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January 2012

The Notary's Role
In The
Foreclosure
Crisis:
Accountability

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WHAT PAST ATTENDEES ARE SAYING:

Even though I've been a Notary for 30 years, from going to the NNA Conference I learned so much more. One of the most important things I learned concerned identifying signers and now I make everybody show me their Driver's License, even if it's my boss. There's a misconception about what we do in the public world and the Conference was an eye opener. I'd recommend it for all Notaries and am planning to go to San Diego.

— Joann Cousin, Bridgewater, New Jersey
2011 NNA Notary Conference attendee

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When the National Notary Association was founded in 1957, the world was about to embark on an explosion of social, political and economic changes that would transform the way people went about their daily lives. As the NNA celebrates its 55th anniversary, THE NATIONAL NOTARY takes a look at the trends and issues that have profoundly affected the office of Notary Public.



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In the past 55 years, the NNA has tackled many important issues. Here's a look at some of those issues as illustrated by the covers — past and present — of THE NATIONAL NOTARY.

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ON THE WEB

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Praise For Privacy Guard

I am happy that the NNA is offering the new “Notary Privacy Guard” product for protecting journal entries. The Notary Privacy Guard gives me and my signers peace of mind knowing their journal information is shielded from other people. Signers are appreciative of the fact that I go the extra mile to protect their sensitive information. It's a tool we can use to show a higher level of professionalism when handling important information.

Claudine Osborne, Madison, Ohio

'Be Prepared'

I have been a proud Notary Public for over 17 years now and am also a Scoutmaster with the Boy Scouts of America. While flipping through the November 2011 issue of THE NATIONAL NOTARY magazine, I came across the article “The Notary's Motto: Always Be Prepared.” As soon as I saw the title, I immediately thought of the Boy Scouts of America. I also thought about the many buzz words that a Notary strives to live by: “Honesty,” “Trustworthy,” “Helpful” and “Courteous” to name a few. Once again my mind drifted to the Boy Scouts. These are good words to learn and live by supported by two fantastic organizations. Thank you for providing a fine organization and magazine that delivers such great information, support and resources to the Notaries Public of California and the United States. Keep up the good work.

Mickey Hulstrom, Eureka, California

Asking For Thumbprints

I require everyone I notarize for to sign my journal, and I ask for a thumbprint from every signer. I have only had one signer (after over 100 notarizations) who refused to give her thumbprint. I explained it was for her protection, but she said she wouldn't do it. Because I have thumbprints from signers for all other entries in my journal, and she wouldn't give one, I was concerned she would jeopardize the legitimacy of my journal and I refused to proceed with the notarization. I would like to see it standardized for all Florida Notaries Public to use a journal and ask for thumbprints.

Marge Reinert, Satellite Beach, Florida

A Long Career

I have been a Notary since 1960, and have learned a lot through the years from the NNA as a member of your Association. I read your publication and enjoy it very much. Though I am nearly 69 years old, I still do notarizations. After I finished school, I became a secretary to the president of the company, and performed notarizations as part of my work. Eventually, I moved to Oregon where I still reside. Even after I retired, I decided to continue as an independent Notary serving my local community. I love meeting people and being of service. This has been my life and as long as I do not make mistakes, get lost or do something that prevents me from serving as a Notary, I continue to enjoy my journey in the Notary field!

Connie Kuest, Monmouth, Oregon

By The Book

Consider me stubborn, old fashioned, or simply wanting to do things “by the book,” but if the signer doesn't appear before me, show their ID and follow proper procedures, I will not perform the notarization. How can anyone with an ounce of integrity perform a Notary assignment without the client present? If you simply follow the rules, you won't get into trouble; it's as simple as that!

Ellen Michaels, Canoga Park, California

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 email at 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.



The Passage Of Time Brings New Challenges To Notaries

The world's greatest thinkers and writers have never spared a word remarking on the passage of time. From the "Bible" to Shakespeare, from Proust's "Remembrance of Things Past" to

popular fiction like "The Time Traveler's Wife," everyone weighs in on its nature, its tempo and its measure.

We like to think that we understand time. We hope that we accommodate its variations and that we mature with grace and understanding, though our youth continues to inhabit our souls.

While it is often only the calendar or our children that remind us that time marches on, our work also reminds us of time passing.

The traditional rubber stamp and ink pad have been replaced by the self-inking seal or even an electronic device. Electronic documents fly instantaneously through cyberspace, where once we might have waited days for paper documents to arrive by mail, or if lucky, by special delivery.

The passage of time is revealed by change.

As Notaries, we are privileged that we can be kept youthful — in spirit if not in body — by our having to continually keep up with the latest technological and statutory developments.

We must be open and responsive to new procedures, practices and regulations as long as they enhance the security and trust that are the Notary's role in society. The choice is not ours to make but rather what industry, government and consumers expect of us.

Every federal, state and local agency updates or revises a form about which we must be instantly familiar. Even the

international community requires that we promptly understand and comprehend their latest iteration of a certificate or document.

We all adapt to the latest version of Word or Excel. Even the latest cell phone, while challenging our texting skills and adaptability to new apps, doesn't give us the sense that we are beginning a new chapter as have some of the recent changes to notarization and the office of Notary Public.

Consider what we have witnessed in just the past 55 years of the Association's history. From the early sixties when the concept of a recordkeeping requirement including the document signer's signature was novel, to the prospect of electronic journals and the current emphasis on compliance and proper procedural oversight, we can mark the passage of time.

It is not uncommon that we reflect back on time with some melancholy and a longing attachment to the "good old days." If much has been written on time, the familiar conclusion is that progress stops for no one.

As we anticipate the new year, a new commission, a new challenge, we should not be immediately distracted by the past that trails behind us, but look ahead. The occasional glance backward will serve to remind us from where we started.

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

Bolstering Protection With Notary-Related Initiatives

In the wake of the foreclosure crisis and the nationwide initiative to combat the unauthorized practice of immigration law, a growing number of states are enacting new laws and taking other action involving notarial practices that are designed to protect consumers from fraud.

Michigan recently enacted a package of laws that impose harsh penalties for deliberately falsifying or improperly notarizing documents involved in real estate transactions. One law specifically makes it a felony to intentionally violate the state's Notary statutes when notarizing real estate-related documents.

Michigan's actions follow a measure signed into law in Nevada that makes it a felony to falsify or improperly notarize foreclosure-related documents. Mortgage servicers who seek to foreclose on a property also now must submit a notarized Affidavit of Authority to Foreclose that certifies all filings have been executed correctly.

In an effort to protect consumers from immigration assistance scams that often involve people advertising themselves as "Notarios Publicos," Washington State last fall approved a new Immigration Service Fraud Prevention Act that prohibits individuals from engaging in the unauthorized practice of immigration law.

Attorneys General in Texas, Illinois, New Jersey and other states have filed a number of lawsuits against companies and individuals who advertised themselves as *Notarios* to take advantage of the confusion among immigrant communities over the role and authority of U.S. Notaries.

Strong Rental Market Creates Opportunity For Notary Entrepreneurs

Demand for rental housing is going up around the country, and that is potentially good news for Notary entrepreneurs looking for new revenue streams.

In the past five years, nearly four million homes have gone into foreclosure and many of them are ending up in the rental market, according to an analysis of U.S. Census data published by *USA Today*. At the same time, millions of new renters — 1.4 million in 2011 alone — have entered the market, driving up demand and rents, according to market research firm Axiometrics Inc.

Daniel Lewis of Carmel, Indiana, the NNA's 2010 Notary of the Year, a Member Advocate and mobile Notary, said he's expanded his business to perform property inspections for landlords. To document the condition of a property, landlords often hire trustworthy third parties to take pictures before a home is rented and after it is vacated.

Mobile Notaries are ideally suited to take on those tasks, Lewis said in a recent interview.

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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

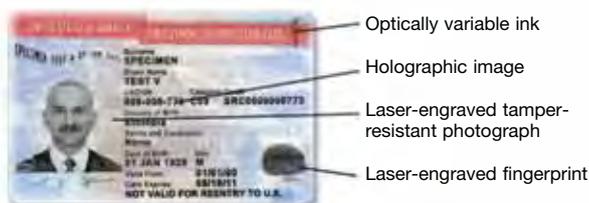
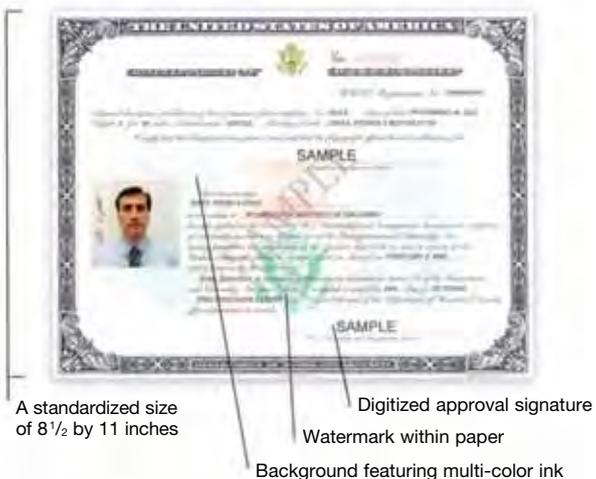
Redesigned USCIS Documents Bolster ID Security And Consumer Protection

In an ongoing effort to strengthen identity security and prevent fraud, the U.S. Citizenship and Immigration Services (USCIS) recently unveiled enhanced versions of its Certificate of Citizenship and Employment Authorization Document (EAD).

