

December 2016

# The National NOTARY®

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## IN THIS ISSUE

- 15 Case Studies in Liability
- 18 Mistakes that Cost NSAs Time and Money
- 20 Helping Impaired and Handicapped Signers

EALTA  
BEST  
PRACTICES

What the New Standards Mean for NSAs



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## The National NOTARY

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### OUR MISSION

The National Notary Association is committed to the education and service of Notaries throughout the United States. As the foremost authority on the American Notary office, we are dedicated to imparting knowledge, understanding and unity among all Notaries, and instilling in them the highest ethical standards of conduct and sound notarial practice.

### OUR CORE VALUES

The National Notary Association serves its membership by promoting five essential core values that empower and protect Notaries when they assume their responsibilities of the office and perform their official notarial acts.

Our Core Values of Membership promote:

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# TABLE OF CONTENTS



## COVER STORY

# 10

## ALTA Best Practices: What the New Standards Mean for NSAs

*Michael Lewis*

For the past several years, Notary Signing Agents have adjusted to a dizzying array of changes in the way you deal with the mortgage finance industry — driven by federal regulators intent in bolstering the industry’s consumer protection practices. In an effort to bring some order out of this chaos, the American Land Title Association recently included recommendations in its Best Practices for vetting and overseeing NSAs. But exactly what does this mean for you? This month’s cover story tries to answer that question.

## 12 Prove Your Credentials through SigningAgent.com

## 13 ALTA and the SPW

## DEPARTMENTS

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

## FEATURES

# 15

## Case Studies in Notary Liability

*NNA Staff*

Every Notary’s nightmare is being named in a lawsuit. It happens more than you might think; and it can be particularly frustrating to face substantial losses even when you did everything right. Merchants Bonding Company shares four actual cases to highlight important lessons about your financial liability resulting from the notarizations you perform.

# 18

## Five Mistakes that Cost Mobile Notaries Time and Money

*NNA Staff*

Building a successful business as a mobile Notary can be challenging. With all you have to deal with, there are times when you let opportunities slip through the cracks — and you might not know it. So several veteran mobile Notaries shared five mistakes that can cost you time and money, and explain how to avoid them.

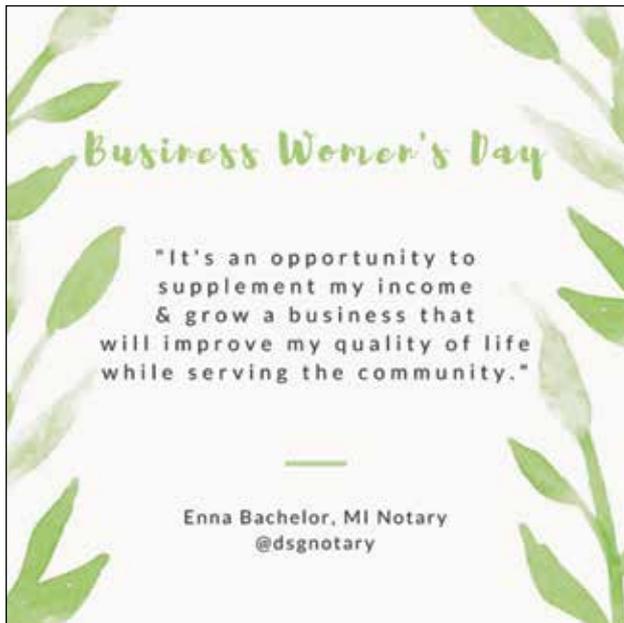
# 20

## A Guide to Notarizing for Impaired Signers

*David Thun*

Signers with a visual, hearing or physical impairment present special challenges for Notaries. But don’t worry — here are steps you can take to ensure that a notarization for an impaired signer goes smoothly and safely.

# YOUR COMMUNITY



## Celebrating Business Women's Day

**73% OF NOTARIES** in America are women. In September, we celebrated the many contributions women make to the business world by asking the national Notary community to share what being a business woman means to them. See the responses at [www.bitly.com/NotaryBizWomen](http://www.bitly.com/NotaryBizWomen).

## Notaries Boost Support for Breast Cancer Research

**EVERY YEAR WITH THE SUPPORT** of Notaries and the National Notary Foundation, we are able to give back to the City of Hope to impact their Breast Cancer Research. 2016 was no different. We thank everyone who supported us in the fight against Breast Cancer!



## We Asked, You Answered!

The Notary profession has different meanings to every individual. Here's what Notaries nationwide found most rewarding about being a Notary Public!

**Carole Law Atkins, Bradenton, FL:** As a Florida Notary, my joy comes when I can unite two people in marriage and make their day special.

**Galina Babadzhanyan, Glendale, CA:** I love being my own boss. I have a lot of fun marketing and making decisions about my own business. Being a Notary is awesome.

**Lynn Baldwin Murray, Mount Olive, AL:** I enjoy that I get to be the person that sees the borrowers faces and how excited they are on their purchase, sell or refinance closing. I also enjoy the flexibility to spend time with my family.

**Katie Woodside, Houston, TX:** The flexibility and spontaneity. Every day is different and it's so exciting!

**Donna Shiflett, Fontana, CA:** The best part of being a Notary is meeting new people and that I am helping protect their legal documents!

**Enna A. Bachelor, Harper Woods, MI:** Being entrusted with helping people execute their most important documents is a great honor.

## NNA 2017 Conference Networking Group

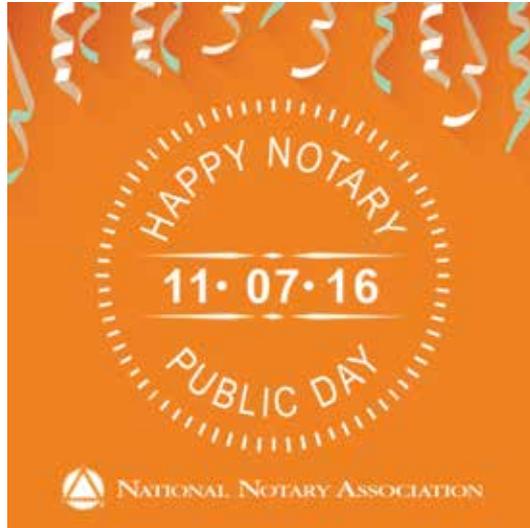
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## A Special Day for the Notary Community

### MANY ARE NOT AWARE

that November holds a special day for Notaries. On November 7, we celebrated National Notary Public Day with Notaries everywhere across different social media platforms. Search the hashtag **#NotaryPublicDay** on your favorite social media network to connect with your peers.



