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The National

January 2006

NOTARY®

Official Publication of the National Notary Association



2006

Notary of the Year

Frank
Marcial

The National NOTARY

Vol. XLIX, No. 1, January 2006

Published by the
National Notary Association

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

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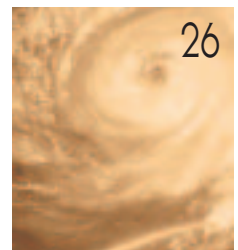
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By Deborah M. Thaw
dmthaw@nationalnotary.org

From The Executive Vice President We Must Redefine Our Attributes, Perception

Among all professions, there is a common desire to cultivate definitive characteristics by which the profession can distinguish itself from all others.

Doctors and nurses like to be known as sensitive; lawyers and judges as analytical and precise. Schoolteachers want to be considered as compassionate and accountants as thorough.

Notaries, of course, have not had the privilege of professionalism for too long. In fact, there was a time when the only popular labels we might claim were disparaging and poked fun at our bureaucratic obscurity — dull, slow, obstructive — you get the idea.

But with the changing times and the development of the Notary Public office into something more than the punch line of a joke, we are becoming professionals. And with that designation comes an aspiration to be defined in some unique and positive way.

So, let's pull out the long list of adjectives with which we are so familiar in describing ourselves — impartial, honest, trustworthy and responsible. But are we not also sensitive, precise, compassionate and thorough?

It reminds me of the famous poem about the six blind men of Indostan who went to touch an elephant to create an image in their minds. Each, of course, approached the elephant from a different angle and so came away with a different perspective.

The first man, feeling the side, described the elephant much like a wall. The second, coming across the tusk, believed the elephant like a spear. The third, taking the trunk in hand, exclaimed it to be a snake. The fourth, feeling the knee, called it a tree. The fifth, touching the ear, claimed it a fan. And the last, seizing the tail, declared it a rope.

Each blind man assumed the whole elephant to be like the part that he experienced, but the sighted person knows at a glance that this is not the case. One can't assume the whole truth just because one knows a part of it.

We understand this because we know that each signer's experience, were it to be described, is different from every other. Some see us as officious and precise. Others may find us compassionate and competent.

The truth is somewhere

in between.

Unlike the elephant that has little control over how it is perceived, we do have the opportunity to control the attributes by which we will be described.

As the new year beckons and the natural period of reflection of the past year occupies the few days before and after the start of the new year, we might consider how we want others to perceive us.

Competent is good, but how much better when joined to *compassionate*? *Knowledgeable* is nice, but how much richer when coupled with *understanding*?

Honesty, impartiality, integrity and responsibility are admirable attributes, but perhaps not those our signers will list when recalling their notarial experience.

Rather, it will be our demeanor, conduct, manners, attitude and actions that define us. Who we are is listed in the dictionary from "accommodating" to "zany" and everything in between.

Which will it be? It's all up to you.



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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.

Letters

New Jersey Governor Offers Thanks

Thank you for publishing the comments by John T. Broderick, Jr., Chief Justice of New Hampshire, at your annual Conference.

As Governor, there is nothing more important to me than keeping New Jersey's residents safe and secure in their homes, schools and communities. As my administration continues our efforts on their behalf, I am grateful to you for providing information that may be helpful as we strive to achieve that goal.

I have forwarded Chief Justice Broderick's remarks to Department of Law and Public Safety Attorney General Peter C. Harvey so that he may review the information set forth with all due attention and consideration.

My administration is committed to providing a state government that works for all the people of New Jersey. With stability and dignity, we have the power to make our lives better.

Richard J. Codey
Acting Governor
Trenton, New Jersey

Smaller Is Not Always Better

I personally disagree with the letter "Support For Smaller Journal" in the November 2005 issue, which suggested the standard journal size is too large and cumbersome. The current size of the Notary journal is consistent with a standard 8½-by-11 piece of paper and is easily stored in a locked file cabinet or office drawer. I can't imagine putting the

required information for an entry on a smaller page. It is our job to document as much information as possible to keep a record of the documents being notarized and how the signer was identified.

It may seem like an inconvenience to document so much information, but that's our job and it is a way to protect ourselves and signers.

Janis Bottorff
Ridgecrest, California

ID Rules Are Important

The July 2005 "Nuts And Bolts" was a good reminder that there are aspects of notarization where there are no gray areas for compromise. However, you did leave out one very important situation where Notaries must all say no. In 14 years as a Notary, I have often been presented with identification that does not meet California's statutory requirements. When a Notary is presented with identification that does not meet his state's requirements for notarization, the Notary must say no. Sometimes I feel like the hardest-hearted Scrooge in the world, but it is necessary for my protection and for the signer's protection. I explain why it cannot be used and suggest alternative methods such as credible witnesses.

Charles E. Roath
Long Beach, California

Letters To THE NATIONAL NOTARY

We welcome letters, comments and questions from our readers. You may e-mail us at: publications@nationalnotary.org.

Fax us at (818) 700-1942 or send mail to: National Notary Association, Editorial Department, 9350 De Soto Ave., P.O. Box 2402, Chatsworth, CA 91313-2402.



By Jim Petro, Ohio Attorney General

petropassport@ag.state.oh.us

Staying Ahead Of Identity Theft

ID Verification Passport Program: One Year Later

In December 2004, my office launched the Ohio Identity Theft Verification Passport Program — a comprehensive recovery solution for victims of ID theft using advanced biometric technology originally developed for Notaries by the National Notary Association.

Now, one year later, Ohio victims of identity theft have a simple, yet effective tool that assists in the recovery process for this insidious crime — a crime that not only attacks an individual's financial status, but also strips them of their good name.

Ohio victims of ID theft can apply for a Passport card at one of almost 900 police stations equipped with the NNA's Enjoa®. To date, 380 victims have applied for a card and my office has issued 293 Passports.

After a police report is taken, the police officer — at the request of the victim — files the victim's Passport application, which takes less than 10 minutes to fill out. Aside from personal information, the officer electronically captures the victim's fingerprint, photograph and signature using Enjoa. The police report and application are sent instantaneously to my office through a secure Web

site called the Ohio Law Enforcement Gateway (OHLEG). The information is then verified and a Passport card with a unique identifier number is issued.

When dealing with creditors and law enforcement personnel, victims can present their Passport card as conclusive proof that they have been the victim of a crime. For many, the most burdensome aspect of recovering from ID theft is proving time and time again that one is in fact a victim. As the Passport is only issued after a police report is taken, and requires the victim to leave biometric identifiers behind which can be used to conclusively prove identity, the Passport card greatly expedites the recovery process.

Just ask Sara Shaffer.

After being pulled over for a minor traffic violation, Bowling Green resident Sara's life took a nightmarish turn. "When the officer came back from running my information, he asked me to step out of the vehicle, put me under arrest and impounded my car," Sara later told my office.

That was when Sara learned her identity had been stolen by a former acquaintance who

used Sara's name when she was cited for a traffic accident. Sara was taken to jail and her car was impounded. She had to go to court to prove her innocence, was later sued by the couple her impostor had hit and eventually had her driving privileges suspended by the state until 2009 — all for crimes she never committed.

I am pleased to report that my office was successful in reinstating Sara's driving privileges, and her story was the catalyst for the Passport program.

Sara stood by my side last December when we launched the program, and she was issued the first Passport card.

The U.S. Department of Justice was quick to lend its support for the program, providing \$250,000 in matching funds to assist in its launch. The DOJ is reviewing the program with the hopes of offering funds to other states.

My office and the NNA are fielding inquiries about the program from across the country. Perhaps soon, law enforcement officials nationwide will have an effective new tool to assist victims. And ID theft victims will be one step closer to regaining their good name.

Jim Petro was elected Ohio's 46th Attorney General in January 2003 and was the recipient of the NNA's 2005 March Fong Eu Achievement Award for his work in assisting victims of identity theft.

AssociationNews

Ambitious Agenda Set For Washington Conference

“Tradition of Trust, Spirit of Innovation” is the theme for the 28th annual National Notary Association Conference at the Crystal Gateway Marriott in Washington, D.C., May 27–31.

The Conference will offer a general session to illustrate the main theme, as well as more than 30 skill-building certificate workshops that cover small business strategies, Notary basics, eNotarization and the Notary Signing Agent field.

Also planned are computer lab demonstrations, exhibits featuring notarial products and services, and an accredited legal professionals’ program.

As is the case with all NNA Conferences, dynamic, nationally renown leaders will be the keynote speakers at the Kickoff Breakfast and the Farewell Banquet.

The NNA is also arranging the Conference schedule to allow attendees ample opportunity to relax or explore the sights of our nation’s capital.

The Conference will also host the 2nd International Forum on eNotarization and *eApostilles*. The 2006 International Forum, which will be by invitation only, is building on the success of the 2005 Conference in Las Vegas, Nevada, that



The National Notary Association will hold its 28th annual Conference, themed “Tradition of Trust, Spirit of Innovation,” May 27–31 in our nation’s capital.

included participants from more than 30 nations.