The new EAD incorporates holographic imagery, laser-engraved photograph and fingerprint and other features to make them more tamper resistant. The Certificate of Citizenship includes a digital approval signature, multi-colored ink and special watermarks.

While these documents are not IDs, they often are used as foundation documents to obtain valid IDs from government agencies. USCIS anticipates issuing more than 1 million of these documents in the coming year.

In early 2011, the agency issued an enhanced version of its Certificate of Naturalization and the previous year began issuing new versions of the Permanent Resident Card, commonly known as the green card.



Illinois Law Continues Nationwide 'Matricula' Debate

A new law in Illinois authorizing Notaries to accept *Matricula Consular* cards as valid ID continues the nationwide controversy over these identity documents that the FBI and U.S. Department of Justice consider highly susceptible to fraud.

Matricula cards are issued by Mexican consulates to its citizens living outside Mexico. Illinois and Nevada are the only states that specifically permit Notaries to accept the cards.

In the past year, communities in California and North Carolina authorized their local police departments to accept *Matricula* cards as valid ID. However, the North Carolina General Assembly is considering a bill that would prohibit local government officials from accepting the cards. And in 2010, then-Governor Arnold Schwarzenegger vetoed a bill that would have allowed *Matricula* cards to be accepted for California notarizations.

According to the FBI, there are too few controls over how *Matricula* cards are issued. People do not always have to produce other identity documents to obtain a card and can obtain multiple cards by going to different consulates.

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NNA Addresses Need For Supervisor, Notary Training With Texas Bankers

The NNA told a gathering of managers and supervisors at the Texas Bankers Association's 17th Annual Security & Risk Management Conference last November that they need to be actively involved in overseeing the notarization process in order to mitigate risks for their financial institutions.



In a presentation entitled "The Notary As A Fraud Prevention Tool," NNA Vice President of Best Practices & eNotarization William A. Anderson pointed to the "robo-signing" crisis as an example of what can happen when proper notarial procedures are not followed.

Anderson and co-presenter Russell T. Cruzan of IBC Bank stressed that supervisors need to have a strong, clear Notary oversight program in place that protects the integrity of the notarial process in order to protect their banks from liability.

Anderson and Cruzan encouraged managers to go through Notary Supervisor training to make sure they can properly oversee the notarial practices. Managers also were urged to ensure that their Notaries go through Trusted Notary training.

NNA Member Advocates Promote Membership Values, Advocate For Notary Legislation And Issues

The National Notary Association continues to recruit Notaries from across the country to serve as powerful voices in driving Notary-related initiatives and legislation. NNA Member Advocates are working to support membership growth while also serving as proponents for NNA initiatives on a national scale and influencing legislative activity within their states and communities.

NNA Member Advocates serve as a strong collective voice in advancing the Notary Public office, as they are able to share, along with their colleagues, their experiences and points of view with key lawmakers, influential leaders, colleagues, and their local community.

The NNA is looking for more leaders within the Notary Public community who are interested in working directly with the NNA and other Member Advocates to help educate both Notaries and the general public on the crucial role Notaries play in society, and to help promote the core values of NNA membership.

To become recognized as a Member Advocate and take advantage of the benefits and opportunities of the role, please visit: www.nationalnotary.org/MemberAdvocate.

Notary Privacy Guard Helps Notaries Deter Fraud And Protect Consumers

The National Notary Association now offers the Notary Privacy Guard® as part of its notarial supplies, designed to help Notaries comply with privacy regulations and protect consumers from identity theft.

Invented by Notary Public Sandra S. St. Claire, the device allows Notaries to conceal the private information of previous signers contained within their notarial journal, while still offering access to the current journal entry.

"With some of our nation's most sensitive documents passing through the hands of over 4.8 million Notaries, it's crucial they have tools that enable them to protect their consumers' privacy," said the NNA's Director of External Communications Michael Robinson. "The Notary Privacy Guard® helps protect both the Notary and consumers from fraud and identity theft."

The device also helps ensure compliance with federal privacy regulations, such as the Health Insurance Portability and Accountability Act (HIPAA) in the healthcare industry, and the Red Flags Rule and Gramm-Leach Bliley Act (GLBA) within the financial industry.

Members can order the Notary Privacy Guard® along with their other notarial supplies at the NNA website: www.nationalnotary.org.



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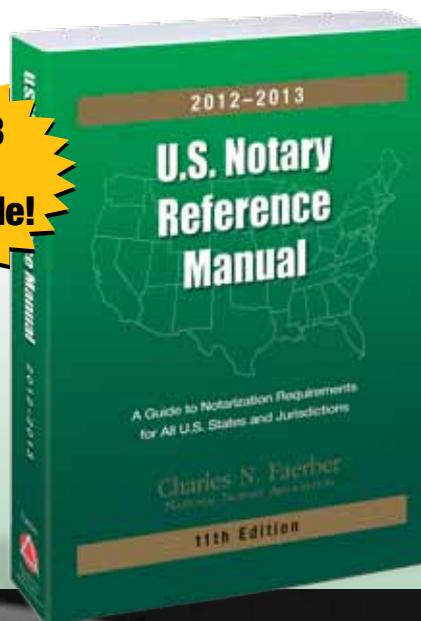
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This manual is a must for every professional who deals with notarized documents.

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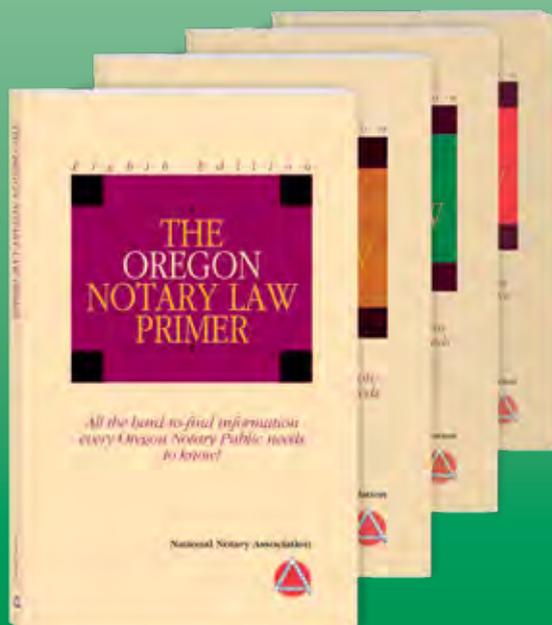


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Notaries And The Foreclosure Crisis:

'We Have To Hold Ourselves Accountable'



No matter what political party we belong to, what region of the country we come from or what profession we work in, everyone in the United States has been affected by dishonesty and greed in the foreclosure crisis.

The crisis grew out of workplace cultures in which consumer protection, best practices and ethics were sacrificed for rushed and fraudulent notarizations that helped put millions of Americans out of their homes and into poverty.

Federal oversight agencies, state Attorneys General and numerous legislatures — not to mention the public — are now pressing for dramatic changes in corporate America to reform the financial industry's irresponsible attitude toward document processing. For that to happen, Notaries — the gatekeepers of trust in documentary transactions — must take personal responsibility to stand up against dishonest, unethical and illegal workplace practices.

'NO ONE CAN RELY ON WILLFUL BLINDNESS ANYMORE.'

Four years ago, Jacksonville, Florida attorney April Charney knew something was wrong in the financial

industry. As part of Jacksonville Area Legal Aid, she represented homeowners in multiple foreclosure disputes and saw consistent failures by companies to properly maintain documents related to mortgage transactions and foreclosures. In a January 2008 interview with *THE*

NATIONAL NOTARY magazine, she predicted dire consequences if companies continued mishandling records of foreclosures and mortgage assignments. Her prediction came true. "The industry is so corrupt, there's no trust to be had," she said in 2008.

"Foreclosure and mortgage practices throughout the financial industry need to be reformed from the ground up," she said — and Notaries must take a stand and refuse to go along with dishonest acts.

"I have always looked at Notaries as the last barrier protecting someone who doesn't fully know what they are doing when they sign something," Charney said. "That's why Notaries are so important — they use their eyes and ears to verify the identity of a person who signs and that



the signer knows what they are doing. The industry has to take this role more seriously.”