## Notarizing for Prison Inmates

**NOTARIZING AT A CORRECTIONAL FACILITY** poses additional challenges for Notaries. CA Notary Vivian Olilang posed the question “Does anyone know if there are Notaries located inside prisons for those that are incarcerated and need Notary services?” to the General Notary Group on LinkedIn. Here’s how you responded.

**Laura Biewer, Modesto, CA:** “CA state prisons have Notaries on site as I have had them in the Notary classes I teach. Local detention centers however usually don’t and mobile Notaries are used.”

**Yvonne Coats-Branley, Athens, NY:** “I had a company hire me to go to a prison and they turned me away saying they have their own Notaries and don’t use outside ones....also said I had to wear shirt sleeves, though it was summer and I was wearing a respectful dressy sleeveless blouse.”

**Kim Brennan, DeLand, FL:** “What I do is ask the individual that called you if they have their ID, a lot of times they have already picked up their loved ones’ personal belongings. There is always plexiglass between you and the inmate and I’ve always been able to see the inmate ID but asking the caller to bring the inmate’s driver’s license has been very helpful to me.”



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## NSA Data Exchange Creates Secure, Real-Time Credential Verification



**THE NNA HAS CREATED A NEW SYSTEM** to help companies quickly and securely verify your Notary credentials, making the verification process more efficient and convenient for you, too. The Notary Signing Agent Data Exchange system automatically updates participating companies with the latest real-time information on your credentials such as background screening status, E&O insurance policy and certification directly from your **SigningAgent.com** listing. This system eliminates the need to update your individual profile with all of the lenders, title companies and signing services that use it. To ensure your privacy is protected, all sensitive information in your listing is protected by encryption to prevent unauthorized privacy breaches.

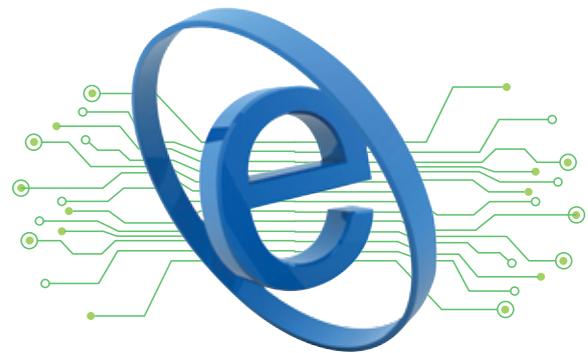
The first company to use our NSA Data Exchange is Snapdocs. According to Mike Flores, VP of Sales and Marketing for Snapdocs, Notaries who are verified with Snapdocs get 40 percent more business from title companies and escrow companies than non-verified Notaries. "Taking the time and care to get fully verified by Snapdocs is imperative and the first step is to work with the NNA to get the appropriate certifications," he said.

## Hadley Receives Award for Notary Fee Bill

**THE NNA AWARDED CALIFORNIA** State Assembly Member David Hadley with its Calvin Coolidge Notary Award for his leadership and ongoing commitment to Notaries. He authored legislation giving more than 163,000 California Notaries their first raise since 1994. Assembly Bill 2217 increases the maximum fees Notaries can charge after January 1st, 2017. The fee cap was raised by 50 percent, from \$10 to \$15 for most notarial acts, making it easier for Notaries to cover the ever-increasing costs of maintaining their commission and providing vital services that the public needs.



Bill Anderson, the NNA's Vice President of Government Affairs, with California State Assembly Member David Hadley



## Model Electronic Notarization Act of 2017 Published

**FOR MORE THAN FOUR DECADES**, the NNA has been a go-to resource for state lawmakers as they modernize outdated Notary laws. In response to requests from government officials, we collaborated with a national panel of 28 experts to draft the Model Electronic Notarization Act (MENA) of 2017 as a "standalone," model statute allowing them to incorporate all or part its provisions without having to rewrite existing laws.

The growing interest in eNotarization from the government and businesses in several industries, such as the real estate finance industry, is encouraging. By publishing this model legislation, the NNA stands at the ready to help any state exploring eNotarization and ways to incorporate the technology that will uphold the integrity and trust that traditional notarization provides.

## CA Notaries May Accept Consular IDs Starting January 1

**EFFECTIVE JANUARY 1, 2017, CALIFORNIA NOTARIES** will be able to accept valid consular IDs as satisfactory proof of identity. Consular IDs are issued to immigrants by the consulates of their home country, and can be accepted if they are current or issued in the past five years, have a serial or identification number, and contain the signature, photograph and description of the individual.



AB 2566, signed into law last September, also allows Notaries to accept any valid foreign passport as proof of identity. Previously, passports had to be stamped by the U.S. Citizenship and Immigration Services.

## MBA Predicts Boost in Home Purchases During Late 2016

**DESPITE A WEAK FIRST HALF OF THE YEAR** and uncertainty over the economic impact of the 2016 presidential election, the end of 2016 is likely to see more people purchasing homes thanks to low rates and a stable economy, according to a report issued by the Mortgage Bankers Association (MBA).

Increasing wages, lower unemployment and a strong U.S. job market are encouraging signs for the housing market, as they help give prospective buyers confidence to commit to purchasing a home. “The security of employment and potential for increasing wages will support household formation and home purchases in the longer run,” the MBA said in its Forecast Commentary published in September.

The MBA predicts purchase originations for homes at around \$981 billion for the year — an increase of \$100 billion from 2015. A boost in home purchases is also good news for Notary Signing Agents, as it could mean more loan document signing assignments made available.

