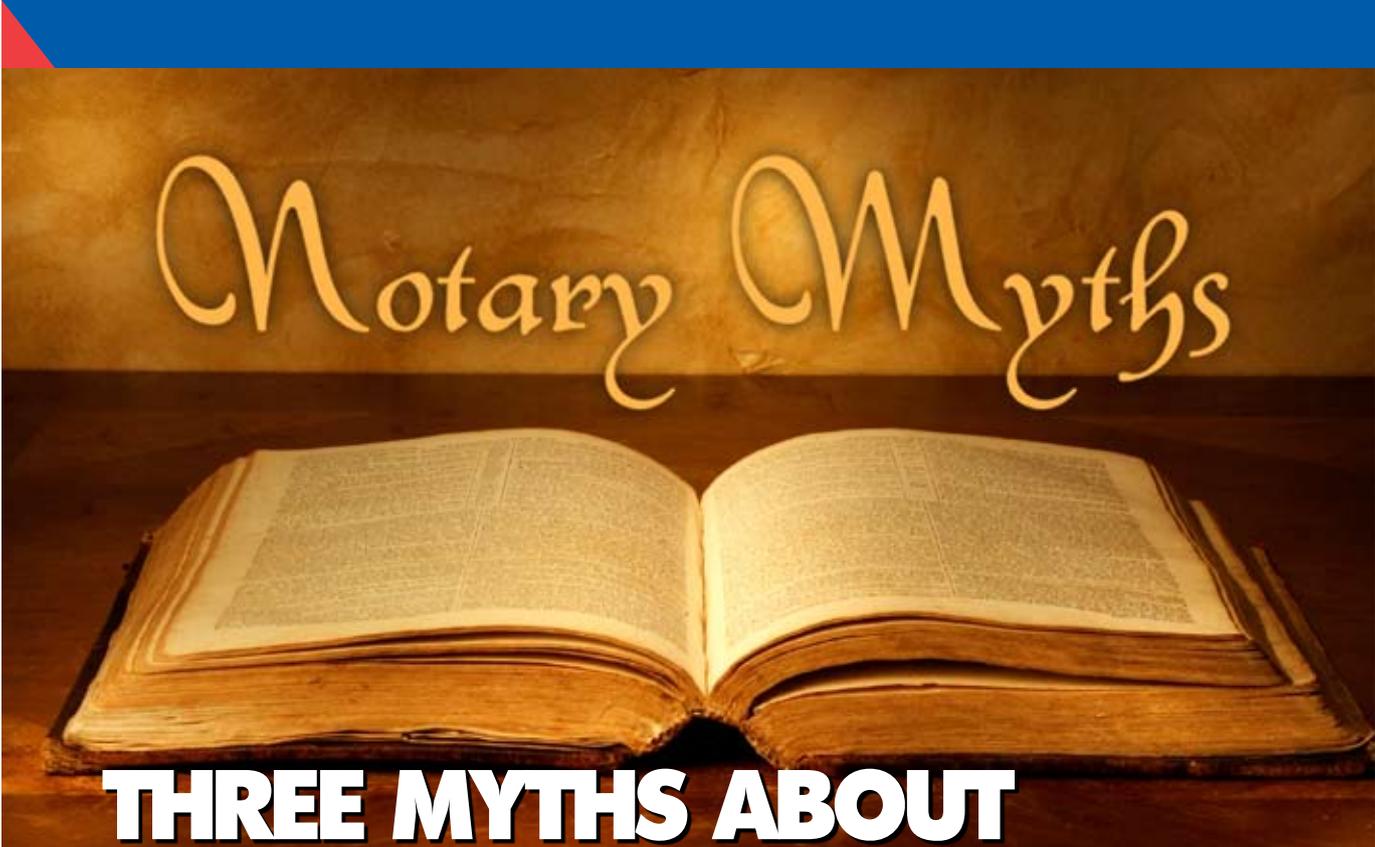
Learn About The New Standard Of Care At The NNA’s 32nd Annual Conference

“The New Standard of Care” is the theme of the National Notary Association’s 2010 Conference, which will focus on helping Notaries from across the nation understand how to better protect the public, avoid liability and abide by standards of practice that go beyond state law requirements. This distinctive theme will focus on best practices and the many available revenue-generating opportunities for Notaries in our challenging economy, and on how employers can prevent litigation and disputes by meeting proper Notary training and education standards based on recent and historic court rulings.