Companies set up document-processing assembly lines where signatures were forged en masse, notarizations were performed outside the presence of signers and Notaries let others use their seals to stamp stacks of documents along with other improper activities — practices called “robo-signing.”

Charney described how one bank produced 150 notarized documents — all notarized with a nonexistent Notary’s seal.

“Fraud issues related to notarization are systemic, so we need to stay with physical, face-to-face human interaction and maintain personal appearance by signers before Notaries,” Charney said.

It’s so much harder to commit improper acts face to face, which is the fundamental reason why Notaries were created in the first place. But Notaries have to refuse notarizations when they are on shaky ground.

“Don’t have ostrich syndrome and bury your head in the sand,” Charney said, noting that Notaries can be sued as easily as large corporations. “No one can rely on willful blindness anymore. They can’t close their eyes to fraud.”

‘YOU CAN’T CONTROL OTHER PEOPLE’S ETHICS, ONLY YOUR OWN.’

In today’s job market, making the choice between standing up for what’s right and being fired puts enormous pressure on Notaries to turn a blind eye to improper behavior. But as Shari Olefson, foreclosure attorney and author of the book “Foreclosure Nation: Mortgaging the American Dream,” points out, Notaries can demonstrate the consequences of improper conduct by sharing media coverage of the foreclosure crisis with their supervisors.

“I think there’s a real opportunity now to ask people if they’ve read the papers when they make unethical requests,” Olefson said. “If someone asked me to perform an improper notarization, I’d tell them no, because the penalty would be six months in jail.”

That doesn’t mean it’s easy for the Notary to take a stand. Financial and mortgage transactions have changed enormously over the past 25 years. Today’s transactions are performed rapidly online or by telephone more often than with parties physically sitting together at a table, and this has put more pressure than ever on workers to increase productivity levels.

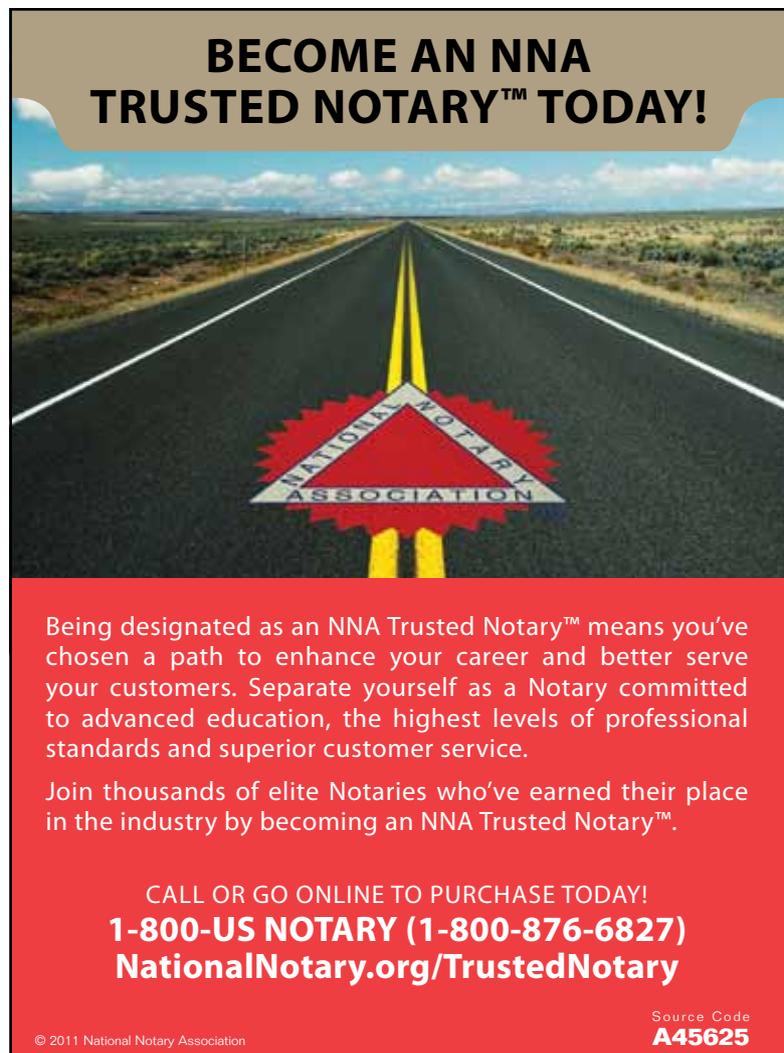
But that doesn’t mean Notaries should give in to such pressure. In fact, the legal penalties and financial losses seen in the financial crisis illustrate the consequences of bad behavior. “If someone asks you to notarize a document without the signer present, the answer is ‘no way’ — don’t make it your problem by cooperating

with fraud,” Olefson said. “You can’t control other people’s ethics, only your own.”

Notaries need to think very hard whether there’s actually any benefit in working for an unethical employer. “I think if someone’s been doing something wrong, it’s going to be difficult to say to your boss, ‘I’m not going to do this.’ Hopefully, you work for someone honorable who will listen to your concerns and appreciate you are trying to help,” Olefson said. “But if you’re not working for someone like that, frankly, I don’t think you should worry about losing your job — you should quit.”

Notaries working in the financial industry should take a hard look at their employer’s office culture, such as whether the company has policies in place to prevent “robo-signing” and other bad practices. She also recommended Notaries make it clear to supervisors that ethics are not a negotiable part of the Notary’s duties.

“It’s important to let people know where you stand on ethics,” she said. “If you are a good, ethical employee who adds value to your company, you can



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put your foot down and are more likely to be heard. But remember, if you're ethically different from the company you work for, it's likely you'll get fired anyway. I realize people are desperate for jobs, but people need to know what they are getting into. If your company's actions bother you, you have to leave."

'PEOPLE CAN SPEAK UP AND CHANGE THINGS.'

As tough as it may be to speak out, Notaries aren't alone in opposing unethical document practices. The extensive media coverage of the foreclosure crisis alerted many consumers to systemic problems in the financial industry, and there is more pressure on the industry to change its ways.

"In order to regain the trust of the American people, it will be necessary for financial institutions to make a clear and unambiguous commitment to act in accordance with ethical principles," said Julie Ragatz, director of The American College Center for Ethics in Financial Services in Bryn Mawr, Pennsylvania. "I believe that most industry leaders understand that it will be impossible to earn and maintain this trust without seriously looking at the incentive systems which rewarded people for actions that were not only unethical and illegal, but also to the long-term detriment of the industry."

Ragatz suggested two ways Notaries could help reform unhealthy workplace cultures in the financial industry: first by serving as "internal whistleblowers" in the workplace by carefully documenting ethical concerns and sharing them with co-workers and supervisors; next as "external whistleblowers" going for outside help if ethical issues aren't resolved internally.



Julie Ragatz

It will take a collective demand by Notaries, private companies and consumers for greater personal ethical responsibility and accountability, in order to effect positive change and repair the damage to the economy.

New York Notary Carrie Dashow believes that the foreclosure crisis is changing the way people perceive issues of trust and personal responsibility in business transactions.

"We can't just say that notarization isn't a big deal, or that no one will notice improper acts. An oath is supposed to be taken aloud — but some people have told me they've never been asked to speak aloud when taking an oath," said Dashow, who also is a professor of media arts at the New York City College of Technology.

The idea that it's okay to break the rules is a huge issue.

"We have to hold ourselves accountable as a community to prevent what happened in the financial crisis again. People can speak up and change things," Dashow said. 



What Is A Loan Closing?

Notary Signing Agents are usually involved with loan closing documents, not foreclosure documents — but NSAs sometimes face similar ethical dilemmas, including pressure to cut corners or ignore proper procedures to expedite transactions. To help clarify the role of NSAs, here's a brief overview of what takes place in a loan closing.

What Is A Loan Closing? A closing is the process in which a mortgage is concluded and transfer of ownership of real property takes place according to the terms of a written contract agreed upon by all parties.

What Is the Signing Agent's Role In A Closing? A Notary Signing Agent is typically hired to bring the unsigned loan documents to the borrower, positively identify the borrower and notarize the borrower's signature on all necessary loan documents, then ensure delivery of the completed loan documents to the lender or title company. Some states require the execution of the loan documents by the borrower to be done in the presence of an attorney.

Is A Notary Signing Agent The Same As A Closing Agent? No. A Notary Signing Agent is a ministerial officer that acts as an impartial, third party witness to document signings and may not advise the borrower about the loan terms or answer questions about the loan. The Notary Signing Agent is responsible for positively identifying the signer, making a commonsense judgment that the borrower is aware of what is being signed and signing willingly, and following all necessary requirements for notarizing the borrower's signature. The Notary Signing Agent may not answer questions about the loan terms or advise the signer regarding the loan.