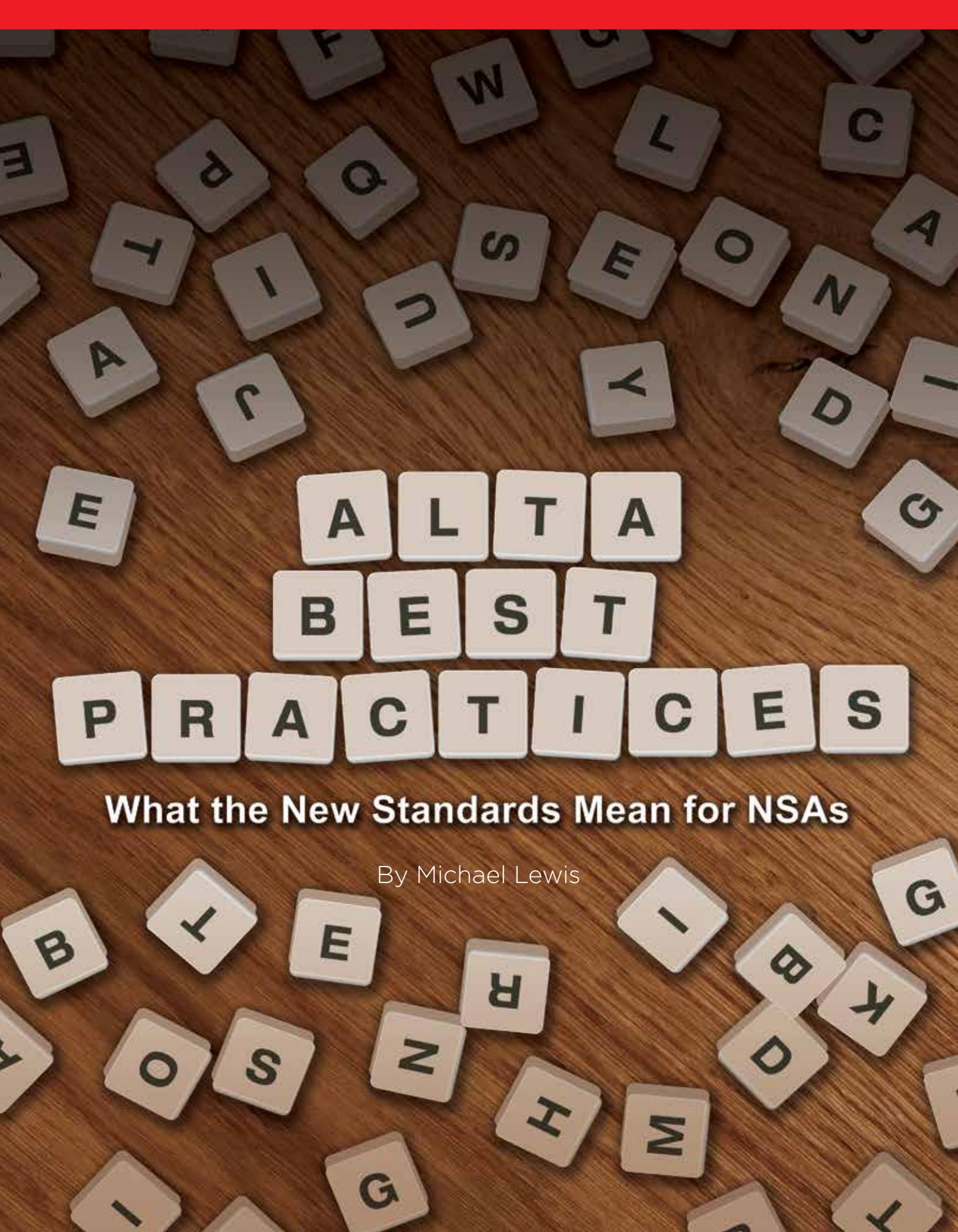


## Survey: Lack of eNotarization Standards Hurts Mortgages

**LACK OF ENOTARIZATION** technology, training and standards in the mortgage industry has been a significant obstacle to widespread adoption of electronic mortgages, according to a recent eMortgage industry survey by mortgage giants Fannie Mae and Freddie Mac.

With eMortgages, loan documents are created and executed electronically rather than printed and signed on paper. The survey report notes that eMortgages benefit borrowers with a faster mortgage process and lenders with faster loan funding and reduced costs. However, there are still many obstacles holding back increased use — including concerns about electronically notarizing eMortgages.

Respondents listed lack of acceptance of eNotarization by states, lack of available electronic signature technology from vendors, and legal concerns about the validity of eSignatures among the issues holding back adoption of eMortgage systems. With electronic notarization, the Notary signs and affixes their seal digitally to documents in electronic form.



**ALTA  
BEST  
PRACTICES**

**What the New Standards Mean for NSAs**

By Michael Lewis

**R**ENOWNED SCIENCE FICTION AUTHOR ISAAC ASIMOV once wrote, “It is change, continuing change, inevitable change, that is the dominant factor in society today.”

For Notary Signing Agents, this has become the mantra for their dealings with the mortgage finance industry, and the pace of change is only growing faster. Driven by federal regulators, these changes are rooted in a mandate for the industry to implement strong consumer protection systems to shield borrowers’ financial and identity information.

During the past two years, NSAs — classified as third-party service providers — have felt some pain as the industry scrambled to comply with the mandates established by the Consumer Financial Protection Bureau. Most lenders, title service providers and signing services, among others, have attempted to implement their own security and compliance systems.

That has resulted in NSAs having to meet different requirements and follow unique procedures, for each company they work for. If you work for a dozen or more entities, meeting the mountain of requirements has been challenging at best.

But in October, the American Land Title Association (ALTA) took a bold move to try to bring some order out of the chaos. For the first time, the Association that promotes professional standards for the title industry updated its Best Practices to include recommendations for vetting and overseeing Signing Agents — creating a uniform industry framework for member companies to leverage.

“We’re going into a compliance management world,” said ALTA Chief Executive Officer Michelle Korsmo, explaining the need to update the Best Practices. “Title insurance and settlement companies need to have strong consumer protection programs that they talk about with their business partners.”

The hope is that companies will use ALTA’s best practices as a framework to adopt standardized requirements and rules for hiring NSAs, underscoring the importance of maintaining a current certification, background screening and insurance. But it’s still too early to tell how the industry will leverage them. All we know is that they will, and NSAs need to be ready.

“Most people don’t like change,” said Lori Dorman, Director Risk Management for Agents National Title Insurance Co. and a member of ALTA’s Internal Audit Committee. “Instead of looking at it as a challenge, it is more a matter of embracing the change.”

### Bringing Order Out of Confusion

ALTA’s Best Practices, first published in 2013, grew out of the confusion and frustration experienced by the mortgage industry as it tried to comply with new federal mandates.