To sign up for the NNA’s 28th annual Conference, please call (800) US NOTARY or click on the Annual Conference link at www.NationalNotary.org.

NNA Partners With Chase

The National Notary Association is partnering with Chase Card Services to offer NNA members a new

Platinum Visa card with additional benefits. The first time members use the card, they receive a rebate of \$45, the value of a one-year membership with the NNA.

The card features a “Flexible Benefits” program. By using the card, members can earn points toward cash, travel and merchandise. The program also offers low rates on purchases and balance transfers.

The card features the NNA and Chase logos over a background of a waving U.S. flag. To get the card, members can apply by phone at (888) 215-3047 or online at www.NationalNotary.org/Chase.



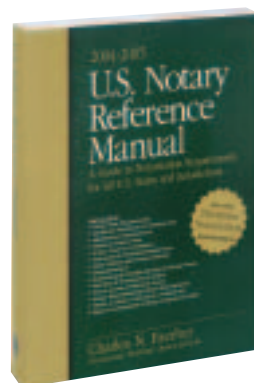
New Notary Reference Manual Available Soon

The NNA has updated its foremost guide on notarial regulations to reflect the numerous changes made to state Notary laws over the past two years.

The *2006-2007 U.S. Notary Reference Manual* — the definitive and comprehensive guide to notarization requirements for the United States and its territories — will be available January 15.

The *Manual* presents information on notarial

procedures, certificate wording, seal requirements and other useful information in an easy-to-find format. Each state chapter includes citations of relevant statutes and case law, along with addresses and telephone numbers of state Notary-regulating agencies. Other topics include electronic notarization laws, identification requirements, recordkeeping responsibilities, authentication procedures and fees.



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AssociationNews



Signing Agent Performs More Than 18,000 Notarizations In 2004

Some Notaries perform a handful of notarizations each year.

Others complete a few thousand. But in Chattanooga, Tennessee, businesswoman, Notary Signing Agent and NNA Notary Ambassador® Samantha “Sam” Klaburner has drastically redefined notarial one-upmanship. In 2004, she performed a staggering 18,793 notarizations — a monumental workload that has earned her a reputation for achieving unparalleled heights of industriousness without sacrificing professionalism and integrity.

A commissioned Notary Public in Georgia and Tennessee, Klaburner is the owner of Out-source Business Group, a professional services firm providing notarial, paralegal, real estate and insurance services. The business keeps her constantly on the move, so she has transformed her sport utility vehicle into a virtual office, complete with supplies, a laptop and an army of wireless devices. As she travels throughout eastern Tennessee, the job takes her to businesses, schools, athletic fields and private homes.

Klaburner estimates she works more than 100 hours during her six-day work week.

“Sometimes I feel as though it is a major accomplishment that I made it through a grueling day, and I still try to push myself to the next level,” Klaburner said.

Many of Klaburner’s notarizations are related to her non-profit group, the National Association for the Safety of Teenage Drivers — a

group dedicated to keeping teenage drivers safe and responsible. She co-founded the organization in 2000 with her colleague, Maura Doyle, in response to several preventable teen traffic deaths in her community.

As part of the organization’s agreement with young drivers, a student and a parent will sign a contract stating that the student will do his or her best to be a safe driver and not drink and drive. Having the contracts notarized has a much stronger impact than just having each person sign on a dotted line, Doyle said.

In addition to notarizing loan closings and foreclosures, Klaburner also gets a lot of work from performing jurats and acknowledgments for several agencies which require prospective employees to obtain notarized drug screenings.

With no intent of slowing down, Klaburner said she performs an average of 40 to 70 notarizations per day.

When a local factory closed in 2004 and was forced to lay off its 2,000 employees, she was tasked with notarizing paperwork for the disbursement of each employee’s final paycheck.

Throughout her career, Klaburner has maintained a steadfast commitment to ethics and integrity.

“Sam has a reputation for impeccable work in every aspect of her notarial duties,” Doyle said. “She is noted for her strict adherence to Notary policy and procedure. She also has a phenomenal understanding of Notary law in Tennessee.”

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NATIONAL NOTARY ASSOCIATION
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FRANK

By Armando Aguirre

publications@nationalnotary.org

Franc Marcial is nothing short of a powerhouse in his career as a Notary Signing Agent and as a champion of the needy. He personifies the ideals of integrity, impartiality and competence that are the cornerstone of the Notary Public office.

While he grew up in a world of poverty, he has become a model of success for Notaries across the nation, and can list a lifetime of accomplishments rooted in consumer finance, insurance sales, the armed forces and philanthropic endeavors.

Because of his work ethic, aggressive promotion of high standards and his compassion toward the less fortunate, Frank Marcial has been named the National Notary Association's 2006 Notary of the Year.

His Notary Signing Agent business, CFC Professional Signing Services, is so successful that he performs loan signings full-time, despite the fact he has a real estate license. His signature and stamp on loan documents are in high demand because of his meticulous attention to detail and unwavering ethical standards.

"When you grow up with nothing, you never feel like you're going to be anything. I surprised even myself," Marcial said. "I stumbled into being a Notary. Back then, I had no idea that I would be able to make a very good living out of it."

After work, Marcial leads humanitarian missions for the Feed the Children organization, which collects food and clothing for the poor and displaced. His most recent mission was providing relief to the Gulf Coast states, where he led a caravan carrying food and supplies to the hurricane-ravaged area.

"I will do everything I can to help the poor or the needy of the world," said Marcial, who lives in Stevenson Ranch, California, a suburb



MARCIAL

2006 Notary of the Year

in the northern part of Los Angeles County. "I know that I can't help everyone. But if I can help a few people, well, then that's a start."

But his credentials don't end there.

He has served in the Army National Guard, is an FAA general aviation pilot, a major in the U.S. Air Force Auxiliary Civil Air Patrol with numerous decorations, became a certified NSA through the National Notary Association's program, and even developed his own Notary Disclosure Notice, which he uses in his field and office signings to disclose his non-attorney status.

He is also a proud husband and father.

Carolyn Marcial said her husband's adherence to high ethical standards is what she finds most appealing about him. "I'm very proud of him and everything he's done. He always puts himself second. That's why I'm glad he got this honor. This is all for him. It makes me extremely proud."

Notary Signing Agent Success

"Being an NSA allows me the freedom to do my charity work and enjoy my family. If I were working for a big firm, there is no way I would have been able to run the relief effort to the Gulf Coast. I would have been tied to my office," Marcial said. "Being an NSA allows me to live life the way I want and to do the good things I want to do."

It's been a very good living indeed: Marcial earned a healthy income in 2004 as a Notary Signing Agent and was well on his way to topping that amount in 2005. He does so much business that First American Title Corp. has granted him an "office" in their building — their executive meeting room.

"This is a full-time position for me and I cover all of California," said Marcial, who said he makes himself available for signing appointments "24/7 — including weekends and special emergency trips, no matter where."

Marcial, who has incorporated his business, performs all loan signings himself.

"There is no subcontracting. If I'm booked, then I try to see if a different time will work or maybe the next day," he said. "No overbooking is my policy.... Title companies, banks and attorneys appreciate this policy."

Among the clients Marcial has served are First American Title, Stewart Title of California and Fidelity Title Company.

"He is our number one choice for loan signing assignments. He is as patient with the clients as he is meticulous in carrying out the notarizations," said Deborah M. Erickson, a senior escrow officer with First American Title. "He is very professional and always dresses professionally. He is an extension of our company."

Marcial turned the company's unpleasant business reality into a boon. He initially was contacted to "clean up the mess" made by another Notary Signing Agent, Erickson said.

"Unfortunately, not everyone shows the attention to detail that is required for this work. Frank was recommended by one of our colleagues who was familiar with his work and it has paid off for us," she said.

One of the things that makes Marcial such a valuable part of her organization is his integrity, Erickson said.

"Frank holds the bar very high when it comes to ethics. He's not interested in cutting corners to make the sale. Doing it the right way is the most important thing to him," she said.

Humanitarian Missions

For more than 10 years, Marcial has been gathering truckloads of food and other goods for the poor. For years, those donations have been delivered to the Los Angeles Mission. But when Hurricanes Katrina and Rita devastated the Gulf Coast, Marcial mobilized a band of volunteers to execute one of the largest and most strenuous logistical tasks they have ever endured — delivering relief supplies to thousands of the victims.

Hurricane Katrina forced the closure of the airports in Baton Rouge, and the New Orleans airports were open only to military personnel.

So Marcial and his wife, Carolyn, flew from Los Angeles to Birmingham, Alabama, after a short stopover in Denver, Colorado. A cross-state drive culminated in a rendezvous with his Feed The Children big rig in Meridian, Mississippi.

"We slept in our rental car in front of the Feed the Children truck in order to caravan into New Orleans the following morning. Authorities were not allowing passage at nightfall and there was no available lodging," he said.





Carolyn and Frank Marcial

The chief of police for Harahan, Louisiana, arranged for entry to the town so the caravan could bypass the flooded areas. Then, upon entry to North New Orleans, the State Police directed him to the Houma, Louisiana, drop-off location. The damage they saw was staggering.