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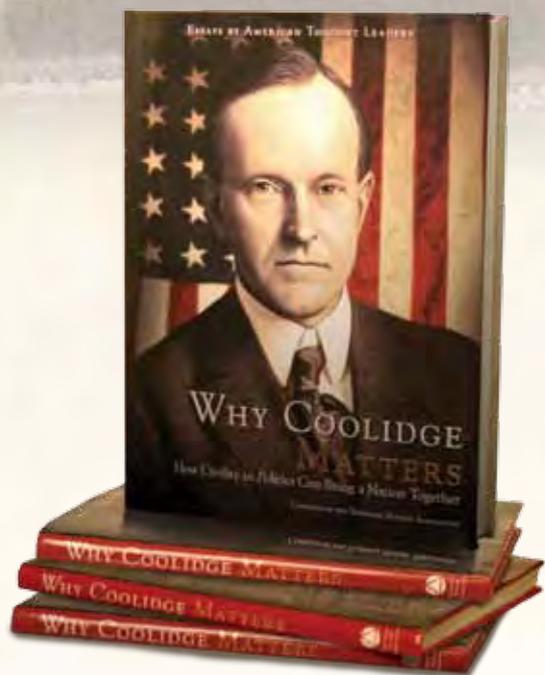
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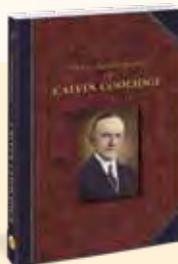
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Experts Discuss

LIABILITY PROTECTION

*Essential Information To Help Notaries
Guard Themselves From Costly Lawsuits*

When it comes to liability for flawed notarizations, many Notaries mistakenly believe they are protected by state law or an employer's insurance. Numerous court rulings have demonstrated that Notaries are solely responsible for protecting themselves from lawsuits. The question then becomes: What steps must I take to ensure I'm protected?

THE NATIONAL NOTARY spoke with three experts to find answers for Notaries nationwide: California Notary and UPS store owner **Ed Newsom**, whose careful precautions and ethics successfully defended him from a costly lawsuit; **Stan McCormack**, executive vice president and claims manager of Merchants Bonding Company, a provider of Errors and Omissions (E&O) insurance policies for Notaries; and **Michael Closen**, Professor Emeritus at the John Marshall Law School in Chicago, one of the nation's leading experts on U.S. Notary law and a frequent expert witness in legal cases involving Notaries.

Thank you all for engaging this issue for the national community of Notaries. Many Notaries don't realize they can be sued for their past notarizations — or mistakenly think they have financial protection against liability when they don't. Can you help clear up some of these misconceptions?

CLOSEN: Historically, what many Notaries don't realize is that if there's mandatory coverage and protection out there for anyone involved in notarizations, it's for the signer, not the Notary. Some 20 states require Notaries to take out a surety bond — but a surety bond only protects the public, not the Notary. What's more, a Notary has to reimburse the surety company for any claims made against a bond. Notaries face full liability if they don't have E&O insurance. Some Notaries may erroneously assume that their employer's insurance covers them automatically if they are sued, but that's not always the case. In the legal profession, for example, law firms and lawyers typically carry malpractice insurance — but some firm malpractice policies specifically exclude Notaries from coverage. I think the amounts states require for surety bonds mislead Notaries about the potential damages from a lawsuit. State-mandated surety bonds range from \$500 in some states to \$15,000. In this day and age, that's an inconsequential amount compared to actual damages demanded in cases.

NEWSOM: In the case I was involved in, a person claimed I had fraudulently notarized a grant deed used to sell her house. She got an attorney and filed a claim against me. Fortunately, it didn't go all the way to court, and that was thanks in part to the E&O insurance that I had. I've probably done around 18,000 notarizations over the past 16 years, and no matter how thorough you are, anyone can sue you, whether or not you did anything wrong. A Notary's liability isn't limited. The surety bond protects the signer, but is someone who thinks they were bilked out of a \$500,000 home going to be happy with \$10,000 paid out of a bond?

What kind of protection does E&O provide for the Notary?

MCCORMACK: In general, an E&O policy covers damages assessed against a Notary for breach of the Notary's duty. Plus, it covers the attorney fees to defend the Notary in a lawsuit, all subject to the terms, conditions and exclusions in the policy.

NEWSOM: Thanks to my E&O insurance, I was able to retain a good attorney to represent me in my case. He and I met with the other party's attorney and we demonstrated there were several things in my favor showing that I didn't perform the alleged notarization. The person who typed my name on the document used a different form of my name than I use as a Notary, the signature was different from mine, and my journal records showed a consistent pattern of recording all information about my acts. The other attorney was convinced someone else had forged my signature, then dropped the case against me.

CLOSEN: It's important to be aware that E&O will not cover a Notary's intentional wrongdoing. There's a famous scene from the movie "Fried Green Tomatoes" where Kathy Bates deliberately bangs the car of two annoying girls with her vehicle and tells them "I'm older and have more insurance" — but she's wrong on the law. If she smashed them deliberately, insurance won't cover that. In the same way, E&O doesn't cover damages from intentional wrongdoing.

How do Notaries gauge how much E&O coverage they need?

MCCORMACK: The minimum we would recommend depends on the amount of the bond required in the state in which the Notary is commissioned. For instance, in California, the surety bond requirement is \$15,000, so a policy amount of at least that much and slightly more would be best as a minimum. With an E&O policy, the Notary does not have to repay any losses, so it is advisable to have the policy in an amount sufficient to cover the Notary's potential



Stan McCormack



Michael Clozen



Ed Newsom

All was going great. Rose was beginning to realize the benefits of her hard work. She was establishing a base of customers. And then... she got the letter that changed her entire outlook. Rose was getting sued.

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liability under the bond, plus additional protection for the Notary.

Does the Notary's profession affect how much coverage they need? For example, would a Notary working in real estate need more coverage than a Notary who works in healthcare?

CLOSEN: I think it's more about the amount of documents you notarize than the particular industry you work in. People who do larger amounts of notarizations are more at risk than those who do fewer notarizations. Also, the types of transactions you notarize make a difference — Notaries who do transactions involving significant financial matters should have higher levels of insurance than Notaries doing routine, non-financial transactions. I would also say you run a higher risk of liability if you commonly notarize for strangers, as opposed to regularly notarizing for signers you are familiar with.

Some Notaries may erroneously assume that their employer's insurance covers them automatically if they are sued, but that's not always the case.

NEWSOM: E&O isn't required by state law, so many people think they can minimize their need for it — but after my experience, I increased my policy to \$100,000 to make sure I had protection against any problems in the future. My attorney told me some of these lawsuits can take years. If you don't have sufficient funds in your insurance policy for your legal expenses, you will have to come up with the money some other way.

What if a Notary is sued for a notarization that took place years ago, or is sued after their commission expires? Does the Notary need to maintain an E&O policy after their commission ends?

MCCORMACK: No, if the Notary takes out an E&O policy while commissioned and continues the coverage during the course of the commission, that policy will cover the Notary for any acts during the time the

person is acting as a duly commissioned Notary Public. The main issue with a claim asserted years after the notarization occurs is the quality of the Notary's records of the transaction in question.

So keeping a good journal record is very important to preventing liability?

NEWSOM: If it hadn't been for my journal, I'd have been hung out to dry. My journal records were what convinced the other lawyer there was no case against me. I can't emphasize enough that the Notary journal was my lifeline.

CLOSEN: Your attorney will love you if you are sued and can provide documentation that supports your professional conduct, even before you get to what happened in the case. A good lawyer will give you guidance on preserving evidence and organizing records to defend yourself in a case.

Any other steps that you would recommend for risk prevention?

CLOSEN: Notary education is the answer. It's all about knowing sound notarial practices, including notarial ethics. If Notaries are well-informed about laws and ethical standards, they aren't likely to run afoul. A close second is diligence. It's important to know Notary law, practice and ethics but if you aren't diligent about putting those in place you can make the kind of mistakes that lead to liability.

NEWSOM: If you're a new Notary, find an older, seasoned Notary to work with. If you don't keep abreast of what's new, you'll suffer the consequences later on. Many signers you meet will be intimidating and pushy. If you're new, you're more at risk of being influenced into making a mistake. You need to follow the rules even more stringently than the minimum required by law. 

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¹ Social Security Administration. "Identity Theft And Your Social Security Number." SSA Publication No. 05-10064. August 2009.

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55 *Years Of* Change *And* Transformation

The National Notary Association is founded.

1957

The first specially designed record book for Notaries is created, accommodating laws in every state.

1967

The NNA holds its first educational seminar in Palo Alto, California.

1971

The *Uniform Notary Act* is published by the NNA as a guide for state lawmakers — recruiting Yale Law School and a national panel of experts to participate in the drafting.