“In situations like this, everybody wants certainty,” Korsmo said. “The reality is we don’t have that luxury.”

Consequently, the “Title Insurance and Settlement Company Best Practices” ([ALTA.org/BestPractices](http://ALTA.org/BestPractices)) is ALTA’s attempt to write its own playbook for how its 6,200 members manage third-party vendors to meet regulatory requirements and consumer expectations.

By meeting the Best Practices, title insurance and settlement companies will be able to show that they are in compliance with consumer financial protection laws and their contractual obligations.

Because ALTA’s members rely on the tens of thousands of Signing Agents to facilitate loan signings, it’s only natural for the Best Practices to extend to that business relationship.

Diane Evans, Vice President, Land Title Guarantee Company in Denver, Colorado, and chair of ALTA’s Best Practices Task Force, said the NSA sections came out of comments from the

Association’s membership about the different state standards for licenses, errors and omissions insurance and surety bond requirements.

Because each state has its own requirements for Notaries — and most do not address Signing Agents — the updated Best Practices provide recommended due-diligence standards to help companies understand what to look for when engaging a third-party signing professional.

The goal was to leave the Best Practices broad enough for each company to tailor them to meet their individual requirements.

The NSA sections recommend that companies maintain written procedures to ensure that the NSAs they use “possess the appropriate qualifications, professionalism and knowledge.” Among other things, ALTA specifically recommends that title and settlement companies:

- Take reasonable steps to select, retain and oversee Signing Agents who are capable of appropriately safeguarding consumers’ Non-public Personal Information (NPPI);

A L T A

**“We’re going into  
a compliance  
management world”**

— ALTA CEO Michelle Korsmo

- Verify that NSAs are covered by E&O insurance and, where required by law, a surety bond;
- Require Signing Agents to provide evidence of any required state licenses or any recognized and verifiable industry designation; and
- Require NSAs to acknowledge that they comply with the contracting company's instructions and information security program.

ALTA also has published a set of Assessment Procedures to help its members implement the standards. For NSAs, that means:

- Reviewing the results of background checks; and
- Reviewing compliance with security programs.

### The Impact on NSAs

But what does this mean for Signing Agents, and what can they expect to see in the coming months and years? In all probability, more of the same.

"Companies will expect signing professionals to show evidence of insurance coverage, that their licenses are up to date and prove that they have some kind of training or belong to an association that has some kind of verifiable, professional designation," Evans said.

However, companies will decide for themselves how to apply the best practices. Many already do in varying forms, Dorman said. Some companies have their own training programs while others rely

on verifiable professional designations such as the NNA's NSA Certification.

Dorman expects to see more companies adopt ALTA's Best Practices in the coming year. Consequently, many NSAs who work with companies that currently do not have vetting and training policies in place could be asked to provide proof of their qualifications and certifications in the near future.

Korsmo said that the Standards for NSAs drafted by the Signing Professionals Workgroup (see article on page 13) will help because they include detailed recommended best practices for Signing Agents.

"The SPW's standards will provide a valuable benchmark for companies in judging how they manage the compliance of third party signing professionals," she said.

Korsmo also believes that NSAs will get more facetime with the title and settlement companies, especially at the beginning of their working relationships. Companies increasingly

will want to meet directly with Signing Agents to interview them and discuss their requirements.

But all these changes are not taking place without a certain amount of pain and frustration.

### Embracing the Change

Jacqueline Arrington, a veteran NSA from Columbia, South Carolina, acknowledges that it has become "a little bit challenging" to keep up with the different expectations from companies.

N S A

*"What satisfies one company should satisfy another."*

— NSA Lisa LeCastre

## SigningAgent.com Makes Credentials Easy to Verify

For Notary Signing Agents, having the right credentials is not always enough to getting loan-signing assignments. Contracting companies increasingly need to verify those credentials — such as certifications, background screening reports and more.

The easiest, most reliable way to do that is through the secure website, **SigningAgent.com**.

Any NSA who gets their background screening through the NNA automatically receives a one-year listing on SigningAgent.com. Any credential you obtain through the Association is automatically updated in your profile. That includes:

- NNA Signing Agent Certification
- Background Screening
- NSA Continuing Education Course
- Errors and Omissions Insurance

It's a good idea to keep your listing up to date to have the best chance at receiving assignments. Include any information that bolsters your marketability, such as related experience, hours, language fluency and any other special skills.

Many companies already use the website to find qualified Signing Agents, and all the NSA credentials they need to verify are available on SigningAgent.com. For more information about updating your profile, visit [bitly.com/NSAprofile](http://bitly.com/NSAprofile).



# ALTA and the SPW

Arrington, a U.S. Army retiree, said her background has helped her adapt to the different demands, but “some of my fellow Notaries don’t like all the hoops. A lot of people get frustrated at having to pass all these tests.”

“I’m all for checking Signing Agents’ qualifications and making sure they have experience,” said Kristine Hall, a Signing Agent from Pottsville, Arkansas. “But it needs to be coherent.”

She said there is too much redundancy in the requirements for NSAs from one company to the next. She hopes that ALTA’s Best Practices will bring more coherence to the vetting process.

NSA Lisa LeCaste of Buffalo, New York, agrees. “What satisfies one company should satisfy another.”

Another big issue for Hall is a lack of communication. Many companies don’t explain why they need various qualifications.

NSAs aren’t alone in their frustrations, said Dorman. “When the CFPB came out with its Bulletin about protecting consumers, lenders were all over the place.”

As more companies implement ALTA’s Best Practices, Dorman expects that they will communicate with NSAs.

One thing that is likely to remain unchanged is the requirement for regular renewals and ongoing training. “It’s not one and done,” Korsmo said. The days when NSAs could get a certification once and never renew it are over. “It will happen on a continuing basis. I would anticipate at least yearly. That would be a Best Practice.”

With such an emphasis on protecting consumers, “none of us can risk sending loan documents off to someone for whom they have done no verification or validation of experience or knowledge,” Evans said. “The world demands more.”

Korsmo encouraged NSAs to step back and look at how the industry evolved to the point where it is now. “Protecting consumers is something we all should take seriously.”

Jill Bernshouse of Costa Mesa, California, took that advice to heart when she hung out her NSA shingle in September 2016. “I just knew that protecting people’s data was important,” she said.