Conference delegates also will get to experience all the exciting entertainment and culture of the world-famous city hosting the NNA Conference for the first time in its history — Chicago, Illinois.

Conference 2010 will be held at the Hyatt Regency McCormick Place from Monday, June 14, 2010 to Thursday, June 17, 2010. Be sure to visit NationalNotary.org for the latest news and updates on Conference features and events.

The 32nd Annual
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Notary Myths

THREE MYTHS ABOUT WORKING AS A NOTARY

MISCONCEPTIONS AND MISUNDERSTANDINGS CAN
STAND BETWEEN YOU AND A SUCCESSFUL CAREER

BEING A NOTARY OPENS UP MANY CAREER and professional opportunities — but only if notarizations are done properly. Unfortunately, the public — and new Notaries — often misunderstand what's involved in notarizing documents, and this can hurt a fledgling Notary on the path to a successful career. Here are three of the biggest myths about being a Notary Public, and how to avoid letting them hinder you in doing your job.

MYTH NO. 1: ANYONE CAN DO IT

This is one of the biggest and most dangerous mistakes the public and many Notaries make. Being a Notary is neither simple nor to be taken lightly. Contrary to what many people believe, a Notary does not merely stamp and sign documents. The Notary is responsible for establishing the identity, awareness and willingness of document signers and preventing fraud — and every state's rules for its Notaries are different.

Some employers, for example, think that paying

for a worker's commission is all they need to do. This is a dangerous attitude.

Recent court rulings have shown that an employer can be held responsible for a Notary's training and conduct even when state law does not require it. Trying to perform a notarization without proper training can lead to disaster very quickly! Each year, many Notaries face fines or have their commissions suspended due to careless mistakes. Ironically, many of these mistakes could have been avoided by following the proper state Notary rules and adhering to the higher standard of best professional practices.

Notarization doesn't have to be hard — but a Notary must know proper procedures inside and out. If a careless mistake causes legal or financial problems, suddenly being a Notary can be very difficult indeed!

MYTH NO. 2: MONEY GROWS ON TREES

A Notary commission can be a great springboard to new career paths in real estate, the legal profession and

many other industries. However, it's not a money tree — the most successful self-employed Notaries don't earn money by simply sitting at home and waiting for people to come to them for notarizations. Many states strictly regulate the fees Notaries may charge for their services, which can limit the living a person can make solely by notarizing documents. Though many Notaries have parlayed their commissions into successful businesses, like anything else, it takes hard work to develop a prosperous income stream. Many find it profitable to combine Notary tasks with other services, such as running a copy center or mailbox store, or working in real estate or as a paralegal. As with any job or business, you have to research the market, promote yourself successfully and be willing to put in the hard work to succeed.

But Notaries should never compromise their ethics as an “easy path” to make more money. Notaries should always strictly adhere to state laws and the guidelines set down in *The Notary Public Code of Professional Responsibility*. There are many unscrupulous businesses out there willing to pay Notaries to break a rule. But remember, while the short-term gains of illegal practices may seem tempting, breaking the law can mean lawsuits, loss of commission or prison time. Adhering to the highest standards of professionalism and honesty preserves the most important key to a Notary's success — a sterling reputation for integrity. It's easy to

find work if people trust you as an ethical and honest Notary. It's a lot harder if people know you're crooked.

MYTH No. 3: YOUR BOSS OWNS YOUR COMMISSION

Among the people who misunderstand the role of a Notary the most are employers and clients. Sometimes impatient signers facing tight deadlines get frustrated because a Notary won't overlook the fact that their ID card isn't acceptable under state law or that a document has the wrong notarial wording. This kind of request can be especially difficult when the request comes through a Notary's employer who has paid for the commission.

Employers and clients don't always understand that when a Notary says “no” to an improper request, it's a matter of state law. Signers and employers don't have the right to compel Notaries to violate these laws, and Notaries should never bow to pressure to improperly notarize any document. A Notary is commissioned by the state and has a duty to follow all relevant state laws when notarizing. Even if someone else paid for the Notary's commission, it doesn't confer the right to order a Notary to break the rules. Performing notarizations correctly ensures that transactions will be completed by the book and that the Notary and the employer are protected against potential liability, and the public is protected from fraud. 