1973

When the National Notary Association was founded in 1957, the generation that came of age that decade went about its business in much the same manner as the generations before them.

During that same time, however, the world was going through dramatic social, political and economic changes. In the ensuing 55 years, the pace of global changes quickened.

Consider the following: While cars and phones had been around for decades, most families only had one. The first commercial jet airliner would not come into service until 1958, so traveling any distance took considerable time and expense. The big technological change to hit most households was television. But most communities only received a few stations — if they were lucky.

If anything symbolized the explosion of change that was about to come it was the space race, which kicked off in earnest on October 4, 1957, when the Soviet Union launched the first artificial satellite — Sputnik 1 — into earth orbit. Since then, we've traveled to the moon, built space stations, and sent satellites to explore our solar system.

As the NNA celebrates its 55th anniversary, THE NATIONAL NOTARY takes a look at trends and issues that continue to affect our daily lives and shape the way we do business and protect our most important transactions.

Information Technology Creates An Identity Crisis

In 1957, the typewriter was the key tool used to create information and facilitate important business transactions. Changing a document meant retyping entire pages or using messy correction fluid. The U.S. Mail was the primary way information was sent any distance, and it could take days or weeks to reach its destination.

Today, we live in a digital world where information is created electronically and delivered instantly. As a result, the amount of information has exploded in an exponentially expanding tidal wave. The revolution in information technology has made it possible to buy a home, a car or just about anything else without ever leaving our homes.

Our computers can store enormous amounts of content — from books to documents to music to movies to photographs. Our cell phones, smart phones, and tablets have become miniature computers in their own right. We can use them to do our banking and pay our bills, send electronic notes and letters, navigate through strange cities, and keep us connected to the world at large.

The emergence of social media also has revolutionized the way we communicate with each other. We no longer depend on the phone or the mail to reach others. We can disseminate messages and information to the world at the touch of a few keys. Social media has opened up an infinite range of possibilities for business growth, political activism and social interaction.

While most of us see this ongoing revolution in information technology as a good thing, it has let the world into our lives and opened us to a flood of viruses,

The Information Service Hotline is launched, providing members with immediate assistance with notarial questions.

1973

The first national census of Notaries is performed, and is conducted every five years thereafter.

1977

NNA hosts its first annual Conference, attended by more than 300 delegates in Honolulu. They see the first Achievement Award presented to California Secretary of State March Fong Eu, for her remarkable efforts to improve the Notary Public office. Thereafter, the honor is named for her.

1979

Milt Valera becomes President of the NNA.

1982

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In the past decade, identity theft and fraud have come to dominate law enforcement concerns worldwide

spam, malware, spyware and other malicious applications designed to take our money, property and identities.

In the past decade, identity theft and fraud have come to dominate law enforcement concerns worldwide. An estimated 8 million to 11 million Americans are victimized by identity fraud each year, according to IT security firm Javelin Research & Strategy. Losses in some years have reached \$70 billion. Globally, the cost of data breaches and other cybercrime is more than the worldwide black market in marijuana, cocaine and heroin combined, according to the Norton Cybercrime Report 2011.

With the emergence of the Internet-driven global marketplace, proving who you say you are has taken on a whole new level of importance, prompting businesses and governments to commit considerable resources to protecting our individual identities and personal information. U.S. companies alone spent an estimated \$130 billion in 2011 on data and cyber security, according to the Ponemon Institute.

Government agencies are adding security features such as biometric information, digital signatures and holographic images to most identity documents being issued.

Biometrics, such as thumbprints, increasingly are being used to protect identity and reduce fraud. Banks across the country, for example, are requiring customers who want to cash a check but do not have an account with the bank to leave an imprint of their thumbprint on the check.

One of the most daunting challenges today is verifying identity online. The federal government and private industries are working on systems for

verifying identities and controlling access to sensitive computer networks and databases. Many government agencies and industries have started using digital credentials

or certificates, which often are contained within a small piece of hardware that looks similar to a thumb drive. Unlike passwords, a digital credential is tied to a single user, often through a biometric such as a thumbprint.

Identity security has become an ever-evolving battle between security experts and scammers and will remain a major concern for decades to come. Wherever a person's identity is central to a transaction, the people involved in that transaction will have to pay special attention to making sure they get it right.

The New World Economy

One of the more significant economic developments of the past half-century was the emergence of the mortgage-backed security (MBS) and its effect on our economic system.

Developed in the 1970s as a way to generate more capital for mortgages, an MBS is a security that is backed by a pool of mortgages and sold to investors. By 2003, investors held more than \$6.6 trillion in securities, according to the American Securitization Forum.

That money helped fuel the housing boom. But as home prices skyrocketed, lenders began setting aside sound underwriting practices in the pursuit of profits despite the alarm bells.

At the height of the housing boom, consumer groups, executives at financial institutions and other industry observers began warning about the growing

The Model Notary Act is published by the NNA as a guide to state lawmakers. It updates and expands the earlier *Uniform Notary Act*.

1984

San Diego County Courthouse employee Ramiro Medina is named the NNA's first Notary of the Year. Every year the award honors a Notary who exemplifies public service and a dedication to professionalism.

1990

The National Notary Foundation is established as a non-profit organization to support education, research and humanitarian projects.

1997

***The Notary Public Code of Professional Responsibility* is published, offering best-practice guidelines for Notaries when statute is silent. It soon is widely regarded as the American Notary's code of ethics.**

1998

The Model Notary Act is revised, setting forth for the first time comprehensive provisions for performing electronic Notarizations.

2002

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- Partnership Acknowledgment — #5938
- Attorney in Fact Acknowledgment — #5939
- Credible Witness Acknowledgment — #5943
- 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 — #15924

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- Jurat with Affiant Statement — #5950

California: (8½" x 11")

- All-Purpose Acknowledgment — #5907
- Proof of Execution by Subscribing Witness — #5908
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- Jurat with Affiant Statement — #5910

Florida: (8½" x 7")

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- Corporate Acknowledgment — #5182
- Official/Trustee Acknowledgment — #5185
- Partnership Acknowledgment — #5183
- Attorney in Fact Acknowledgment — #5184
- Signature-by-Mark Acknowledgment — #5931
- Disabled Person's Acknowledgment — #5933
- Certification of Photocopy — #5187
- Jurat — #5186
- Signature-by-Mark Jurat — #5930
- Disabled Person's Jurat — #5932

Hawaii: (8½" x 7", unless noted)

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Massachusetts: (8½" x 11")

- All-Purpose Acknowledgment — #5951
- Signature Witnessing — #5953
- Jurat — #5952
- Copy Certification by Notary — #5922

Missouri: (8½" x 11")

- Acknowledgment by Individual — #15936
- Acknowledgment by Corporation — #15937
- Acknowledgment by Partner — #5938
- Acknowledgment by Attorney in Fact — #5939
- Acknowledgment by Individual Who Cannot Write Name — #5940
- Acknowledgment Through Affidavit of Executing Witness — #5941
- Certification of Facsimile — #5942
- Jurat with Affiant Statement — #15924

Nevada: (8½" x 7", unless noted)

- Individual Acknowledgment — #5915
- Attorney in Fact Acknowledgment — #5927
- Representative Acknowledgment — #5917
- Credible Witness Acknowledgment — #5918
- Proof of Execution by Subscribing Witness — #5919
- Copy Certification by Document Custodian — #5946
- Copy Certification by Notary — #5920
- Jurat with Affiant Statement (8½" x 11") — #15924

New York: (8½" x 7", unless noted)

- All-Purpose Acknowledgment — #5925
- Proof of Execution by Subscribing Witness — #5926
- Copy Certification by Document Custodian — #5946
- Jurat with Affiant Statement (8½" x 11") — #15924

North Dakota: (8½" x 11")

- Witnessing or Attesting a Signature — #5956

Ohio: (8½" x 11")

- Jurat with Affiant Statement — #15924
- Individual Acknowledgment — #15936
- Corporate Acknowledgment — #15937
- Partnership Acknowledgment — #15938
- Attorney in Fact Acknowledgment — #15939
- Credible-Witness Acknowledgment — #15943
- Proof of Execution by Subscribing Witness — #15944
- Signature-by-Mark Acknowledgment — #15945
- Copy Certification by Document Custodian — #15946

Texas: (8½" x 7", unless noted)

- Ordinary (Individual) Acknowledgment — #5243
- Credible Witness Acknowledgment — #5943
- 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") — #15924

Washington: (8½" x 11")

- Individual Short-Form Acknowledgment — #5906
- Representative Short-Form Acknowledgment — #5905
- Disabled Person's Acknowledgment — #5904
- Copy Certification by Document Custodian — #5923
- Copy Certification by Notary — #5922
- Jurat with Affiant Statement — #15924

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threat posed by the large numbers of sub-prime loans being made to people with little means of repaying them.