“I cannot even begin to adequately give a description of the devastation my wife and I witnessed during our trip. This was an extremely emotional journey for us,” Marcial said. “In our decade of charity work, it was the worst circumstances we had encountered.”

His concern extends beyond those signing contracts and those in immediate need. His Stevenson Ranch neighbors know he’s there for encouragement, support or whatever else is needed.

“Frank is like the neighborhood dad. He keeps an eye on the neighborhood,” said Lynn Pagaragon, his next-door neighbor of 12 years. “It’s those small, everyday things that count for so much.”

Early Influences

Frank Marcial grew up poor on the streets of Torrance in Southern California’s South Bay area. His sense of charity and generosity came from his childhood experiences.

“We didn’t have a lot growing up — in fact, we didn’t have anything. I know what it is like to go two, three days without food, Marcial said. I remember very clearly a priest coming to our door in the rain with bags of groceries to help us make it through the week. I remember my stepfather took us to the L.A. Mission to eat.”

But his childhood traumas had a surprisingly positive effect on Marcial’s world view. Rather than hoarding wealth and success for himself, Marcial took a different approach.

“I made a promise to myself back then that if I ever became successful, I would help people less fortunate than myself in any way that I could,” he said.

Not having much in the material world motivated Marcial to

achieve success far beyond his own expectations. By the time he was in junior high, he had worked a series of jobs to help the family make ends meet.

Working in a Torrance liquor store planted the seeds for Marcial’s later interest in business and solidified his penchant for responsibility. While other boys his age were playing in the streets, he was learning about inventory and profit margins.

When he graduated from Torrance High in 1970, Marcial took the route of many young men looking for a way out of poverty: he enlisted in the service. Marcial admits to having a soft spot in his heart for Louisiana. It’s where he took his basic training when he entered the U.S. Army National Guard.

“I took my basic training at Fort Polk. The only regret that I have — if you can call it a regret — is that I didn’t stay in the military. But I was young and naive and wanted out,” he said.

Though he was honorably discharged in 1973, Marcial’s contract with the military required that, for four more years, he be ready at a moment’s notice for deployment.

Leadership Role

Marcial remained connected to his military influences and is now a major in the U. S. Air Force Auxiliary, aka Civil Air Patrol (CAP), where he has impressed his colleagues and superiors with his take-charge attitude and inventiveness.

“Some people didn’t know how to handle a situation politically. But Frank has a calming effect on the hotheads which allows him to take charge and handle a situation. He fits in perfectly,” said Air Force Colonel Angelo Porco, Pacific Region Legislative Officer for the CAP.

When Congress threatened to cut back on funding for the CAP, Marcial wrote a manual aimed at helping rank-and-file members foster better relationships with their elected officials.

Known as the Legislative Manual for the California Civil Air Patrol Legislative Forum, Marcial wrote in its preface, “We believe it is a matter of sound public policy and fiscal responsibility for our elected representatives to utilize this force of volunteer professionals in the fields of emergency services, aerospace education, and the CAP Cadet Program which play an important part in the crucial task of bringing up our children as tomorrow’s leaders.”

First Notary Commission

His first job upon returning to civilian life was as an account executive for Avco Financial Services in Torrance.

“They required that there be a Notary on staff. Being the new kid on the block, I was elected. That’s also when I joined the NNA,” he said.

He rose quickly to credit manager, then branch manager and took his financial expertise to other positions in the industry, all the while maintaining and using his Notary commission.



He still has a copy of his first commission certificate — signed in 1974 by then-California Governor Edmund G. Brown, Jr.

His Notary commission and his NNA membership have gone hand in hand over the years, and *The Notary Public Code of Professional Responsibility* has reinforced his philosophy about his life and work.

“One of the most important things I’ve learned in life is that you have to be honest with yourself and everyone around you. Truthfully, it’s easier that way because there’s no need for explanations later,” he said. “The Notary profession’s standards dovetail with that thinking: Be honest, be fair, be compassionate, and be aware.”

Though Marcial has a bachelor of science degree in business administration from Columbia State University in Louisiana and a certificate in microcomputer business applications from the College of the Canyons, California. Marcial said his main education in business came on the job.

“It’s like a doctor getting his medical degree after he’s performed surgery,” Marcial laughed. “I came from an extremely poor family and we didn’t have the ability to pay for a higher education, so my formal college education came after the fact.”

Triumph Over Adversity

It was 1997 when he had a life-changing experience that led to his becoming a full-time Notary Signing Agent. An auto accident left him hospitalized for several months.

No longer able to work in a traditional office setting, Marcial found that being a Notary Signing Agent allowed him the freedom to pick and choose when and where he wanted to work. With his drive and sense of professionalism, it was only a matter of time before he was dominating the marketplace.

Marcial’s signing business has given him the freedom that none of his previous jobs could have. And the public servant in his soul has found the right job for the material world.

“I love being a Notary. I think this is a wonderful profession. I’m a very lucky guy. I get to travel all over the state. I get to meet wonderful people. I get to see the business and geographic landscape,” he said. “I wouldn’t trade it for anything. I get to meet a lot of high-powered people as well as simple folk. Notary work is a great public service.”

At 53, Marcial considers himself to be the luckiest guy on the planet. He and Carolyn have five children: Jamie Smith, 32; Jeanelle Smith, 30; Josh Marcial, 23; Ashley Marcial, 21; and Christopher Marcial, 18.

“He came from a very hard place in his childhood and he has struggled to make something of himself,” Carolyn Marcial said. “Twenty years ago when we met he told me, ‘I’m going to make something of myself.’ And look at him today. He accomplished it.” **NNA**

The Notary Of The Year: Selecting The Best Of The Best

There are more than 4.5 million Notaries across the United States. So how do we choose the best of the best?

That question, posed every year, was again foremost in the minds of the NNA’s Notary of the Year Executive Committee when selecting the 2006 Notary of the Year and the four Special Honorees.

To say that this is a difficult task would be a vast understatement. The country is full of top-notch Notaries, so how do you even begin deciding who truly are the *crème de la crème*?

“We look for exemplary performance not just as a Notary, but in a variety of other areas as well,” said Charles N. Faerber, the NNA’s Vice President of Notary Affairs, who has served on the selection panel since the award’s inception in 1990. “Going above and beyond as a Notary is very important, but that alone isn’t enough to distinguish the type of individual we’re looking for.”

And that’s why, during the interviews of candidates, Notaries are asked not only about their performance as public officers, but queried for examples of their initiative and public-spiritedness; their service to those who are disadvantaged; their success in achieving needed statutory changes; their introduction of innovative and effective procedures; and any other accomplishments that set an example for Notaries and other public officials. Not all selectees excel in all of these areas, but every Notary of the Year and Special Honoree is more than just a super-competent Notary.

“We’re not just looking for the best Notaries. We’re looking for well-rounded individuals who can represent other Notaries and make them proud,” Faerber said. “This year’s winners are a prime example of just that.”

The search for 2006 is over, and now the search for the 2007 Notary of the Year has begun. If you feel someone is deserving of the NNA’s prestigious annual honor, print out and submit a nomination form at www.NationalNotary.org or call the NNA’s Public Affairs Department at (800) US NOTARY, ext. 4049.

— **Nevin Barich**



Dellana Herrera

Providing Notary Education In Her Community



From: Page, Arizona

Occupation: Office Manager and Emergency Medical Technician, Page Fire Department

Years She's Been A Notary: 6

Why She Became A Notary: Her supervisor wanted a Notary on staff in order to perform notarizations and avoid having to make frequent trips to City Hall or banks.

Driven by an uncommon desire to serve, help and teach others, Dellana Herrera has become an active champion of Notary education and ethics in her community.

A veteran local government employee, Herrera began her six-year journey as a Notary to help reduce red-tape within city operations. Since then, she has prided herself on serving Page, Arizona's, 6,000 residents as well as any other state citizens who request her notarial services.

But it wasn't easy learning the ropes of the often-challenging notarial role.

"It was a very big eye opener when I became a Notary," she said. "There were no explanations as to what it entailed."

Still, she was determined to find answers. She began a soup-to-nuts regimen of personal research to boost her knowledge and ensure solidly ethical, detailed and professional notarizations.

"When I do a notarization correctly, this document is going to stand up for a long time," she said. "Twenty years from now, this document is still going to be there."

Today, studying the complexities and responsibilities of the Notary Public office remains an ongoing process. And, with characteristic selflessness, Herrera shares her wealth of knowledge with others.

A commissioned Notary since 1999, Herrera is the office manager for the city's Fire Department. She supports 12 full-time and 18 reserve employees who serve the community, located near Lake Powell, the Grand Canyon and the Navajo Nation lands. She is also an Emergency Medical Technician and responds to several calls for service each week.

As part of her passion for education, Herrera regularly distributes copies of quizzes and other articles from *THE NATIONAL NOTARY* to other city Notaries. She has also given presentations on Arizona Notary law to students in local high school business courses and to city employees.