One of the first things she did was to sign up with an encrypted email service. She also has written down her day-to-day security practices to align herself with ALTA’s Best Practices.

“One comment that I have heard is this could make it hard on Notaries,” Evans said. “It was never the intent. The intent was to make it better for all parties in transaction, including the Notary.”

Evans encouraged NSAs to “enhance their professionalism and marketability by taking more training. People will recognize how seriously you take the profession.” ■

When the American Land Title Association updated its Best Practices to include sections dealing with Notary Signing Agents, it raised a natural question: What does that mean for the Signing Professionals Workgroup (SPW)?

Formed in 2013 in response to sweeping regulatory initiatives by the federal government, the SPW initially drafted a set of recommended Standards for Notary Signing Agents in an effort to bring uniformity to the NSA profession.

Now that ALTA has updated its Best Practices, does that mean the SPW, an NNA workgroup, is no longer necessary? No. In fact, executives from both groups say the work of the two fit together.

“ALTA’s Best Practices provide a broad framework for how companies should select and oversee NSAs, and the SPW provides detailed, recommended Standards,” said SPW President Chris Sturdivant.

“What ALTA’s Best Practices are to title insurance companies, the SPW’s work product is for the Notary Signing Agent industry,” said Michelle Korsmo, Chief Executive Office of ALTA.

She said that the SPW’s standards will help title insurance and settlement companies gauge how well they deal with Signing Agents.

Going forward, the SPW will continue to review and revise its recommended Standards as market conditions and regulations change. In fact, the group published an updated version last spring. After the TRID roll-out last year, the SPW worked diligently to incorporate numerous industry changes and helpful suggestions from NSAs in the Standards.

As part of that update, the SPW decided that decisions about training and testing requirements and service providers should be left to the companies that contract with NSAs. Consequently, the Workgroup will not create a standardized exam or certify education providers.

However, the Standards still include the recommendation that NSAs undergo regular testing. The SPW believes Signing Agents should stay informed about professional practices and industry changes by seeking out training, and testing their knowledge on a regular basis.

Regular training and testing also is a good way for title and settlement services companies to verify that NSAs understand their responsibilities and comply with government requirements.

The SPW’s Standards also include:

- A *Notary Signing Agent Code of Conduct*;
- Signing Presentation Guidelines;
- A recommendation for annual background screenings; and
- A recommended minimum level of errors & omissions insurance.

For detailed information about the SPW and its Standards, visit [SigningProfessionalsWorkgroup.org](http://SigningProfessionalsWorkgroup.org).

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# FOUR CASE STUDIES IN NOTARY LIABILITY

By NNA Staff

**E**VERY NOTARY'S NIGHTMARE is being named in a lawsuit. It happens more than you might think; and it can be particularly frustrating to face substantial losses even when you did everything right. The best protection you will ever have is strict adherence to statutory and professional practices, and a Notary errors and omissions insurance policy.

Merchants Bonding Company, the carrier for NNA bonds and insurance policies, recently shared a number of Notary claims with *The National Notary*. They teach important lessons you need to learn about financial liability resulting from the notarizations you perform.

### **The Case of the Stubborn Plaintiff**

In this case, a Notary was asked to visit a hospital and notarize a power of attorney document. The document granted the signer's friend the right to handle his medical and legal affairs while he was hospitalized.

The signer later filed a lawsuit against the Notary, claiming he was not aware of what he was signing. During the case, the plaintiff was declared a "vexatious litigant" by the court after it was learned he had a history of filing frivolous lawsuits. The Notary's attorney claimed the grounds for the suit were legally insufficient and the court upheld this claim.

In this situation, the Notary was among several individuals sued for more than \$200,000 over a real estate transaction. The litigant claimed the Notary had failed to properly check a signer's identity during the transaction.

Later investigation acquitted the Notary of all wrongdoing. However, the lawsuit proved extremely difficult — and costly — to resolve because of the multiple complaints and cross-complaints involving the numerous defendants. Your financial risk as a Notary often has nothing to do with being right. You can be right and still end up with legal bills. Fortunately, the Notary's E&O policy in this case paid their legal expenses.

### **The Case of the Costly Thumbprint**

In this case, an oversight when recording a journal entry got a Notary into serious legal trouble. During a notarization involving real property, the Notary was distracted and failed to take the signer's thumbprint for her journal entry as required by state law. It was later discovered that the signer was an impostor, and the Notary was sued for \$250,000.

After lengthy negotiations, the case was eventually settled, but the Notary's full E&O policy was exhausted. The lesson here is that E&O insurance will cover claims up to their policy limit when Notaries are clearly negligent, as in this case where the Notary forgot to obtain the signer's thumbprint in the journal entry. It happens; people make mistakes. Even good Notaries make mistakes.

### **The Case of Multiple Mistakes**

As bad as it is for a Notary to be sued after following proper procedure, the situation can be even worse if the Notary ignores state rules when verifying a signer's identity.

In this case, the Notary was asked to notarize the signatures of two individuals who signed a deed of trust in buying a property. Since the signers had no ID, the Notary identified them using a single credible witness — the agent representing the signers. State law required the Notary to personally know the witness, but the Notary hardly knew the agent. In addition, the Notary failed to obtain the thumbprints of the signers in her journal. The settlement and legal fees were substantial.

By ignoring the rules for identifying signers and obtaining thumbprints, the Notary in this case not only faced a costly lawsuit but left the transaction vulnerable to potential fraud. In fact,

**You can do everything right  
and still end up in court.**

But, the plaintiff didn't stop. He filed a second suit against the Notary and several other defendants a year later. Eventually the second case was settled, but not until the Notary incurred additional attorney fees in responding to the new allegations.

This case teaches an important lesson. Litigation can get messy, and sometimes litigants don't give up. As a result, you can incur significant costs in defending yourself — even against frivolous claims. In this instance, the Notary had an E&O policy, and it took a substantial amount of the policy to defend the Notary in both actions. Without a policy with sufficient coverage to absorb all the costs, he would have had to pay the expenses out of his own pocket.

### **The Case of the Notary Caught in the Crossfire**

Some Notaries assume that they don't have to have to carry an E&O policy as long as they don't make egregious mistakes. As this next case shows, even a blameless Notary can have the bad luck to be dragged into a lawsuit.

a handwriting expert indicated that it was “highly probable” the signatures notarized on the deed of trust in question were forged. Fortunately for the Notary, their E&O policy covered multiple mistakes in the same claim, which is true of many policies as long as the violations aren’t intentional.