Those warnings were largely ignored, ultimately resulting in the collapse of the housing market and the start of the worst recession since 1929. Since then, millions of homeowners have gone into foreclosure, hundreds of financial companies have gone bankrupt, and the economy continues to languish.

In response, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act in July 2010. The measure created a new consumer protection agency, reorganized the federal government's regulatory agencies and imposed a sweeping range of other reforms touching virtually every aspect of the nation's financial services industry.

While the financial industry has tightened its lending practices in response to the declining market and increased government initiatives, just months after Dodd-Frank was signed into law the "robo-signing" crisis exposed a raft of improper foreclosure practices, including falsified court filings, forged signatures and improper notarizations. Once again, companies had set aside proper procedures to pursue financial gain (See related article on page 12).

The result of these repeated instances of improper conduct and ignoring essential procedures that protect consumers has been a loss of faith and confidence in our business and political leadership. A recent Gallup survey showed that American's confidence in banks and big business has dropped to the lowest level since the polling



company began measuring our views of major institutions in 1973.

Going forward, the challenge facing our fundamental business, financial and political institutions will be to restore trust by learning the lessons of the recent crises.

The Changing Face Of America

Immigration was declining in the 1950s and '60s. By 1970, immigrants would make up only 4.7 percent of the population, down from a peak of nearly 15 percent in 1910, according to U.S. Census data.

But that soon changed. As of 2009, an estimated 12.5 percent of U.S. residents were from another country, and that number is expected to reach almost 20 percent by 2050, according to the Pew Research Center.

All this means that American society will have to make adjustments. We increasingly will have to deal with language barriers and different customs. Our political, social and economic institutions will have to find new ways to reach out to this ever more diverse populace at a time when they also are trying to rebuild trust and integrity.

As the NNA embarks on its next 55 years, two lessons from the previous decades seem to persist. First, change is the norm. Whatever our walk of life or our background, next month or next year will bring something new, often with good and bad ramifications. Second, no matter how much we change, the essential practices, behaviors and rules that create integrity and trust in our institutions must go hand in hand with change. 

The National Association of Signing Agents becomes part of the NNA, launching the Notary Signing Agent program and establishing an industry standard for professionalism and education for NSAs.

2002

Missouri Secretary of State Matt Blunt is presented with the first Calvin Coolidge Award for his reforms of state Notary laws.

2004

The NNA hosts the First International Forum in conjunction with its annual Conference. The Forum brings delegates from Notary organizations in 32 nations to discuss the development of electronic notarization and apostilles.

2004

The NNA issues its *Recommended Notary Practices* in response to the 'robo-signing' crisis.

2010

Trusted Notary™ Training program established to provide Notaries with a thorough grounding in best practices that are not always specified in state law.

2011

ISSUES THAT MATTER

A VISUAL RETROSPECTIVE OF THE NATIONAL NOTARY COVER ART OVER THE DECADES

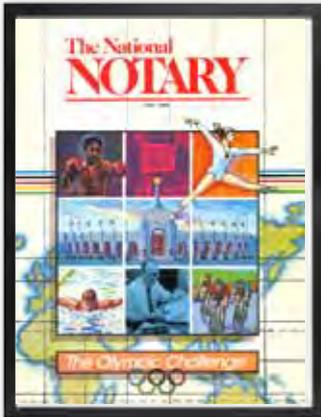
While the primary role and responsibilities of the Notary have remained constant, the notarial landscape itself has undergone tremendous changes throughout the decades. Since Editor & Publisher Milt Valera created THE NATIONAL NOTARY in April 1972, it has been the only magazine in America that has been there to cover it all.

Every picture tells a story, and over the years THE NATIONAL NOTARY covers have captured significant historical milestones, such as the 1984 Olympics, the 1988 presidential election, the AIDS epidemic, and the 1992 Los Angeles riots and other disasters. Others allowed a striking visual alone to speak volumes, as in the close-up portrait of a young child in the 1995 “Adoption” cover, the glow of two parallel spotlights

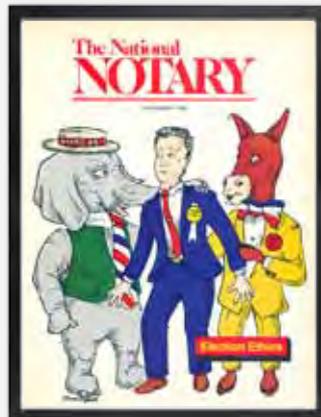
on the Manhattan horizon representing the fallen towers in the September 2002 issue, “One Year Later,” and the ominous gravestones pictured in the 1975 “The End of Notaries” issue, which covered an Oregon bill that threatened to end the role of the Notary.

Some covers were serious, others light-hearted, some even pushed buttons — like the cover featuring a controversial photo of a 9/11 terrorist that resulted in a flood of reader responses. But despite the changes in style and events, one thing has remained consistent: THE NATIONAL NOTARY’S commitment to helping Notaries make sense of Notary laws and best practices, protect consumers, and perform their role ethically and responsibly. 