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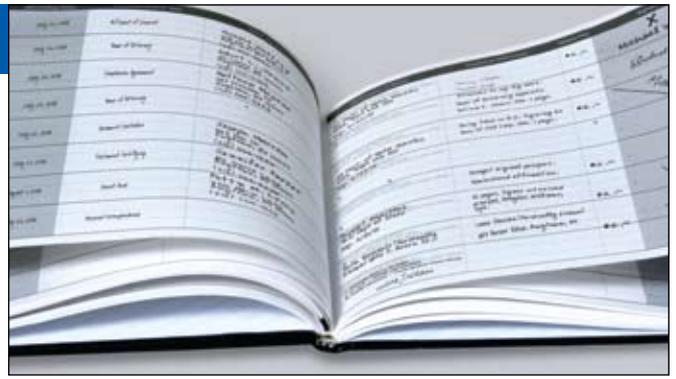
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Every Record Book Tells A Story



IN ADDITION TO REQUIRING PERSONAL APPEARANCE and proper identification, keeping records of your official acts is among the most critical standards of care in ensuring trust and integrity in your notarizations.

Not all states or other jurisdictions require that Notaries keep records, but using a journal or some other secure recordkeeping method is crucial to creating an important public record of your official acts, to limiting your liability and to helping law enforcement investigate cases of fraud.

From the venue to the type of notarization to the name of the signer to a thumbprint, every piece of information you enter into your record book tells a story about the notarization.

With this information, you can show an investigator that you followed professional standards of care or assist in reconstructing events surrounding an attempted fraud, and thus protect your professional reputation, personal bank account and the public at large.

In fact, a meticulously kept journal is probably the most important tool you have next to your seal.

WHAT'S IN IT

Some jurisdictions specify in their statutes what information Notaries must note in their record book. Even if it's optional, by carefully recording details like the signer's name, date, type of notarization and document, the signer's and witnesses' ID information and signatures, fees charged, additional information and a thumbprint, you will get a clear story about that particular notarial act to meet the requirements of even the most stringent state.

Among your record book's most flexible storytelling tools is the space for "additional information." It is here that you should put in details about the notarization that are not only factual but can jog your memory about it months or years later. Noting that the signer was "rude" or was "wearing a red hat," might seem trivial at the time, but, in conjunction with all the other facts you record, could be just what is needed to turn an entry into solid evidence.

While few states require Notaries to take a thumbprint, the National Notary Association recommends that you always do so. That's because it is incontrovertible proof that the signer appeared before you and it is

Every piece of information
you enter into your
record book tells a story...

A METICULOUSLY KEPT JOURNAL IS YOUR MOST IMPORTANT TOOL NEXT TO YOUR SEAL

perhaps your most powerful tool for stopping impostors. Few criminals are willing to leave behind such obvious evidence of their crimes as a thumbprint.

Remember that a few states do prohibit certain types of information from being recorded. For instance, Texas doesn't allow ID serial numbers to be taken down. So, be sure to familiarize yourself with your state's requirements.

WHY BOTHER?

To the uninitiated, there is probably nothing that seems more bureaucratic and unnecessary than record-keeping. But the spaces in a pre-printed, bound book are your biggest ally.

The key is not just keeping a record book, but doing so properly. The Notary in the landmark *Vancura v. Katris* case kept one, but he made numerous mistakes. Among them: using a spiral-bound notebook that could be altered easily and keeping it in an unsecured location (which allowed it to be subsequently lost). If he had properly kept a record book, as recommended in the *Model Notary Act*, the Notary may not have been \$30,000 poorer today.