## Conclusions

Following your state’s laws and best practices will take you far in protecting your Notary practice from legal action. But it won’t take you all the way. For the last mile, you’ll need an errors and omissions insurance policy.

While Notary bond and insurance claims are infrequent, no Notary is immune to liability. You can make a mistake that financially harms a signer. You can do everything right and still end up in court. You can face litigious plaintiffs who will try more than once to find you at fault and make you pay. The good news is that, for all of these reasons, there’s Notary E&O insurance. ■



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# FIVE MISTAKES THAT COST NOTARY SIGNING AGENTS TIME AND MONEY

By NNA Staff



**T**HERE'S A LOT TO KEEP UP WITH AS A MOBILE NOTARY: new laws, multiple signings in a day, changes to documents, difficult signers and much more. It's important to stay focused and keep your mistakes to a minimum. Making the same mistakes over and over again will result in bad reviews, and ultimately cost you time, work opportunities and money. Veteran Notary Signing Agents Amanda Doumanian, Daniel Lewis and Marcy Tiberio shared five costly mistakes often made by Notary Signing Agents and advice on how best to avoid them.

## 1. Document Errors

Missing a signature or notarization can cost you time and money. Whether it's a single Notary job or a full loan closing, always double check your work. This will help you catch missed signatures, initials, and incomplete notarial certificate information. Remember, if a loan package is delayed due to a mistake in notarization, the loan may not be able to close on time. For loan signings, it's best to review the signed closing package while everyone is still at the signing — this way, you don't have to meet someone a second time to get a missed signature or have the signing company call you the next day to tell you that you need to take care of an incomplete document.

## 2. Not Allowing Enough Time for Each Appointment

No one wants to turn down work but sometimes, especially at the end of the month, it's easy to overbook yourself — and if you overbook yourself and rush because you're in a hurry, you run a greater risk of making mistakes or incurring problems during assignments. During the busiest times, there are often unexpected delays due to late delivery of the documents, traffic and other issues. Make sure to allow enough time to properly prepare for each appointment and handle any issues that may occur. When preparing for a loan closing, always read the closing instructions. Even if you've worked with the company before, it's best to read their instructions so nothing is overlooked. You never know when something might have changed. When printing the closing documents, be sure you've printed all the attachments sent to you; sometimes there are quite a few, and if one is missed you'll end up having to go back and get it signed.

## 3. Faulty Equipment

There is nothing worse than going to print a package at the last minute and realizing you are out of toner or legal paper. Maybe you need to fax back documents and the scanner function on your copier doesn't work or your computer updated and now you can't open a pdf due to a bug. While you can't prevent every possible equipment issue, you can be proactive in keeping them to a minimum. Before heading to an appointment, be sure that you have pens, your Notary seal, your journal and a charged cell phone. Make certain you always have a backup of printer supplies, such as toner and paper. Before an assignment, check your equipment to make certain it's in good working order, especially after any updates, upgrades

or after having repairs done. Do regular maintenance on your vehicle and keep your gas tank full. Replace any equipment that is outdated or faulty.

## 4. Failing to Confirm Appointments

A Signing Agent is always on the go, and there's nothing quite as frustrating as showing up at the wrong address, the wrong time or finding out that a borrower isn't home or had to call off the signing at the last minute. A missed appointment takes away time that could have been better spent on other assignments. To make sure you don't waste precious time, always be sure to call and confirm appointments beforehand. When confirming, be sure to double-check the address where you'll meet the signers, the names of all signers who need to be present, that everyone will have proper identification available and the date and time of the appointment.

## 5. Not Keeping Your Certification and Work Information Up to Date

Signing companies and others in need of Notary services often need to find a Notary on short notice, which is why they use online directories such as **SigningAgent.com**. It's very important to keep the information in any online profile current. Don't let your certifications and background check lapse — without them, many companies will pass you over in favor of other Signing Agents. Always be sure that your Signing Agent profile shows that any special qualifications requested by companies you work with are up to date. Also check to ensure that your profile correctly lists your available hours, the cities and regions you are available to travel to, and other important information such as fluency in other languages. If your profile information isn't up to date, it's very likely you will be passed over by companies looking for a Notary Signing Agent and you will miss potential earning opportunities.

Remember that you are a human, and you will make mistakes. It's how you handle the mistakes that will make the difference between success and failure. For example, let's say you missed a signature at a loan closing. The signing company calls you and asks you to get this taken care of. Don't argue about how the package was over 200 pages and the signers didn't have a table available for the signing. Simply apologize for the oversight and take care of the problem. People are willing to forgive an occasional mistake if the Notary Signing Agent is willing to work hard to get it fixed. ■

It's how you handle the mistakes that will make the difference between success and failure.

# A GUIDE TO **NOTARIZING** FOR **IMPAIRED** **SIGNERS**

By David Thun



**B**ECAUSE A NOTARY'S DUTIES INCLUDE **PROTECTING SIGNERS** from fraud, it's very important to take care if your signer has a visual, hearing or physical impairment that creates issues with reading, signing or communicating with you. But don't worry — here are steps you can take to ensure that a notarization for an impaired signer goes smoothly and safely.

## Visually Impaired Signers

The challenge with visually impaired signers is the possibility that they may be misled about the contents of the document. Because the signer can't read the document to confirm what they are signing, you'll need to verify that the signer has had someone read it to them.

Florida, Illinois and Indiana require the Notary to first read the document verbatim to a visually impaired signer. Though not required by law, Maine and North Dakota recommend reading the document to a signer who cannot see the document without offering advice or asking questions to ensure different document text wasn't substituted without the signer's knowledge. It could take some time to read certain documents, such as a mortgage or deed of trust, that can be 15 pages or more.

In states without a specific law or official guideline, you can still speak with the signer and ask them if they have reviewed the document or had it read to them. If they say no, then offer to read the document.

## Hearing-Impaired Signers

If your signer is hearing impaired, the most important thing is to make sure you can directly communicate with each other during the notarization. If you and the signer are both fluent in sign language, this is fine. It also is acceptable to pass written notes or typed messages to communicate as well.