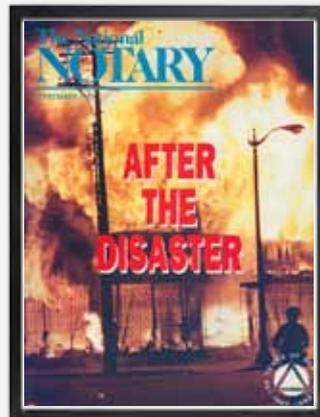
SIGNIFICANT MOMENTS IN HISTORY



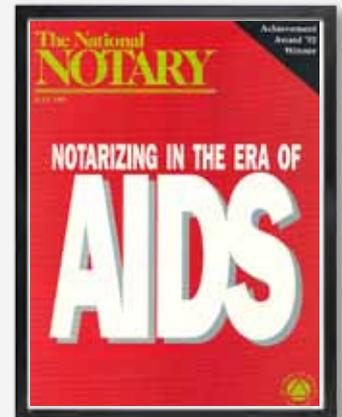
The Olympic Challenge, 1984



Election Ethics, 1988

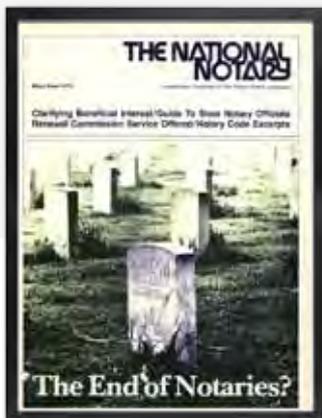


After the Disaster, 1992

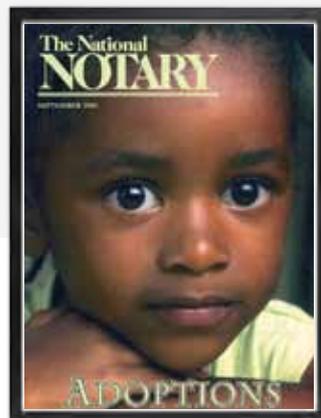


Notarizing in the Era of AIDS, 1992

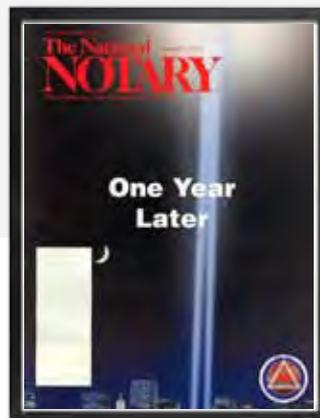
STRIKING VISUALS



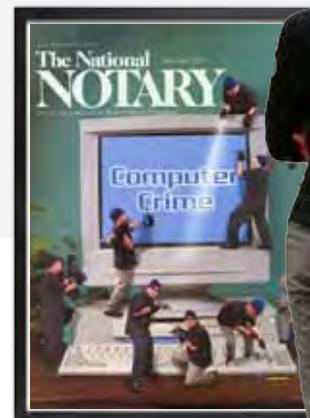
The End of Notaries, 1975



Adoptions, 1995

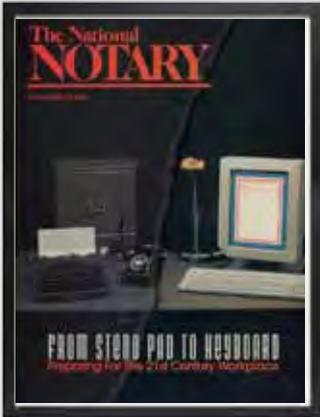


One Year Later, 2002

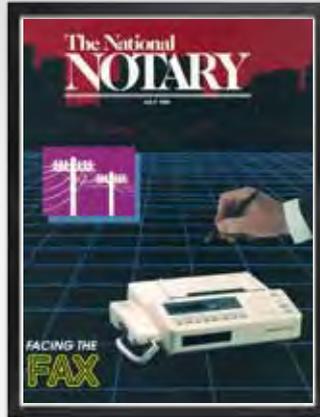


Computer Crime, 2003

EMERGING TECHNOLOGIES



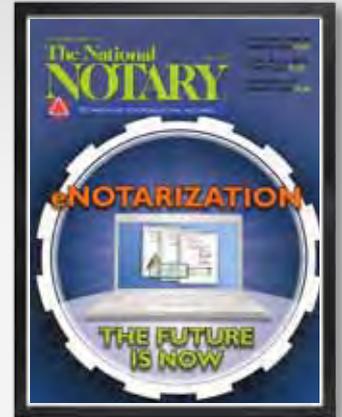
From Steno Pad to Keyboard, 1984



Facing the Fax, 1989

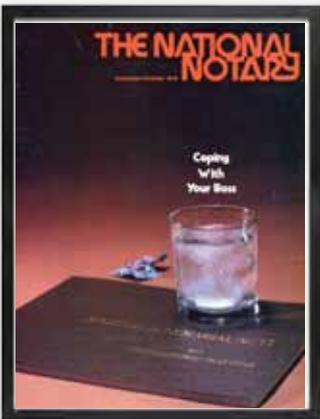


Notaries and the Net, 1997

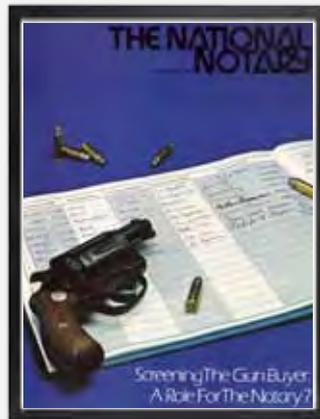


eNotarization, 2008

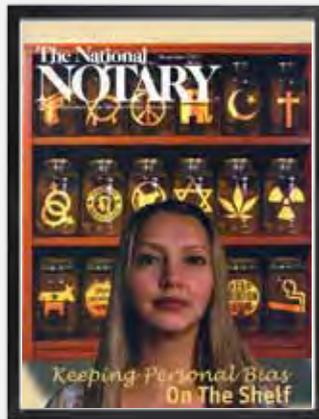
ISSUES



Coping With Your Boss, 1978



Screening the Gun Buyer: A Role For The Notary, 1981

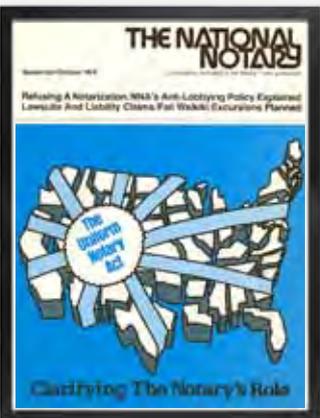


Keeping Personal Bias On The Shelf, 2003

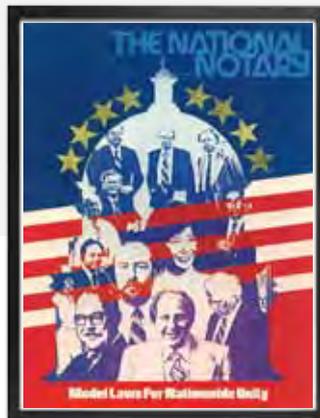


Identification — A New Challenge for America and Its Immigrants, 2003

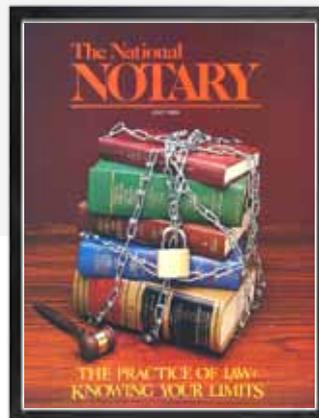
LAWS



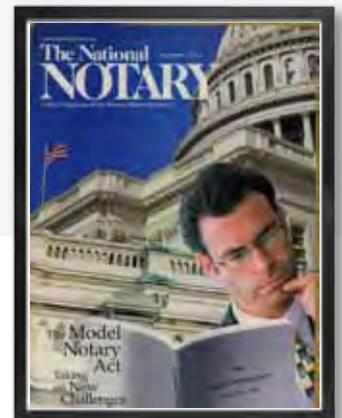
Clarifying The Notary's Role, 1976



Model Laws For Nationwide Unity, 1983



The Practice of Law: Knowing Your Limits, 1984



The Model Notary Act — Taking on New Challenges, 2002

Notarizing Prize Affidavits, Establishing Travel Fees And Renewing Commissions



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.

I recently won a \$500 gift card and was sent a prize release and an affidavit form, which needs to be notarized and returned. Can I notarize the document myself?

C.D., Taunton, MA

As a Notary, you may not notarize a document if you are party to or named in the document, especially when you are the actual signer. (Governor's Executive Order, Sec. 6[a]5). Therefore, you should find another Notary to notarize the document.

When notarizing an acknowledgment, is it okay if the exact California certificate wording ends up extending onto two different pages, with one page containing the signature of the signer and the other page containing my seal and my signature?

B.L., Westminster, CA

When notarizing a signature on a document, all parts of the notarial certificate — including the acknowledgment or jurat wording, Notary signature and official Notary seal — must appear on the same page. If a "loose" certificate is attached, the Notary's wording, signature and seal need not appear on the same page as the principle signer.

How do I establish my fees for travel and for notarizing loan documents?

K. S., Blue Springs, MO

Traveling fees should be established and agreed upon ahead of time with the signer, and the Notary must explain to the signer that a travel fee is separate from the notarial fees (RSMo 486.350). A Notary traveling to perform a notarial act may charge a travel fee of no more than the approved federal mileage rate (currently .51 cents per mile) and an expedited convenience fee of no more than \$25.

In regard to loan documents, there are no statutes that directly address travel or courier fees. These fees are generally dependent on what the lenders are willing to pay the Notary, and how big the loan package is. The fee for each notarization of a loan document, of course, must never exceed the statutory maximum for a notarization.

I received a letter showing the date my commission expires, but I misplaced the letter and need to order a new stamp. Who should I contact for this information?

G.L., Houston, TX

Contact the Notary Public Unit in the Texas Secretary of State's office, which oversees the Notary commissioning process.

I am commissioned as a Notary through my home address in Queens County, but I also wish to perform Notary services where I work in Manhattan. Does my commission cover all five New York boroughs? Also, can I notarize

You can reach all our experienced Notary Hotline counselors at

1-888-876-0827

5 a.m. to 7 p.m.

Monday to Friday and

5 a.m. to 5 p.m.

Saturday, Pacific Time

documents while visiting family in Pennsylvania?

D.H., Jackson Heights, NY

New York Notaries are not limited to the county or counties in which they work or reside and may perform official acts throughout the state of New York (Executive Law § 130). New York Notaries may not notarize beyond the state borders. All parts of a given notarization must be performed at the same time and place within the state of New York.

I will be renewing my Notary commission this year, and there is still a lot of empty space in my old journal. Can I continue to use it once I receive my new commission?

J.C., Newport Beach, CA

Whether or not you may continue to use an older journal depends on whether there has been more than a 30-day lapse in your now ended commission term. If so, the previous journal(s) will need to be turned in to the county clerk's office where you filed your oath of office.

As a way to ensure there is no gap in your commission terms, the NNA recommends that you start the renewal process as soon as your state allows.

In order for my boss to obtain a U.S. passport, he asked me to copy a Certificate of Naturalization and certify that it is a true and correct copy of the original; however, on the actual Certificate of Naturalization, it states it is "punishable by U.S. Law to copy, print or photograph this certificate, without lawful authority." What should I do?

J.M., Exton, PA

As the certificate itself states, the law imposes harsh penalties for printing or photographing the original without lawful authority. Thus, only with specific written instruction from a lawful and pertinent federal authority (e.g., United States Citizenship and Immigration Services, U.S. Passport Office, etc.) should you comply with this request.

I have always refused to perform any notarization without the signer being present, but I recently met a Notary who recommended that I can notarize mortgage-related documents without the signers being present, as long as they signed the papers later in the month. Is this an acceptable practice?

A.P., Tallahassee, FL

To perform a notarization, the very first thing that must happen is the principal signer must personally appear before the Notary. If you know someone who is notarizing documents without the principal signer appearing before the Notary, this individual should be reported to the Department of State, Division of Corporations, Notary Commissions and Certifications Section. Their phone number is 1-850-245-6975, and their mailing address is: P.O. Box 6327, Tallahassee, FL 32314.