A stickler for notarial ethics, Herrera has always maintained a journal and requests that each client give a thumbprint, despite the fact that Arizona law does not require it.

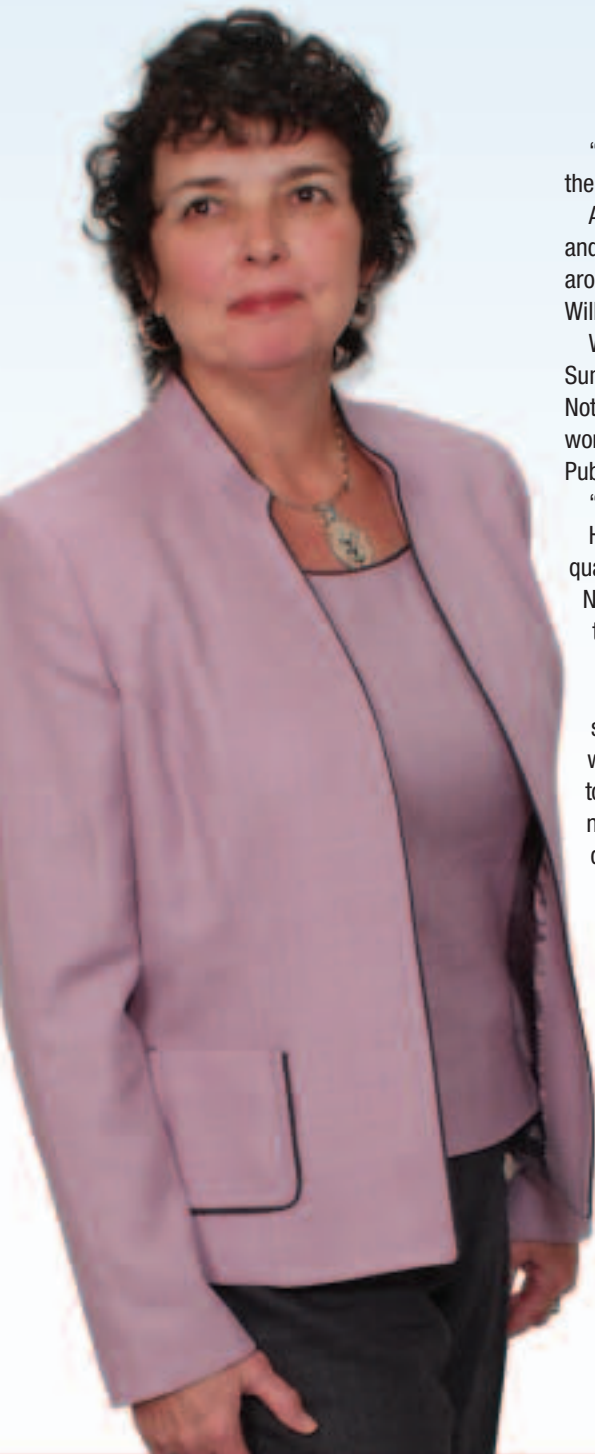
An active community volunteer, Herrera is involved in a number of charitable activities, including organizing teams for the American Cancer Society's Relay for Life, an annual event that raises funds for breast cancer research. She has also volunteered for Hunt for a Lifetime, an organization that takes terminally ill children on hunting and fishing trips. Since 2001, Herrera has served as a Notary Ambassador for the National Notary Association and is currently the only person in that role for the state of Arizona.

Herrera's city government colleagues laud her commitment to professionalism. "She is remarkable in her organizational skills and has proven this in her service to the City of Page," said Linda Watson, who serves as the city's finance director. "It's important for us Notaries that we have a local contact. For me, that's Dellana. She's just a wealth of knowledge."

— **Michael L. Pucci**

Mimi Roy

Above And Beyond The Basics



From: Clarksburg, Massachusetts

Occupation: Notary, Executive Assistant and Mortgage Consultant, Williams College; also co-owner, NAPA Auto Parts Store and Machine Shop in North Adams, Massachusetts.

Years She's Been A Notary: 30

Why She Became A Notary: Obtained commission when she first started working at Williams College to notarize school-related documents.

"Above and Beyond" are the words Mimi Roy lives by. For her, being a Notary is not about the money; it's about a genuine love of serving her community and helping others.

A veteran Notary with three decades of experience, Roy has built a reputation as a dedicated and honest official witness at Williams College in Massachusetts. Word of mouth soon got around that she was the "go-to" Notary, and document signers from both the campus and Williamstown have long sought her out.

With a sterling reputation, it's easy to see why nearly 200 harried students showed up one Sunday asking for her help in notarizing their absentee voting ballots — a task that most Notaries would be well within their rights to reschedule. But Roy gladly took the challenge, working four consecutive hours to help them. To her, the extra effort is what being a Notary Public is all about.

"It's important for a Notary to go above and beyond," she said.

However, helping signers doesn't mean bending or breaking the rules. Her three critical qualities for a successful Notary are "honesty, integrity and precision." She encourages Notaries to study their state laws and keep up with current rules, even organizing a group trip to a notarization seminar in Springfield for some colleagues who were concerned about recent changes in state law and were considering resigning their commissions.

"When the Governor signed his Executive Order for new Notary regulations, there were some Notaries who were unsure they wanted to renew," Roy said. "They feared the changes would be very time-consuming and didn't want to deal with them. I asked them if they wanted to come with me to the seminar in Springfield. They found it helpful and decided to renew. I feel notarization is a very important service to the community. It's so much better for us to stay up to date with rules and regulations, so that we can deal with any situations that might come up."

Notaries need to study and know their duties so they aren't caught off-guard, Roy added. "When someone comes to you and makes a request, it's the wrong time to pull out a book and start studying," she said. "I would say, read the regulations and know your material. It's easier to refresh your memory beforehand."

Roy's community service isn't confined to her Notary work. She has worked to raise funds for a cancer charity, and she and her husband often sponsor a "cruise night" at the automotive parts store they own, featuring hot rods, music, raffles and food to raise money for charitable causes.

"Mimi never denies help to anyone and is always ready to research and find the best answers and background available," said co-worker Shelby LaCosse. "She is always exceptionally careful to hold herself, as well as her clients, to the highest of standards when conducting Notary business."

— **David S. Thun**

Cynthia Shaffer

Helping Our Soldiers And Their Families

From: McChord Air Force Base, Washington

Occupation: Automation Assistant for the U.S. Air Force

Years She's Been A Notary: 5

Why She Became A Notary: To help the thousands of servicemen and women on her base who routinely need documents notarized, such as powers of attorney.



When Cynthia Shaffer is face-to-face with U.S. soldiers, airmen and their families, she knows that they're dealing with matters of life and death. With two children of her own who are either currently or soon to be in active combat areas, Shaffer has a kinship with her signers that few Notaries have.

"All deploying families experience different levels of anxiety, sadness, eagerness and other related emotional concerns when they are first alerted to their deployment for the specific amount of time," said Shaffer, whose stepson, Barry, 29, is serving a third tour of duty in Iraq, and whose daughter Jill, 23, will be leaving for her second tour next June.

"As a mother and military spouse for many years, I understand and can relate to many of these same feelings, which helps tremendously in comforting those placed in similar situations," said Shaffer, who has five children in all.

Shaffer has had a lot of signers with whom she's shared this sense of kinship. In 2004, Shaffer completed 4,122 notarizations, and she expects to complete more than 4,600 by the end of 2005.

"The military is my second family. These young men and women deserve the best possible care and consideration," Shaffer said. "I know our soldiers receive the best training and equipment our nation has to offer, and I take comfort in knowing that the leadership is the best in the world. I am so proud of our military and my children serving their country, and it is a privilege and honor for me to provide these services to those in uniform."

Shaffer doesn't just make sure that she can handle the notarial needs for the soldiers at McChord, but makes sure the people around her can help as well. Shaffer has taken it upon herself to aid her base's military personnel by educating them on notarial functions. Shaffer holds meetings on Notary law and basics — for which she created her own

PowerPoint presentation — for her unit's lieutenant colonel and other military paralegals.

"Notary education is extremely important," Shaffer said. "Even though I've been a Notary for five years, I still look at my reference books on a regular basis. There needs to be mandatory education for Notaries in Washington. As Notaries Public, we are faced with things that you should do and things that you should not do. It is important that, regardless of what part of the country we're in or job that we do, we are consistent across the nation. I attended a seminar in Seattle when I became a Notary and it proved to be very helpful."

It has been very helpful — not just for Shaffer, but for the thousands of people she serves every year.

— **Nevin Barich**

Barbara J. Taylor


Building Communities And Opportunities For Notaries

From: Baltimore, Maryland

Occupation: Founder/President/CEO of Mobile Notaries Group and Business/Training Manager of Anjum Training Temp Services

Years She's Been A Notary: 5

Why She Became A Notary: Taylor became a Notary because it makes her very proud to assist others, and proclaims she has a mission to train as many people as humanly possible.



Barbara J. Taylor personifies leadership. Her desire to guide others to success has laid the groundwork for her current philanthropic business ventures.