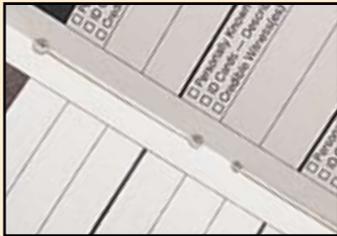
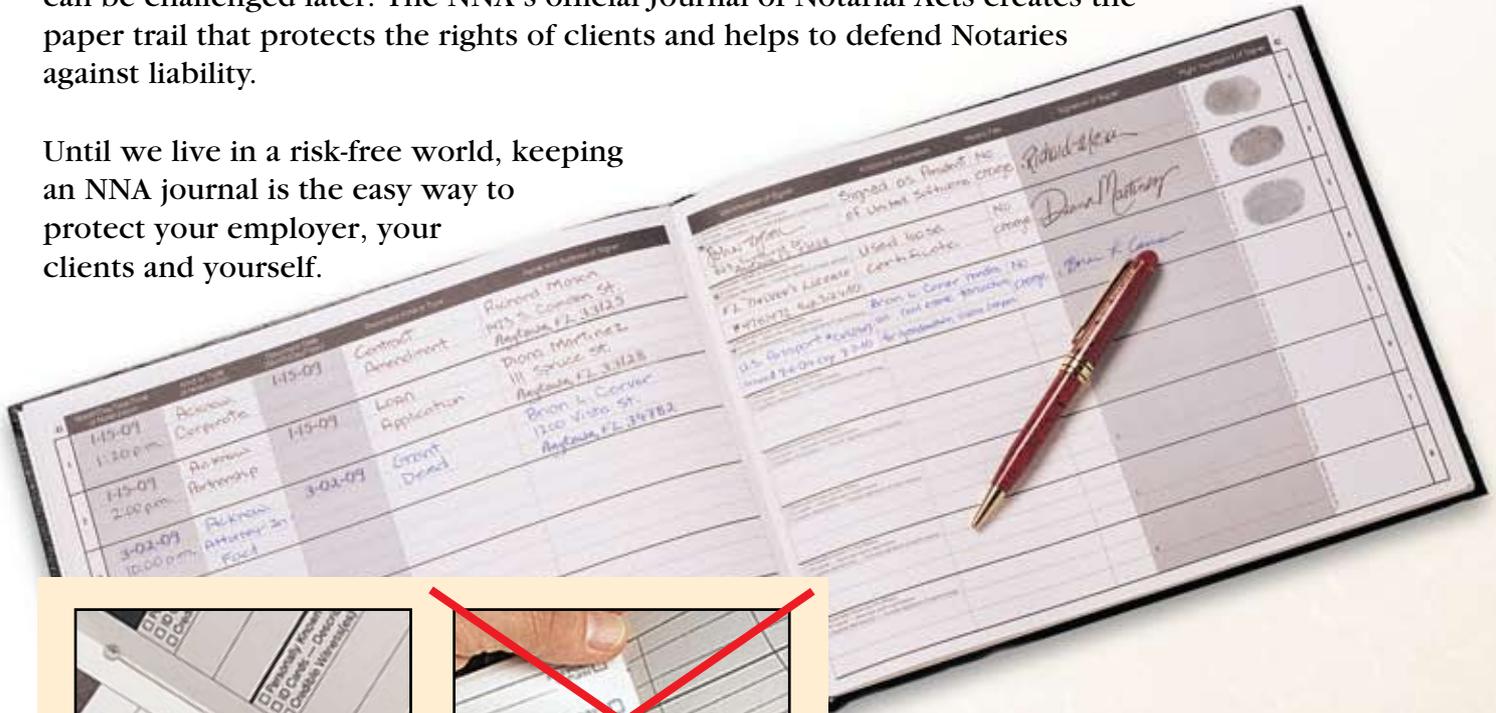
A recent case in California, on the other hand, illustrates the power of a properly kept journal. A con-man successfully duped a Notary with a faked ID to commit a mortgage fraud. The Notary was conscientious filling in the journal with the fake ID information, and, in accordance with state law, took the man's thumbprint. After realizing that the journal contained his real thumbprint, the con-man returned and tried to steal the journal. He failed and the police were able to use the journal to bring fraud and murder charges (he's accused of killing the man whose ID he used) against the con-man. Although the Notary didn't stop the initial fraud, his record book allowed the police to uncover evidence of the fraud and murder, and protected him against any charges of misconduct.

In short, the evidence you are gathering is your shield against liability. Without it, you may be defenseless against any claim of negligence or misconduct.

If the World Were a Perfect Place, You Wouldn't Need a Journal

In the real world, documents can be lost, altered or stolen. Facts surrounding a transaction can be challenged later. The NNA's official Journal of Notarial Acts creates the paper trail that protects the rights of clients and helps to defend Notaries against liability.