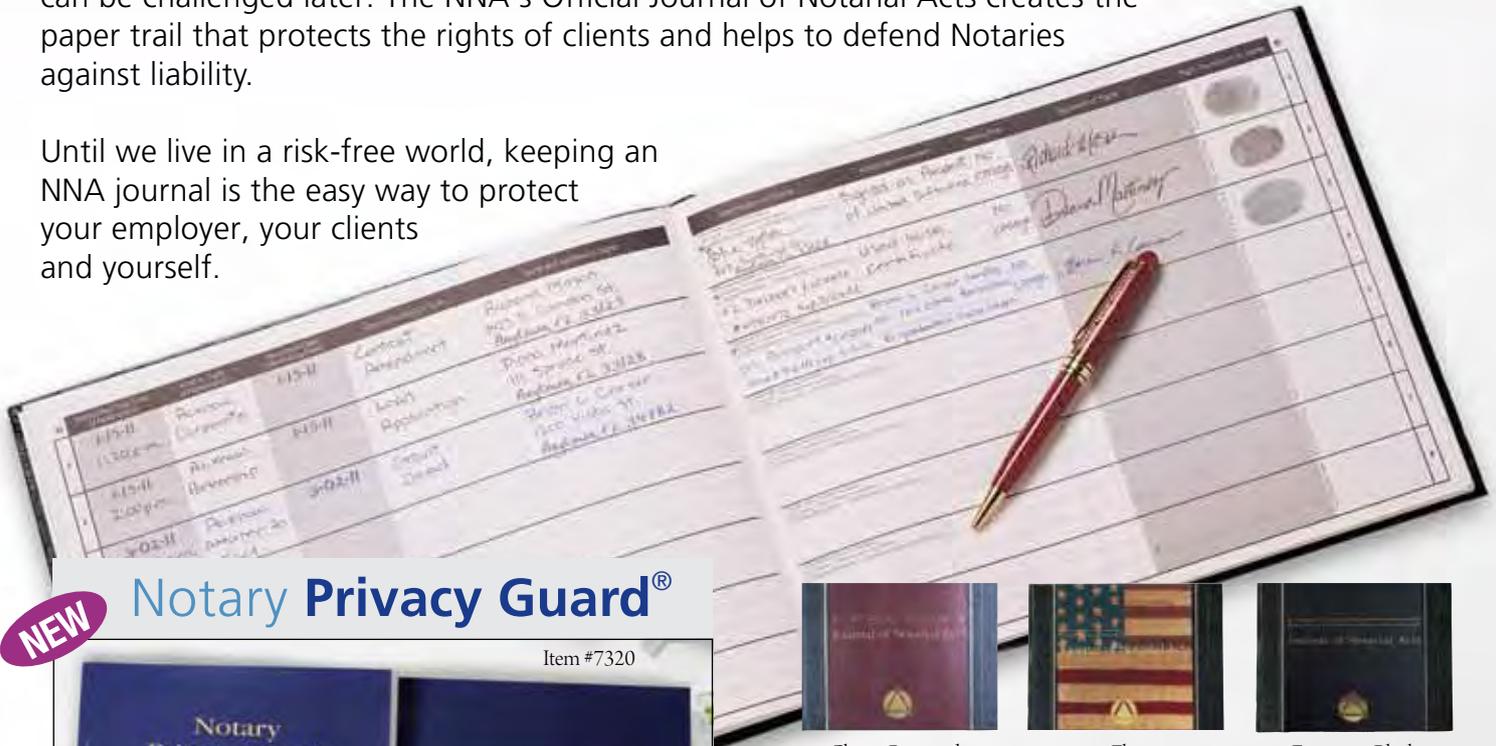
Hotline answers are based on laws in the state where the question originated and may not reflect the laws of other states. If in doubt, always refer to your own state statutes.
— The Editors

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No ID? Can I Get A Witness, Please?

NOTARIES HAVE AN ALTERNATIVE OPTION IF A SIGNER LACKS PROPER ID — THEY CAN USE A CREDIBLE IDENTIFYING WITNESS

Positive identification is a necessary requirement for a notarization, but sometimes a signer may lack an acceptable documentary form of identification, such as a valid driver's license or passport, or the name on his or her ID might not match the name signed on the document being notarized due to marriage or another type of legal name change. In these cases, a Notary may choose to use a "credible identifying witness" as a way of properly identifying the signer.

ACT AS A HUMAN ID CARD

A credible identifying witness essentially acts as a "human ID card" to identify the signer. He or she must personally know the signer and be able to vouch for his or her identity under oath before the Notary.

In some states, such as Florida, a Notary may use one credible identifying witness, as long as the witness personally knows the signer and is personally known by the Notary. When the Notary personally knows the witness, this creates a "chain of personal knowledge" connecting the Notary with the signer. If the witness personally knows the signer but is unknown to the Notary, some states permit signers the alternative of using two credible identifying witnesses as long as both witnesses can present reliable ID cards to the Notary.

Laws and rules regarding the use of credible identifying witnesses may vary from state to state and often will be spelled out in a state's Notary handbook or website.

SERVE AS AN UNBIASED, THIRD-PARTY WITNESS

The credible identifying witness, by definition, should be an honest and reliable

individual who has no beneficial interest in the document being notarized. This helps to ensure that the witness will serve impartially and not have any reason to falsely identify the signer.

TAKE AN OATH OR AFFIRMATION

A credible witness is generally required to take an oath or affirmation vouching that the signer's declared identity is genuine based on the witness's personal familiarity with that identity. Unless otherwise required by law, the following oath or affirmation may be used: "Do you solemnly swear (or affirm) that you know the signer truly holds the identity he (or she) claims?" Once completed, the Notary should take down the witness's identifying information in the "ID" section of his or her journal entry, and also have the witness sign in the ID section of the entry.

IDENTIFY ELDERLY SIGNERS

Credible witnesses are often invaluable in identifying elderly signers who may no longer carry a valid driver's license. When arranging to notarize for an elderly signer, it is a good idea to check ahead of time to make sure he or she has either a valid ID document or a credible witness who can properly identify the signer to the Notary.

ASSIST IN A TIME OF CRISIS OR EMERGENCY

In the case of an emergency or natural disaster, Notaries can find themselves in a difficult scenario when asked to notarize for evacuees or individuals who have lost their belongings, including identification. In these cases, a credible witness may be necessary in establishing the identity of a disaster victim.



Avoiding The Pitfalls Of Beneficial Interest

SPOTTING AMBIGUOUS SITUATIONS THAT COMPROMISE IMPARTIALITY WHEN NOTARIZING

While “beneficial” tends to be a word associated with positive things, for Notaries and signers, “beneficial interest” can lead to transactions being invalidated or documents being challenged in court. States tend to define the issue differently, and in many cases Notaries are unaware of exactly what beneficial interest refers to, which can lead to trouble. The best way to prevent such occurrences is to have a clear idea of what constitutes beneficial interest, understand the impact it can have on both Notaries and signers, and know how to avoid situations involving beneficial interest — whether they are spelled out in statutes or not.



Have you ever dealt with a question of beneficial interest? Share them with the NNA community at www.facebook.com/nationalnotary

WHAT IS BENEFICIAL INTEREST?

“Beneficial Interest” refers to a situation in which a Notary would receive a benefit or potential gain (excluding Notary fees) from a transaction that he or she notarizes. For example, if a Notary is asked to acknowledge a signature on a last will and testament naming the Notary to inherit money or goods, there is “beneficial interest” in the notarization because the Notary would receive a material gain. As a recommended practice, Notaries should never notarize any document in which they are named or also acting as a signer of the document.

INDIRECT INTEREST: MAINTAINING IMPARTIALITY

Improper interest can occur even if the Notary isn’t directly named on the document or receiving a direct benefit.

Indirect interest most often occurs when Notaries sign for family members. If

the Notary is a spouse or close relative of a signer, the family attachment may predispose the Notary to ignore possible issues with the notarization or skip required identification procedures.

Some state laws prohibit notarizing documents for relatives, while others only ban notarizing for certain family members. Florida, for example, prohibits notarizing for a Notary’s spouse, son, daughter, mother or father, while Nevada prohibits notarizing for persons related “by blood or marriage” to the Notary.

As a precaution against potential conflicts of interest, the NNA strongly recommends against Notaries notarizing documents for relatives even if state law permits it.

KNOWING THE EXCEPTIONS

Some states make specific exceptions to the beneficial interest rule in their statutes. Florida, for example, allows attorneys to notarize signatures of clients unless the attorney is a party to or named in the document.

As with notarizing for relatives, the NNA strongly discourages Notaries from notarizing documents if there is any appearance of a beneficial interest — even if state law allows the exception — in order to maintain impartiality, honesty and integrity.

WHEN YOU’RE NOT SURE — SAY ‘NO’

Beneficial interest isn’t always a clear-cut situation. If Notaries are uncertain as to whether or not they would be considered to have a beneficial interest in a document, they should refer the signer to another impartial Notary.



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