In fact, there are few things she enjoys more than helping people reach their goals. From the beginning of her Notary career, she has worked with her peers to help drive them to greater levels of success.

She applies this passion as the CEO, founder and president of the Mobile Notaries Group — a network she launched for Notaries in the Baltimore, Maryland region.

“I joined the NNA when I started doing some signings, and I began to come across Notaries who were looking for work, and someone recommended that I start up a training group,” Taylor said.

“Through that experience, I began recruiting other Notaries. Eventually, we put our heads together and came up with a networking group.”

While Notaries make up the majority of the growing organization, some members are from other career fields, which expands the group’s networking possibilities and contributes to the organization’s success.

“Our members include construction workers, a fire marshal and some others,” Taylor said. “This really helps, because when I get faxes from people looking for a Notary, I’m able to pass along information regarding any other trades they might also be looking for.”

When not managing her group, Taylor works on a project that took her months to start up and is near and dear to her heart: she’s the business manager/training instructor of Anjum Training Temp Services.

“That’s my baby,” Taylor gushed. “I had to fight for more than two years to get it off the ground!”

Taylor also makes it a point to use her Notary office to help those who might not otherwise have access to notarial services, such as senior citizens who are limited in their ability to travel or live on a fixed income.

“I really like being able to help people in need, especially seniors who can’t afford the fees,” Taylor said.

Taylor’s emphasis on beneficially impacting the lives of others contributes to her remarkable character, which is why she was selected as a 2006 Notary of the Year Special Honoree.

“You are sent here to learn, not to be selfish with the knowledge you’ve been given,” Taylor said. “When I leave this earth, I’ll make sure to tell God I tried to train everyone I possibly could. Everything I’ve learned has kept me afloat and taught me that you can achieve any goal as long as you put your mind to it.”

— **Joseph E. Craig**

After The Hurricane A Storm Of Legal

Destroyed homes. Flooded streets. Evacuees desperately fighting to leave ravaged cities. These images were indelibly etched in the minds of Americans after Hurricanes Katrina and Rita devastated the Gulf Coast. While cities such as New Orleans, Galveston and Biloxi have begun recovering from the infrastructure damage, the scope of the personal damage is continuing to emerge, causing a storm of complicated legal dilemmas for Notaries.

Countless caches of important documents kept in homes, law offices, banks and other locations were lost or destroyed in the watery onslaught, leaving the custodians with little or no documentation from before the disasters. The effects are being felt widespread across the region, as many real estate transactions have halted, court cases have been stalled, and citizens are having major difficulty rebuilding their lives.

H. Rodger Wilder, a Notary and attorney in Gulfport, Mississippi, encountered these problems firsthand after the hurricanes struck.

"We have many law offices, accounting offices, banks and other places where you would normally expect people to have copies of important documents that have been destroyed," he said. "I have people from my office who literally had their houses obliterated. When they go to an attorney's office, they find it has had the same sort of loss."

Many Notaries also suffered major property losses, including their seals and journals, making it even more difficult for them to perform their duties at shelters and recovery centers.

"I was able to recover my Notary tools, but my secretary could not," Wilder said. "There are documents that must be notarized and sworn to, and apparently finding Notaries who are in a position to help out has been an issue."

Gulfport, Biloxi and New Orleans are not the only cities

impacted by massive losses. "The entire court system has been affected in the entire Gulf region," said attorney Alan Kopit, legal editor for lawyers.com. "Real estate transactions are not moving forward. Other commercial transactions are not happening."

Still, every cloud has a silver lining. Kopit said the extensive damage is spurring a new drive to modernize recordkeeping in an electronic format, which can be stored at remote locations. The hurricanes proved that storing paper documents in an office or other off-site location in a hurricane-prone area can be ineffective. It also does no good to store records in your home, then send photocopies of your important records to be stored on the opposite side of town, as both locations could be destroyed.

Conversely, electronic documents can be copied and relayed out of harm's way through a network or the Internet far more quickly than paper documents — a point now being driven home to legal offices and courts, Kopit said.

"I think ... we are going to go to completely electronic files that can be stored off-site," he said. "This is going to accelerate the paperless society we've been talking about for years. Wouldn't it be nice if all of those records lost in New Orleans had



Canes: Legal Issues

By David S. Thun
dthun@nationalnotary.org

been stored electronically in Baton Rouge? As with every crisis, this has focused attention on defects in our system."

Though ensuring the safety of loved ones and dealing with property damage has taken precedence over dealing with paperwork, Wilder said there remains a definite need for Notaries during the post-hurricane recovery period.

"If you need notarized documents to apply for benefits, finding a functioning Notary becomes important, especially when communication and transportation has become limited in a situation like this," he said. "It takes quite some time just to drive a few blocks, with traffic the way it is."

While victims will have a definite need to call on the services of Notaries to aid in restoring their records and important papers, notarizing for victims in the affected areas has been yet another challenge. Many victims lost driver's licenses, birth certificates and other documents. With so many

persons lacking proper identification, Notaries have found themselves in a difficult dilemma, wishing to help victims, but at the same time often at a loss of how to discern the genuinely needy from impostors.

The NNA has recommended alternatives for Notaries who

are approached by hurricane victims who lack satisfactory evidence of identity. One approach is to locate persons who can serve as credible identifying witnesses to vouch for the victim's identity. For example, if the victim was staying with friends or relatives, those persons may be able to serve as credible witnesses in lieu of an identification document. Another alternative, if the victim is staying at a shelter, is to ask a shelter official to serve as a credible witness. A detailed list of suggested guidelines for states sheltering evacuees is available at www.NationalNotary.org.

With the proliferation of fraud and charity scams that followed in the path of the storms, the need for care and diligence on the part of Notaries aiding victims is paramount. The Federal Trade Commission has published warnings for consumers about schemes such as persons approaching victims at shelters claiming to be government officials. These spurious officials then ask for personal identification from victims, or solicit money in exchange for false claims of expediting disaster relief benefits, according to the FTC.

Notaries must be vigilant against persons using stolen IDs from hurricane victims to assume another person's identity to collect their benefits under false pretenses, warned Phil Daddona and Heather Cross, senior officials with FTI Consulting, a firm that specializes in restructuring and consulting for corporations hit by disasters. According to Daddona and Cross, there have been reports of people stealing names and Social Security numbers from the sign-in sheets at shelters.

The best thing for a Notary working with victims to do is be alert and trust any intuition that warns of possible fraud, Wilder said. He urged fellow Notaries to be careful when performing their duties during the

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post-hurricane recovery period. “Notaries should exercise extra diligence when performing their duties in this situation,” he said.

Along with exercising extra diligence and care, one of the best ways Notaries can help victims is by simply showing a bit of extra compassion and patience when notarizing

documents, Wilder said.

“These people have suffered a great deal from the storms,” he pointed out. “Understand that, and go the extra mile to help these folks get their lives back together. A way to help may be nothing more than being cordial while helping these people get their lives together.” **NNA**



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Notary Myths

It's Time To Debunk The Misconceptions Of The Notary Public Office

By Nevin Barich
nbarich@nationalnotary.org

The Earth is at the center of the universe. Thunder and lightning are caused by angry gods. An amphibious serpent known as the Loch Ness Monster lives in Scotland.

All of these are examples of myths that, for centuries, people believed to be true. Myths explain the unknown and are found in every aspect of human existence, from astronomy to medicine to natural disasters. And the Notary field has its share of myths as well — even today.

The problem with Notary myths, however, is that many people believe them to be the truth and nothing but the truth. Many people, for example, mistakenly think that notarizing a document will automatically make it legal. Some believe that Notaries can give legal advice about the documents they notarize. Still others have the notion that Notaries don't have to actually see every page of a document in order to notarize it. These ideas are like most myths: Simply preposterous!

It's time to debunk the major myths of notarization and set the record straight. There are certain important truths about notarial powers and duties that too many people are unaware of. Understanding these truths will lead to fewer improper requests for notarial services and wider appreciation of the Notary's limited but critical role.

Notary Myth: Notarizing Makes It Valid And True

Many people believe that the act of notarizing automatically makes a document legally binding.

This is one of the major myths about the Notary office. To the Notary, the contents of the document are, effectively, irrelevant. Notarizing the document is not meant to confirm its truthfulness or legitimacy. Rather, notarizing ensures that the signer whose name appears on the document is indeed who he or she claims to be, and that the person understands and willfully signed the document.

"Thinking that notarizing the document makes it true is one of the major misconceptions that people have about the Notary office," said Charles N. Faerber, the NNA's Vice President of Notary Affairs. "They need to understand that the Notary's role is essentially limited to screening the signers who appear before them. Other than a cursory review of the document to check for blanks and extract certain information for the journal, the contents of the document should be of no concern to the Notary."

Indeed, a Notary does need to scan a document to make sure that it doesn't contain any blanks — so that unauthorized information isn't written into the document later, with the appearance of it being approved — and to make sure that signers are actually signing the document that they think they're signing. Other than that, however, the Notary shouldn't worry about the contents of the document, because that's the concern of the document's signer.