Until we live in a risk-free world, keeping an NNA journal is the easy way to protect your employer, your clients and yourself.



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The Art Of Saying 'No' Professionally

THOUGH RARE, THERE ARE TIMES WHEN ETHICS OR NOTARIAL LAW WILL REQUIRE YOU TO REFUSE A NOTARIZATION. HOW TO DO THIS LEGALLY WITHOUT HURTING YOUR CAREER, OR LOSING CLIENTS, IS AN IMPORTANT SKILL FOR ALL NOTARIES.

WHEN YOU CAN SAY 'NO'

There are specific circumstances in most states when you can legitimately refuse a notarization, such as when:

- You cannot positively identify the signer.
- You are uncertain about which notarial certificate to use or how to complete it.
- You cannot directly communicate with the signer in the same language or read the signer's foreign-language ID.
- You've been asked to notarize a transaction that calls your impartiality into question, such as notarizing for your spouse or a document from which you'd directly benefit.
- You have knowledge or a compelling and reasonable suspicion that the transaction is unlawful, dishonest or improper.

HOW TO SAY 'NO'

While there may be clear-cut reasons to refuse a notarization, you should handle any refusal with sensitivity.

Particularly in cases in which a signer lacks an ID or doesn't know what type of notarial wording is needed, you will need to explain why you're refusing to notarize the document and how the problem can be remedied, *e.g.*, coming back with a current, acceptable ID or credible identifying witnesses, or contacting the receiving agency to ask what type of notarization is needed. In cases in which state law forbids you from legally performing the act — such as a request to copy-certify a vital record in California — you will have to explain why you can't perform it and direct your signer to the agency that can offer assistance.

Giving options — within your legal limits — will go a long way to preserve and

even strengthen trust with your signer. In future transactions, your signer will know that you conduct business with integrity.

HOW TO DOCUMENT SAYING 'NO'

No matter the point at which you refuse a notarization — when it's first requested or while you're filling out your notarial records — document the circumstances. This will help protect you from any charge of unfairness or bias.

In the additional information section of your journal, you should record all pertinent information related to why you refused the notarization. This can be presented if the refused notarization is challenged later. Simply writing "refused" or "stopped notarization" may not be sufficient. Use as much space as you need to document the circumstances.

WHAT IF YOUR CLIENT SAYS 'YES'?

No matter how professional or thorough you are, you may have a signer who won't take "no" for an answer. Don't lose your cool. Calmly explain why you won't do the notarization, offer alternatives (within the legal limits of your commission) and stand your ground.

However, don't put your safety on the line. There have been circumstances where Notaries have been coerced through physical intimidation to complete a notarization. In order to protect themselves from harm, they have performed the notarization and then reported the signer to the authorities.

Remember, you have a duty to the public and yourself, and, while you will be able to complete the vast majority of your requests, you must use care and refuse those that are improper or illegal.

Saying NO Is Easier Than Ever!



Be prepared for signers' and employers' improper Notary requests

NNA *Sorry, No Can Do* books are your answer to requests to perform improper notarizations. This clever collection explains to signers and employers what you cannot do and why. Improper notarization requests are quickly addressed using simple language that is easily understood.



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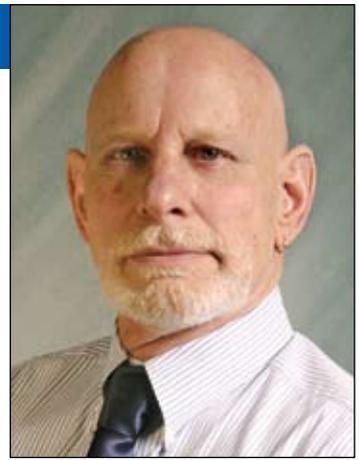
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When Notarizing For Your Boss, State Law Comes First

By Michael Bleifer
NNA Hotline Counselor
mbleifer@nationalnotary.org



Notarizing documents at the request of an employer can put Notaries in a difficult situation because they have dual responsibilities: to their boss as an employee; and to the state

as public officials. That's why some of the trickiest notarizations we're asked about involve workplace documents, like the situation in which **W.H. of Christiansburg, Virginia**, found himself:

I'm being asked to notarize a document that includes myself on a list of people being authorized as representatives of the signer. Is it best to avoid any conflict or perceived conflict of interest and get a Notary who is not mentioned in the document to perform the notarization?