Only one state — Arizona — allows an interpreter to translate for a signer if the Notary and signer cannot communicate in the same language. Arizona Notaries may use an interpreter if the interpreter and signer are both physically present before the Notary during the notarization. In other states, follow Section III-C-3 of *The Notary Public Code of Professional Responsibility*, which says: "The Notary shall not notarize for any person with whom the Notary cannot directly communicate in the same language, regardless of the presence of a third-party translator."

## Physically Impaired Signers

Due to an injury or other medical condition, some individuals are physically unable to write their names. However, there are options to accommodate the physical impairment.

One option is for the disabled person to give another person power of attorney to sign documents on their behalf. This other person is sometimes referred to as an "agent" or "attorney in fact" (though the representative does not necessarily have to be an actual lawyer). In these cases, the notarization would be performed normally, but you would notarize the signature of the agent or attorney in fact. They would present proof of identity, and their name would be entered in the Notary certificate.

Some states, such as Colorado and Nevada, require special certificate wording when notarizing for an attorney in fact. Hawaii and Utah, for example, require the representative signer to show the Notary proof that they have the authority to sign on behalf of the person in question.

If the signer is willing and alert, but can't write a full signature, another option is for the signer to make an 'X' or similar mark in lieu of a signature. This is called "signature

by mark." You can notarize a signature by mark, but depending on the state, you may need one or two witnesses present. If the signer wishes to use a signature by mark, make sure to follow your state's requirements.

When making a signature by mark, the signer must be able to make the mark without assistance.

Neither you nor a third party may physically hold the signer's hand to help them make a signature. If someone asks you or another person to do this, you must tell them no.

If your signer is unable to write any kind of mark or signature, the signer may be able to have a third party sign for them. In this situation, some states permit the signer to direct the Notary or another person to sign the disabled person's name on the document while the disabled person is present during a notarization. This is sometimes called "signature by proxy."

Because of the risk of someone taking advantage of the signer, always strictly follow any instructions or requirements in your state if the signer requests a signature by proxy. For example, in Michigan, the individual must be physically present before the Notary and must orally, physically or otherwise direct the Notary to sign. The Notary also must write beneath the signature,



**When making a signature by mark, the signer must be able to make the mark without assistance.**

“Signature affixed pursuant to section 33 of the Michigan notary public act.”

Certain states require the presence of additional witnesses before a third party can sign on behalf of a disabled individual. Florida, Massachusetts, Mississippi, Nebraska, New Mexico, North Carolina, Rhode Island and Wyoming only permit disabled signers to direct someone else to sign their name if two witnesses unaffected by the document are present. Texas requires a single witness, who must also be identified by the Notary. Montana does not allow a Notary to sign on behalf of a disabled person, but a disinterested third party may sign if the instruction is given in person by the disabled individual and in the presence of the Notary.

If you are asked to do this and have any questions or concerns, contact your state Notary-regulating office or the NNA Notary Hotline.

If no alternate option for signing is viable for an impaired individual, then do not proceed with the notarization. The signer will need to contact a lawyer or other agency for advice on acceptable alternatives to signing the document. ■



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# BEYOND THE BASICS

## *Are International IDs Acceptable for Notarizations?*

Your signer is from another country. He produces the only ID document he has — an old passport. It's a little worse for wear and you're unclear whether it's even valid. The obvious question comes to mind: "Can I accept this?"

Figuring out which foreign identification documents are acceptable can be downright daunting. Here are some rules used in different states to address whether a Notary can accept a foreign ID.

### **Foreign Passports**

Foreign passports are the most commonly-acceptable form of foreign identification for notarization, but state laws vary on the requirements.

One common requirement is that the passport must be stamped by USCIS. States with laws allowing Notaries to accept a USCIS-stamped foreign passport are California, Florida, Georgia, Mississippi, Nebraska, New Mexico, Tennessee and Wyoming. However, starting January 1, 2017, California is removing the requirement that foreign passports used as signer ID include a USCIS stamp.

Other states that allow foreign passports do not require USCIS stamps include Iowa, Massachusetts, North Dakota, Oregon, Montana, South Carolina, Utah and West Virginia.

Some states have more stringent requirements for foreign

passports. California and Tennessee, for example, require all foreign passports to include a serial or ID number as well as a photo, physical description and signature of the holder. Massachusetts requires passports to contain a signature and photograph. Oregon requires a foreign passport to be from a nation federally recognized by the United States.

In Arizona, a foreign passport may be used to identify signers for documents conveying or financing real property. In Texas, a foreign passport may be accepted as identification when notarizing for a deed or other document relating to a residential real estate transaction. However, neither of these states allow a foreign passport to be used for any other type of document.

### **Other Types of International Identification**

California allows driver's licenses issued by Mexico and Canada that contain a serial number, photograph, physical description and signature. Florida also allows these driver's licenses if the license has a serial number. In both of these states, the license does not have to be current as long as it was issued within the past five years.

In Arizona, when dealing with real estate conveyances and financing, you may accept any other valid, unexpired ID that is acceptable to the U.S.



Department of Homeland Security to establish an individual's legal presence in the United States if accompanied with supporting documents as required by DHS. Notaries in the state may check the *Arizona Notary Public Reference Manual* for more information.

### **When Guidance about Foreign IDs Is Lacking**

Many states do not mention foreign passports or foreign IDs by name in their laws, but present a list of general requirements for any IDs Notaries may accept.

If you are a Notary in one of these states, check your state's Notary handbook or commissioning agency's website for guidance. If a signer has no identification at all, depending on the state you can still rely on one or more credible identifying witnesses regardless of citizenship or immigration status.

### **'Matricula Consular' Cards**

Currently only Notaries in Illinois and Nevada may accept "*matricula consular*" cards issued by Mexican consulates as proof of a signer's identity. California Notaries will be able to accept some consular ID cards as proof of identity starting January 1, 2017 — but only if the card includes a photograph, serial or ID number and a physical description and signature of the bearer.



## *Notarizing for Clients, Seal Impressions, Deeds of Trust...*

Notaries nationwide rely on the NNA's Notary Hotline to answer their most challenging questions. The following questions are among the thousands our Information Services Team receives each month.