Notary Myth: Notaries Can Give Legal Advice

How many times has a signer come to you asking for what amounts to legal advice regarding a document? It probably happens more than we realize.

But we shouldn't be surprised that most signers are unaware that, unless the Notary is an attorney or other legal professional trained in a field pertinent to the document in question, he or she cannot lawfully answer any questions regarding the document nor tell the signer what notarial wording should be used. After all, signers are not normally educated about the powers of the Notary or even aware of the Notary's role. They often go to Notaries simply because they are told to do so, and they have no idea what Notaries can and can't do.

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What Notaries must understand in these situations, however, is that even *suggesting* what type of notarial certificate to use or what something in a document might mean is not allowed. A Notary can only go so far as describing the different types of notarial certificates and letting a signer choose one, but he or she can never offer any input regarding a document.

"It may seem like common sense for a non-attorney Notary to aid a signer in selecting notarial wording, but the reality is that the choice can have significant legal ramifications and might be considered the unauthorized practice of law," said NNA Vice President and Executive Director Timothy S. Reiniger, who is licensed to practice law in California and New Hampshire. "In these cases, only an attorney, an appropriately credentialed professional, or the document's issuing or receiving agency should answer questions regarding the document and what notarial wording needs to be used."

Notary Myth: Notaries Don't Have To See Every Page To Perform A Notarization

Because notarization does nothing to verify the contents of a document, it's easy to assume that seeing the document isn't necessary in order to notarize a signature. Nothing, however, could be further from the truth.

As previously mentioned, Notaries do need to scan the document to make sure that it doesn't contain blanks, and to ascertain certain particulars about the document for a journal record (such as the type of document, the date, the names of the signer(s) and the number of pages). If a Notary were simply to see a signature page and fill out a notarial certificate, it would be easy for a signer to attach that page and certificate to a fraudulent document and thereby give it the appearance of having been notarized.

Remember: It is a Notary's duty to protect the rights of the person named in the document by having the signature on the document validated and the existence of the document noted in the public record. For this protection, some privacy must be relinquished on the part of the signer.

Notary Myth: Personal Appearance Isn't Necessary

The NNA has been asked by both signers and Notaries over the years whether notarizations can be performed if the signer is not actually present before the Notary. "Maybe," these people might say, "the signer and Notary could communicate over the phone or online, or base the notarization on the Notary's familiarity with the signature."

The way modern technology has simplified communication is phenomenal, except when it leads to the notion that personal appearance during a notarization should be left by the wayside. If the signer does not personally appear before the Notary with the document in hand, the entire notarization is meaningless, even if the document is faxed or e-mailed to the Notary.

For one thing, the Notary has absolutely no way of knowing whether the signer willingly signed the document. Think about it: If the Notary is on the phone with the signer, how is the Notary to know whether there isn't a third party with the signer coercing the notarization? How is the Notary to know whether the signer is looking at a document copy that is slightly but significantly different?

Also, how can the Notary make a journal record of the notarization when the signer isn't there to provide a signature, thumbprint and identification information? Personal appearance by the signer is crucial if the Notary is to record the notarial act in a journal, which is mandatory in many states.

"Personal appearance is the backbone of notarization," Faerber said. "The Notary simply cannot do his or her job properly if the signer is not physically present."

The same is true even if the Notary personally knows the signer, Faerber added.

"Personally knowing the signer over a long period of time gives the Notary no additional insight as to whether the signer has willingly signed a particular document," he said.

If for some reason the signer cannot appear before the Notary, the use of a subscribing witness is allowed in some states. A subscribing witness is someone who has seen the principal signer sign the document or has taken the principal's acknowledgment of the signature and appears before the Notary on behalf of the absent principal. The Notary would then give an oath or affirmation to that subscribing witness.

There must always be someone physically present before the Notary for the notarization to take place.

Notary Myth: Knowing Someone In Passing Equals Personal Knowledge

The main issue when debunking this myth is determining how long and how well a Notary should know a signer before deciding that the public officer *personally knows* the signer. Though this is a gray area, it's also one where the Notary should use commonsense judgment.

If the Notary has known the signer for several years and sees the person on a regular basis, then the Notary can comfortably ascertain that the

signer is who he or she claims to be without the use of an identification document.

However, if the signer is somebody the Notary knows in passing, someone with whom the Notary has a brief conversation with every now and again, it is best to ask that signer for a valid ID during a notarization; even if these "brief conversations" have occurred over a period of years.

"Essentially, if there is any doubt on the part of the Notary about the signer's identity without the use of a valid ID, then personal knowledge should not be used to identify them," Reiniger said. "Identifying someone via personal knowledge is ideal, but only if the Notary is 100 percent confident of doing so."

Notary Myth: Notaries Can Just Stamp And Sign The Document

If the Notary wants to perform a notarization that is not considered legal or valid, then yes, stamping and signing the document is just fine and dandy. If, however, the Notary wants the notarization to actually be *legitimate*, then he or she would never simply stamp and sign the document!

Every notarization requires certificate wording to indicate exactly what the Notary is certifying. Is the Notary giving the signer an oath? How is the signer being identified? The certificate wording answers these questions. If the certificate wording isn't already preprinted on the document, it is the Notary's responsibility to ask the signer to find out what type of certificate is needed and to provide such a certificate. It's a disservice to the signer merely to stamp and sign, because almost certainly the resulting "notarized" document will be rejected, especially if it's a recordable instrument like a deed.

The Biggest Notary Myth Of All: Signers Understand Notarization

Most signers simply do not understand what Notaries do. That means that you must have a confident grasp of what you can and cannot do as a Notary. Make sure you know exactly what must be done during all notarizations. It is incumbent upon all Notaries to separate myth from reality in order to better serve the public and raise the professionalism of the Notary office. **NNA**



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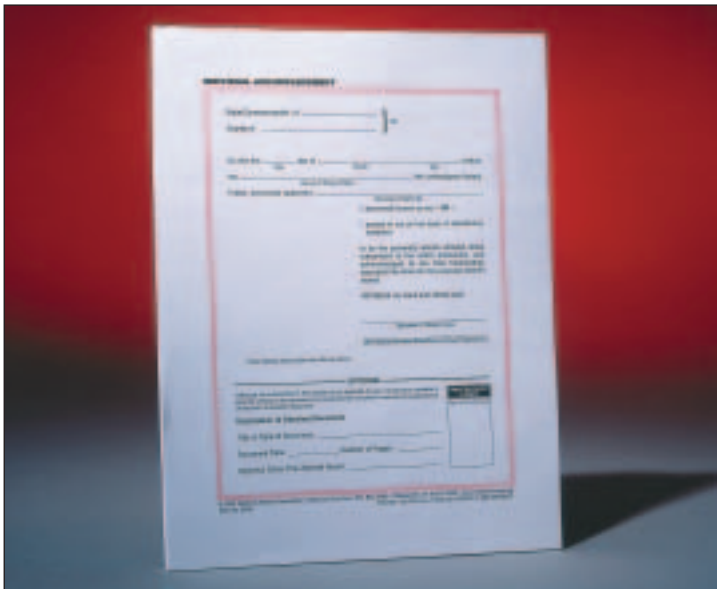
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Nuts & Bolts: Certificates

By Nevin Barich
nbarich@nationalnotary.org

They're needed for every notarization, but not everyone knows what they are and what they do.



A notarial certificate? What's a notarial certificate? What do they do? What do they look like? Am I supposed to provide them?

Every day, the National Notary Association receives questions about notarial certificates, which are the forms or wording Notaries fill out to complete a notarization.

What these Notaries don't realize is that they come across notarial certificates every day. All documents that are notarized need notarial wording — most often either an acknowledgment or a jurat — and it's usually preprinted at the end of the document. So while some Notaries may have never heard of notarial certificates, they have in fact seen them, filled them out and put their seal on them. The curious thing about the various questions regarding certificates is that they're not just coming from Notaries new to the field. They sometimes come from public officers who have been performing notarizations for years!

So it's time to answer these questions once and for all. What is an acknowledgment? What is a jurat? What does each one do? How do you know which one to use or is it even your choice? Whose responsibility is it to provide

them? Because these certificates are crucial to the notarization process, it's important that you understand their function.

Acknowledgment: The One You're Most Likely To See

The acknowledgment is perhaps the most widely performed notarial act, so this is the certificate you're likely to come across most often. Its main purpose is to ensure positive identification of the signer — to verify that the person named in the document is, in fact, the person who signed it. An acknowledgment provides assurance that a signer is not an impostor trying to benefit in some way from a falsified document.

When executing an acknowledgment, the Notary carefully identifies the document signer, who acknowledges having freely signed the document. Acknowledgment of a signature before a Notary is a critical step leading to a document's acceptance by a county recorder. Real estate deeds, for example, and many other papers relating to ownership of valuable property must have their signatures acknowledged before the documents can be placed in the public record.

So, to simplify: An acknowledgment certificate is used when the signer proves to you that he or she is in fact the willing person who signed the document and who intends to abide by its terms.