Virginia Notaries cannot notarize any documents in which they are named or have an interest. Notaries may not notarize for themselves whether or not they have a beneficial or any other interest in a document. (HNP and COV 47.1-30)

Is it legal for a Notary Public to complete the Department of Homeland Security's Form I-9 on behalf of an employer and then execute the accompanying acknowledgment?

B.B., McKinney, Texas

I-9 forms can be very confusing, especially when an employer sends instructions with the form that refers to a Notary Public as someone who can act as a third party agent or even instructs the Notary to attach a stamped notarial certificate. The fact that this form is from the Department of Homeland Security adds to the confusion. According to the Texas Secretary of State,

Texas Notaries Public are not authorized to fill out a Form I-9 under state law. You can, however, complete and sign the Form on behalf of the employer as long as you are acting as a private citizen, and not in your capacity as a Notary.

I can't seem to find rules on what is required as an employer to inspect an employee's journal. I need to audit a journal but I want to make sure I do it correctly. Can you please help?

J.R., Clayton, California

An employer of a Notary may request inspection or copies of journal entries that are directly related to the employer's business if the inspection or copying is done in the Notary's presence. An employer may ask a Notary-employee to regularly provide copies of business-related entries from the journal. The confidentiality and safekeeping of such journal copies are the employer's responsibility. The Notary is not required to allow inspection or provide copies of journal entries that are not related to the employer's business. (Government Code, Section 8206 [d])

Notaries should never surrender control of their official journals to any employer when leaving a job. Even when an employer has paid for the Notary's official journal — and regardless of whether the journal contains entries related to the employer's business — the journal stays with the Notary upon termination of employment. (Government Code, Section 8206 [d])

You can reach Michael and all our experienced Notary Hotline counselors at

1-888-876-0827

5 a.m. to 5 p.m. PST Monday through Friday.

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



A Few Precautions To Keep Phishers At Bay

The report that federal law enforcement agents recently arrested 50 people for phishing in California, Nevada and South Carolina is good

indeed, but that doesn't mean it's time for us to think law enforcement has identity thieves on the run.

On the contrary, despite the success of cleverly named investigations such as "Operation Phish Phry," there are plenty of other phishers in the sea.

The lesson we hear over and over again is the same basic message Notaries are urged to follow: Verify that the person you're dealing with is who they say they are; don't get complacent and let your guard down; and, most important, learn to listen to your instincts. If something doesn't seem right, it's probably because something is wrong.

The people arrested in the most recent crackdown are accused of posing as bank employees and sending eMails to people asking them to update their records. When the unsuspecting bank customers responded with their personal information, the thieves used it to access their accounts and steal money.

This highlights another lesson: You can never be too careful with your personal information. If you receive a request for your information, the best way to verify it is to go to the bank or credit card company directly — and independently — to verify that the entity is legitimately asking for your information. In other words, hang up the phone or close the eMail and go to your credit card or bank statement or checkbook and call the number listed there to ask whether the financial institution is behind the request.

"Operation Phish Phry" identified 97

suspects, 50 of whom are in the United States. The remaining 47 are unnamed co-conspirators from Egypt. Anyone who thinks a single one of those international conspirators will serve a day in any American jail probably fell for the scam as well.

Scams such as phishing campaigns or botnet attacks are rarely the work of stereotypical hacker types with a grudge and a credit card bill to pay off. More often, the scams are the work of sophisticated rings of international criminals. They know that the U.S. authorities will probably never get close to catching them, and they also know that what they're doing is a numbers game.

They recruit ethically challenged people with "work at home in your pajamas" fliers posted on utility poles, and have little fear of ever being caught. Instead, the people who answer ads for easy money usually end up going to jail once the scheme collapses.

It's a sad fact that any opportunity for increased convenience also brings with it the opportunity for crooks to trick honest, hard-working people out of their money. Just as eMail and online banking are quicker and more efficient, they're also more perilous.

There's a simple way to avoid being taken in by this kind of scam: Don't take things at face value. It's a skill that serves you well as a Notary — signers have to prove who they are by presenting ID. A little fact-checking can protect you in many ways.



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