### **As a loan officer, can I notarize a document for one of my clients?**

— T.M., Arizona

No. Arizona Notaries are not allowed to notarize a document in which they are an officer of any party named in the document. (ARS 41-328)

### **Does Georgia require two witnesses when notarizing a Deed of Trust or a mortgage as a Notary Signing Agent?**

— C.B., Georgia

Yes, two witnesses are required. The Official Code of Georgia Sections 44-2-21 and 44-5-30 indicate that a deed to lands must be attested by an officer as provided in Section 44-2-15 (including a Notary) and by one additional witness.

### **Can New Jersey Notaries notarize copies of passports?**

— I.I., New Jersey

No. Certifying or notarizing a copy of a document is not an authorized act in the state of New Jersey.

### **My business had a document signed and notarized in Oregon. The Notary placed the document and the acknowledgment side by side when she used her stamp so half the stamp imprint is on our signed document and half the stamp is on the acknowledgment. Is this legal in Oregon?**

— S.R., California

Yes, provided one full impression of the official stamp appears on the notarial certificate near the Notary's signature. Oregon Administrative Code Section 160-100-0110(4) states, "When a notarial certificate is on a separate piece of paper attached to the tangible record to be notarized, or when there are attachments to the tangible record to

be notarized, a notary public may use one additional imprint of the notary public's official stamp to mark for identification the tangible record or attachment, if the imprint does not make any part of the record or attachment illegible. The additional stamp will be partially stamped on the notarial certificate, and partially on the record or attachment to the notarized record."

### **I notarized a document for a customer, and now they want me to put my Notary seal on copies of their telephone bill and passport. I thought that I am only supposed to place my seal on a document that has notarial wording. How I should respond to this request?**

— P.P., Pennsylvania





Tell your customer that you can only stamp a document that has correct Notary certificate wording. According to 57 PS 158[b], you are only able to place your seal on the official Notary certificate. In your situation, you could only affix your seal impression to a proper notarial certificate that would be attached to the copies of the passport and electric bill — not on the copies themselves.

### **What are the Florida requirements for allowing a person access to my notarial journal entries?**

— J.G., Florida

In Florida, the law does not require a Notary to keep a journal and does not have a rule for

accessing journals. In the absence of a law, the NNA recommends following *The Notary Public Code of Professional Responsibility* Section VIII-B-1. That provision recommends that the Notary ask for a written and signed request that specifies the names of the parties whose signatures were notarized, the type of document and the month and year of the notarization.

### **My attorney wants me to notarize the signatures of a person as well as his five children. I have never heard of notarizing a child's signature. Can this be done and if so how?**

— M.M., California

Yes, under certain circumstances you may notarize the

signature of a minor. California does not directly address notarizing for minors. To notarize for an individual of any age, including minors, the individual must have proper ID. The minor should understand what he or she is signing, and be able to sign the document.

### **Can I notarize my own signature?**

— R.E., Oklahoma

No. An Oklahoma Notary may not notarize his or her own signature (49 OS 6A).

### **Can I use "ditto" marks on sequential journal entries that repeat the same information?**

— C.R., California

No. The California Secretary of State's office says that the items to record in the journal are to be entered for "each" and "every" act (G.C. 8206[a]). An article in the Secretary of State's 2014 Notary Newsletter (page 4) entitled, "Journaling, Just for The Record" reaffirmed that position: "Remember that you may be asked to provide a copy of a line item in your journal, which is why each line item entry must be complete. You cannot use hash marks, ditto marks, arrows, or other shortcuts."





## *A Notary's Guide to Oaths and Affirmations*

One of your main duties is administering oaths or affirmations. Each is a solemn promise of truthfulness that can be made by a signer, a witness or a person being sworn into office. Here are important points to remember if you are asked to administer an oath or affirmation to someone.

### **What's the Difference Between an Oath and an Affirmation?**

While both oaths and affirmations are notarial acts that compel a person to tell the truth, an oath is a solemn, spoken pledge to a higher power, while an affirmation is a spoken pledge made on the signer's personal honor with no reference to a deity or Supreme Being. Either is acceptable and the choice is left to the signer's preference.

### **Be Sure to Get Verbal Confirmation from the Signer**

A spoken response helps verify the person's promise to be truthful. By having your signers declare a solemn pledge to tell the truth, you are confirming that they understand the importance of their promise. A clearly spoken "yes" or other positive reply also places them under penalty of perjury if their statement is not true.

To ensure clarity and avoid the oath or affirmation being questioned later, make sure that the

person before you responds with a clearly spoken answer. Non-verbal or ambiguous responses, such as the signer nodding, or saying "Mmm" or "Uh-huh," should not be accepted.

### **Administering an Oath or Affirmation**

When administering an oath, the Notary may ask the oath-taker to raise their right hand or place one hand on a religious text while raising the other to pledge. While these ceremonial formalities are seldom required by law, they help remind the oath-taker that the act is legally binding and must be taken seriously. Though wording for an oath may vary, one example is: "Do you solemnly swear that the statements in this document are true to the best of your knowledge and belief, so help you God?"

An affirmation is very similar. For an affirmation, both Notary and signer may simply raise their right hands to lend gravity to the ceremony instead of using a religious text. Common phrasing for an affirmation would be something like this: "Do you affirm that the statements in this document are true to the best of your knowledge and belief?"

### **Tips For Conducting Oaths and Affirmations**

**Never take shortcuts.** If the document being notarized requires an oath or affirmation,

you must verbally administer it — even if the signer attempts to rush you or avoid it entirely. Do not skip reciting your question fully or receiving a clearly spoken response from the signer.

**Ask, don't advise.** If a signer is unclear about the difference between an oath and affirmation, you may explain the differences but you cannot legally advise the signer which one to perform.

**Respect your signers' beliefs.** Remember that oaths and affirmations are equally legal and acceptable. A Notary should never attempt to influence a signer to use one or the other.

**Take oaths and affirmations seriously.** An oath or affirmation is a serious act with important legal consequence. Signers and Notaries should not make light of oath or affirmation ceremonies. Don't make jokes or behave inappropriately when administering an oath or affirmation, and signers should refrain from doing so as well.

**Record it in your journal.** If you administer an oath or affirmation, note it carefully in your journal. Once you recognize the basics and have several under your belt, administering them will be a cinch.

Learn more about best practices and procedures in the NNA's Notary Essentials course:  
**NationalNotary.org/notary-essentials**



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