Jurat: I Swear (Or Affirm) That It's True

The main purpose of a jurat is to compel a document signer to be truthful. The Notary's function in executing a jurat is to appeal to the signer's conscience and to initiate a process that could result in a criminal conviction for perjury if the signer is found to be lying under oath. If a certificate includes the wording "subscribed



and sworn,” this usually indicates that some form of jurat is required.

In executing a jurat, the Notary must watch the person sign the document, then have the signer make either a solemn, oral promise of truthfulness or loyalty to a Supreme Being (called an oath) or a promise on one’s own personal honor (called an affirmation). The signer may choose which one he or she is most comfortable with, and both an oath and affirmation have the same legal effect.

Jurats are common with documents that are used as evidence in court proceedings, such as depositions and affidavits. Oaths and affirmations may also be executed without reference to a document. An example would be the oath of office given to a public official. In this case, the oath or affirmation is a notarial act in its own right. Notaries administer oaths and affirmations for jurats in connection with documents. Increasingly, state laws are requiring the Notary to identify each document signer for a jurat.

You Don’t Choose

It happens just about every time a Notary calls the NNA about which type of notarial certificate to use with a particular document — acknowledgment or jurat. Once the difference between the two is explained, the Notary takes a couple of seconds to digest all the information and then asks the inevitable question:

“So which certificate do I use?”

Our answer is always the same: It’s not up to you.

Then the Notary pauses. This pause typically lasts about three to four seconds.

“What do you mean I don’t choose? I’m the Notary! Isn’t it my responsibility?”

Actually, no. Unless you are also an attorney or other licensed professional trained in a field that’s pertinent to the document in question, it is improper for any Notary to choose what type of notarial certificate is needed. The choice has legal implications and may be considered the unauthorized practice of law.

So what do you do? Simple: If there is no notarial wording already printed on the document, ask the signer whether an acknowledgment or jurat is needed. If the signer isn’t sure, explain what each certificate is and let the signer choose. If the signer remains uncertain, have him or her contact the document’s issuing or receiving agency.

Remember: You cannot in any way influence the signer to decide what type of notarial certificate is needed.

Be Prepared: Have The Certificates Ready

As mentioned previously, often the document will already have preprinted wording. Sometimes, however, it doesn’t. In those cases, it is your responsibility to provide standard notarial wording for your state for whatever act the signer asks of you. Have a stack of standard acknowledgment and jurat certificates ready in these cases. Once you fill out the needed certificate, staple it to the document.

Perhaps the most perplexing thing about notarial certificates — and the reason for all of the confusion — is that they’re not really “certificates” at all, in most cases. Usually, a notarial certificate is just particular wording printed at the end of a document for the Notary to complete; it’s not a separate piece of paper, as some Notaries expect to see.

Once a Notary clears this semantic hurdle, however, things fall into place. **NNA**

Quiz

Workplace Notarizations

What can your boss legally ask of you as a public officer?

By Michael L. Pucci
mpucci@nationalnotary.org



Sooner or later, nearly every Notary employee will receive a request from a supervisor for a notarization that he or she can't lawfully perform. Refusing to proceed can create tension with your employer. How can Notaries resolve the conflicting pressures they have in their roles as both an employee and a public officer? Take our quiz to see how you would handle some situations commonly faced by Notaries in the workplace.

(See answers on page 39)

Multiple Choice

1) Above all, the loyalty of the Notary is to:

- a) The local union rep.
- b) The laws of the state.
- c) The employer.
- d) The co-workers.

2) Presenting an ID card is not necessary for a workplace notarization when:

- a) The Notary's manager says the requirement can be waived.
- b) The signer unintentionally forgets to bring his or her ID.
- c) The signer must depart for the airport immediately to catch a flight.
- d) The signer is personally known to the Notary.

3) When a Notary leaves a place of employment, the seal and journal:

- a) Remain the property of the employer.
- b) Remain the property of the employer if he or she paid for these items.
- c) Belong solely to the Notary and may not be surrendered to anyone else.
- d) Remain the property of the employer if less than two weeks' notice is given before leaving.

4) Notary employees can comply with a request to have their journal inspected outside their presence when:

- a) The request comes from the company president.
- b) At no time. Notaries must keep control of their journals at all times.

- c) The request is related to company business.
- d) Most of the notarizations performed were on company time.

5) A co-worker of a Notary can use the notarial seal:

- a) When the Notary will be on vacation out of state for at least two weeks.
- b) When the document requiring notarization relates to a critical merger for the company.
- c) Under no circumstances.
- d) Only during regular business hours.

True/False

6) At the request of their managers, Notaries may charge customers a lesser fee than non-customers.

7) If a document contains personally embarrassing information involving the Notary's manager, the Notary doesn't have a right to scan the whole document.

8) A manager may not compel a Notary employee to resign his or her commission upon leaving the company.

9) The supervisor of a Notary employee can prohibit notarizations performed outside normal business hours.

10) Notaries can leave their seal in an unlocked desk or other unsecured location at the office, as long as it is out of sight.



CourtReport

License Returned

Hibbs v. Colorado Dept. of Revenue
107 P. 3d 1061 (Colo. App. 2005)

A Colorado man arrested on suspicion of drunk driving had his appeal upheld because the arresting police officer failed to have her report notarized.

Terry L. Hibbs was stopped after driving through a red light in December 2002. The police officer who administered a breath test cited Hibbs for driving while intoxicated and served him a notice that his license was being revoked. Though one section on the report was notarized, the officer failed to have the overall report notarized and did not swear to or affirm its contents.

Hibbs appealed the decision. Both a district court and the Colorado Court of Appeals found in his favor, ruling that Colorado law required the overall report be notarized or sworn before another individual in order for Hibbs' license to be revoked.

Inmate Fills In Blank

Veteto v. Swanson Services Corp.
886 So.2d 756 (Ala. 2004)

A prison inmate at a correctional facility in Alabama had his lawsuit against a mail-order food company dismissed due to an incomplete notarial certificate.

While incarcerated at William E. Donaldson Correctional Facility, Ronald Veteto ordered \$158.68 in products from Swanson Services Corporation under their Holiday Package Program. In addition to the package being delivered two weeks after the promised time frame, Veteto alleged that employees at Donaldson commingled

the contents of the package and failed to detect that a number of items were missing, valued at \$40.09. He filed suit against Swanson and Donaldson, seeking more than \$80,000 in damages.

The deposition Veteto had submitted contained a hand-printed notarial certificate written by him. In the signature blank provided for the Notary he had written, "despite my repeated written and oral requests the assigned notary refused to notarize this document."

Veteto alleged that his written request for notarization from a Donaldson employee was not responded to in a timely manner. He said he believed he needed to submit his deposition, fearing that it would be untimely if he didn't do so.

The first Notary Veteto tried to contact didn't get back to him until the day after Veteto had submitted his flawed deposition. However, Veteto did not choose to have a new deposition notarized until weeks after his case was dismissed because of the flaws.

On appeal, the higher court agreed with the lower court and denied Veteto a new hearing.

Demand To Inspect Records Upheld

Deephaven Risk Arb Trading Ltd. v. UnitedGlobalCom
379-N (Del. Ch. 2004)

A company's request to inspect a Delaware corporation's records was upheld because the request was notarized.

Deephaven Risk Arb Trading Ltd. acquired rights to purchase shares of stock in UnitedGlobalCom (UGC). However, on February 24, 2004, UGC issued a press release indicating that a significantly lower number of purchase rights would be available than Deephaven had acquired. Deephaven submitted a notarized demand to inspect UGC's books and records related to the offering of stock purchase rights.

UGC argued that because Deephaven's demand was not signed "under penalty of perjury," it failed to comply with state statutes. The Court of Chancery for New Castle County disagreed. Because the demand was notarized, the court rejected UGC's motion to dismiss on grounds that the demand was not legally sufficient.

Quiz

Workplace Notarizations

(Quiz on page 36)



1. **(b)** As a public official, the Notary is sworn to uphold the law of the state or territory in which he or she is commissioned. While Notaries must respect the rules of their place of employment, their loyalty to the laws of the state must take precedence.
2. **(d)** Positive identification is an essential component of any notarial act. One way to identify a signer is through personal knowledge. If the principal is unknown to the Notary, identification must then be established either through a credible identifying witness or reliable government-issued ID cards. If neither is available, the Notary must decline to perform the notarization.
3. **(c)** Regardless of whether the Notary's employer paid for the commission, seal and journal, these notarial items belong to the Notary alone. In addition, the employer may not cancel the Notary's surety bond; it must remain in place for the remainder of the commission term to protect the public.
4. **(b)** As the "gatekeeper" of the journal, the Notary must always be present to oversee any inspection of it. The Notary is bound to protect the journal from loss, damage or tampering at all times. It would be foolish, if not against the law, for the Notary to release the journal from his or her control, even for a few minutes.
5. **(c)** It is a criminal offense for anyone to use a Notary seal who is not the Notary named on that seal. In most states, this is called forgery. Any documents "notarized" under this circumstance will be void and the perpetrators may be criminally prosecuted.
6. **False.** Fees for notarial acts should be consistent for all requests. As a public official, it is ethically improper, if not illegally discriminatory, to charge different fees for clients and non-clients. Notaries should either charge all persons the same amount or not charge at all.
7. **False.** A Notary has a responsibility to quickly scan the documents presented for completeness and in order to extract the necessary information for the journal. This does not mean reading the documents. As an impartial witness, the Notary also has an obligation to respect the confidentiality of documents and signers.
8. **True.** A manager has no right to demand that a Notary employee resign a commission upon departure simply because the company paid for the commission, bond or notarial supplies. Nor can the manager compel the Notary to surrender the commission paper itself. A Notary is commissioned to serve the whole public, not just one company.
9. **False.** A Notary is a Notary 24 hours a day. A private employer has no authority to restrict employees from notarizing outside the workplace on their own time, even when the employer has paid for the Notary's commission, bond and notarial supplies.
10. **False.** It is the duty of all Notaries to secure their seal at all times in order to prevent theft or unauthorized use by others. Notaries must do more than just keep the seal out of sight.

TipSheet



Avoid Assembly Line Notarizations

One of the first things a Notary is taught is that the signer's personal appearance is required. With this in mind, what should you do if your employer approaches you with a stack of documents to be notarized from customers with none of the signers in sight?

Despite the pressure that an employer might put on the employee to complete the notarizations, it's important that the Notary not comply with this request. Although the employer may not want to inconvenience valued customers by making them identify themselves before a Notary, a notarization may not be performed without their meeting the Notary. Ignoring this step can create a multitude of problems, including invalidation of the notarization and possible criminal prosecution of both Notary and employer.

Before agreeing to serve as a Notary for an employer, the Notary must tactfully let the employer know that there are certain rules of notarization that can never be broken.

Remember To Check Your Work

So you've asked the signer to indicate the type of notarial act required, made your journal entry, completed the correct type of certificate wording, made sure that all blank spaces are filled in on the document, and screened the signer for identity, willingness and awareness. What's left?

Checking your work.

Prudent Notaries will take a few extra seconds to make sure that they've done their job properly. Here are a few items to check:

- Did you cross out all irrelevant wording on the notarial certificate (e.g., he/she/they)?
- Is the county named in the venue on the notarial certificate correct?
- Is the signer's name on the document and the certificate the same as on the ID?
- Did you get everything you needed for your journal entry? Signature? Thumbprint? Identification information? Type of document?
- Are you absolutely sure there are no blanks in the document? It never hurts to check twice.

Double-checking your work can protect the Notary and signer from rejection of the document and later unauthorized insertion of false information.

Signature By Mark

Notaries may occasionally encounter persons who are unable to sign their names

due to illiteracy or disability. In this situation, the notarization usually can be completed if the person can sign by mark, such as by making an "X" or affixing a thumbprint on the document.

When a signature by mark is employed, the mark should be witnessed by two impartial persons. Each of the witnesses will also sign the document and typically one witness will write the marker's name near the mark. The same procedure is also done for the journal signature. If space allows, the witnesses' addresses may be written in the document and in the Notary journal.

Since a properly witnessed mark is regarded as a signature under law, no special acknowledgment certificate is required in most states. Even so, many Notaries prefer to use special signature-by-mark forms that state the names and addresses of the witnesses who have signed the document.

Generally, a signer's relative may serve as a witness, but only if the relative is personally unaffected by the transaction. The National Notary Association strongly recommends against Notaries serving as one of the two required witnesses, since doing so may lead to confusion about the Notary's role.

Note

The tips provided in this section are based on established notarial customs and practices. They are intended only as general guidelines and may not reflect the laws of your state. Always refer to state statutes if you have a question about any notarization.

— The Editors



National Notary Foundation

The Art Of Giving

Amid The Devastation, Relief Requires Trust

The year 2005 saw some of history's worst natural disasters. If the devastation of the Gulf Coast at the hands of Hurricane Katrina was not severe enough, hurricanes Rita and Wilma dealt a cruel follow-up one-two punch. And let's not forget the less publicized Hurricane Stan that decimated parts of Mexico, Guatemala and El Salvador.

Hardly had the winds died down when southern Asia endured a 7.6 magnitude earthquake.

And remember that the year started with a recovery effort for a shattering tsunami from which portions of India and southeast Asia are still reeling.

The outpouring of donations has been overwhelming, but perhaps the most difficult decision is not how much to give as *to whom* one should give.

According to the *Chronicle of Philanthropy*, there are at least 49 charities or special relief funds that are raising money to assist the people and localities devastated by Hurricane Katrina.

The FBI reports that more than 4,000 Web sites are claiming to help the victims of Katrina but warns that many are fraudulent. The threat of

charitable scams in the wake of tragedy is so pervasive that the agency has formed the Hurricane Katrina Fraud Task Force to stop people who are running solicitation scams and to teach contributors how to avoid these rip-offs.

Thankfully, the National Notary Foundation provides members of the National Notary Association and its friends with a sound, responsible vehicle for making donations to worthy causes.

The Foundation has selected the Salvation Army and Save the Children as its hurricane-recovery charities after giving careful consideration to their missions. Each touches the lives of its recipients in special ways and enjoys an excellent rating for using nearly all its donations to help victims.

And, in evaluating the activity of each, the Foundation focuses their operating principles on ongoing and consistent aid.

The call to give at the moment of tragedy pulls on our heartstrings. The Red Cross rushes in providing emergency response. Congress passes aid packages. But what happens six months or a year later?

The Salvation Army

represents ongoing support to those in need. Each year, it not only provides relief for disaster victims, but this assistance includes clothing and shelter that they may need in the time before they are back in their homes or working.

It provides continuing support in nearly 9,000 communities nationwide.

Save the Children is still in the tsunami-stricken regions of southeast Asia implementing a five-year plan that includes rebuilding schools, homes and health centers. They are training teachers and midwives to replace key personnel killed by the tsunami.

They are expanding a cash-for-work and micro-loan program to help create new livelihoods for victims who lost their jobs.

That was almost 12 months ago. Save the Children remains on the job and will be for those whose fresh tragedies today begin to fade from the public view tomorrow.

For each of us, giving is something personal and special. It is ongoing. As Oprah reminds us, "It's not about writing a check. It's about being able to touch somebody's life."

The National Notary Foundation is a nonprofit corporation established exclusively for charitable and educational purposes under Internal Revenue Service Code 501(c)(3). The Foundation supports scholarship, education, research, personal achievement, and humanitarian and philanthropic projects.

We make a living by what we get, but we make a life by what we give. — Winston Churchill

Adviser

I have seen several different ways for an attorney in fact to sign for an absent signer: “John Doe by attorney in fact Jane Doe” and “Jane Doe as attorney in fact for John Doe.” What is the acceptable format?

C.B., Sugar Land, Texas

To comply with the law, should we provide our Notaries with locking cases to keep in their locked drawers?

P.J., San Bernardino, California

It is an excellent idea to give your Notaries individual locking cases in which to keep their seals and journals. California statutes specify that the seal and journal must be kept locked under the *exclusive* control of the Notary. (Government Code 8207)

Companies are constantly asking me to backdate loan documents because they could not get them prepared on time. What is the law concerning this?

C.C., Roxboro, North Carolina

You must never backdate a notarial act. Notarizing a document with a date other than the correct date of the notarization is creating a

Note

Adviser 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

Either way of signing should be accepted. The important thing is that the attorney in fact should sign in such a way that indicates that he or she is signing on behalf of the absent signer through the authority of a power of attorney. You should be careful, however, to avoid instructing the attorney in fact on how to sign, because this might be construed as giving unauthorized legal advice.

Notaries in my office keep their notarial supplies locked in their separate personal desk drawers. However, the office manager has a master key to all desks in the office.



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false notarial certificate. Taking a false or fraudulent acknowledgment is considered a Class I felony. (North Carolina General Statutes 10A-12[C])

Can a Notary notarize for family members?

N.D., Tucson, Arizona

Arizona law states that a Notary may not notarize for anyone related by marriage or adoption. (Arizona Revised Statutes 41-328[B]) While this can be interpreted to mean that a Notary could notarize for someone related by blood, Notaries who do so may violate the statutes prohibiting a direct beneficial or financial interest. The Secretary of State recommends that a Notary never notarize the signature of any close family member in order to avoid misunderstandings or complications.

Most signers that I encounter don't have two IDs. Can a Notary accept just one identification document? If another ID is

required, can it be something like a Social Security Card?

V.M., Hacienda Heights, California

Under California Notary law, signers need present only one valid identification document from the statutory list of IDs comprising satisfactory evidence of identity. These include a driver's license, passport, state-issued non-driver's ID, and a military ID (Civil Code 1185). In all states, a secondary ID is *optional* as long as the signer has a valid primary identification document. A secondary supporting ID could be a Social Security card or a credit card with a photo, but these could not be relied on as primary identifiers by themselves.

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