

# The National NOTARY

November 2012



THE MAGAZINE FOR AMERICA'S NOTARIES



The **TOP 5 APPS** Mobile Notaries Can't Live Without  
**Page 14**

WHAT  
YOU  
NEED  
TO  
KNOW  
ABOUT

# ER&

- PERSONAL LIABILITY
- OCCURRENCE VS. CLAIMS MADE
- EXCLUSIONS
- LEGAL FEES
- COVERAGE PERIOD
- INDIVIDUAL POLICIES
- EMPLOYER COVERAGE
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2012 NNA<sup>®</sup> Conference Attendee

*I loved meeting so many new people and gaining knowledge I know I wouldn't have received. I am proud to be a part of the National Notary Association.*

— Amber Hall, Tomball, TX  
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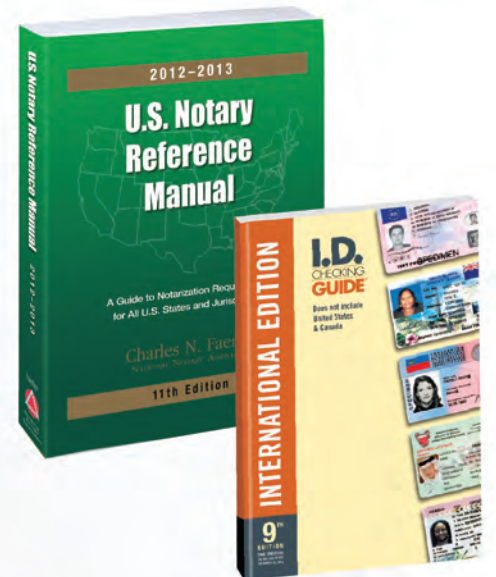
# Supporting You in Your Ongoing Education

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**No matter where you are in your commission, the NNA® has training to fit your needs.**

## COVER STORY

### 16 • What You Need To Know About E&O

Whether you're a Notary Signing Agent, the owner of a shipping store or you work for a bank, the ins and outs of your E&O policy can be very different depending on your circumstances. While E&O is designed to protect you, understanding how it works and what its limits are will help you get the most out of it. *The National Notary* posed a number of questions to several experts and experienced Notaries to offer an in-depth view of E&O insurance.

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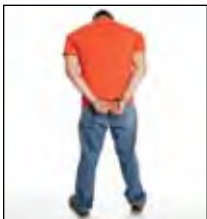
### 10 • Effective Business Development For The Notary Signing Agent

For any business to succeed, it must grow. 2011 Notary of the Year Chrissey Ladd offers tips to NSAs on creating and following an effective business growth plan.



### 14 • The Top 5 Apps You Can't Live Without

Everyone knows mobile devices are essential for conducting business in today's world. *The National Notary* reached out to Notaries across the country to discover what apps you couldn't live without. Find out what made the list.



### 20 • Murder, Fraud And Forgery Foiled

A trio of diligent Notaries shows how recording signers' thumbprints in their journal can help law enforcement investigate crime and even bring murderers to justice.

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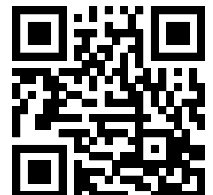
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## ON THE WEB

This issue features QR codes that deliver bonus material straight to your smartphone. Download a QR Reader App on your smartphone and scan away.



Scan for a free White Paper "Top Five Notary Pitfalls and How to Avoid Them"

## Strangest Excuses

I just finished reading the article “The Strangest Excuses Notaries Have Ever Heard” (September 2012) and couldn’t stop laughing! It truly amazes me the lengths some people would go to fool a Notary Public!

One of the strangest experiences I’ve ever had happened a few years ago. I was working for a local mobile Notary agency and was assigned to assist a client in Encino, California.

The woman was in her 80s and had a grant deed that needed to be notarized. She wanted to grant the house to her son.

The woman had five — that’s right, five! — expired driver’s licenses. She couldn’t figure out why I couldn’t use them. I carefully explained to her that I needed to have proper, valid identification and her driver’s licenses were simply too old to use.

The son was also supposed to have a valid ID as well. He told me that unfortunately, he did not have a valid ID, his wallet had been stolen. Then he said that a driver’s license was NOT a valid form of identification! As time went on, the dialogue between the elderly woman and her son got loopier and loopier! I left, and contacted my service agency telling them the story. In the eight years I have been a Notary that was the strangest incident I have ever had.

**Ellen Michaels, Canoga Park, California**

## Thoughts On Avoiding Advice

One of the problems of the Notary Public being impartial and not providing any advice is that we cannot provide any real help. People’s lives could be ruined and we, as Notaries, are helpless to intervene. The case that really stands out for me was a young divorcee who absolutely needed a loan to avoid bankruptcy. I suspected that she was taking on more than she could afford but I could not say anything. As a commissioned Notary, I found that she met the criteria for notarizations by being aware and willing and I kept my mouth shut. As a caring human being, I was upset for her. I did the legal, ethical thing, but it still felt immoral.

**Michael E. Harris, Browns Mills, New Jersey**

## Robo-Signing

I was going through my September 2012 issue and read Deborah Thaw’s column where she mentioned the end of the robo-signing crisis. It is still incomprehensible to think that this occurred with all of the training provided by the NNA. One of the biggest issues you press on is having the person IN FRONT OF YOU WHEN SIGNING. With robo-signing we all know that wasn’t happening. Also, I know that forgery also went on with these documents. It’s a shame, however, that Notaries have to prove ourselves because of the carelessness, stupidity and dishonesty of others. It’s also a shame that the honest citizens lost their homes due to these unscrupulous people. It’s very hard to get back what you have lost.

I did want to say I thoroughly enjoyed the article and read every issue of the magazines I receive from cover to cover. I don’t want to miss out on anything and read the issues in my office. I do 99% of my notarizations for the office and feel this magazine keeps me updated on vital issues.

**Linda Fish, Tallahassee, Florida**

## WE WANT TO HEAR FROM YOU!

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



# Protecting Yourself While Protecting The Public

Buying insurance is like putting tires on your car or a roof on your house. You know it must be done for safety and security, but it doesn't offer up the satisfaction you get when

purchasing something you can enjoy right away — like a new pair of shoes or a set of golf clubs.

Even thinking about insurance puts us off. Life insurance can be complicated and confusing. Auto insurance is like taking a multiple choice test as you decide limits on collision, liability, medical and so on.

There doesn't seem to be much that is pleasant about the whole subject, and even less so when you have to use it. Then, for sure, you are not in a good position.

When the National Notary Association developed and sold the first errors and omissions insurance policy for Notaries more than 50 years ago, the idea was considered rather radical. But the rationale for its need was indisputable.

At that time, Notaries were generally paid less than a dollar per signature, but, as today, they were liable nonetheless without financial limitation for their notarizations.

Though we may look back with fondness at a simpler time, it did not reduce the risk and legal responsibility that Notaries had for their notarized transactions.

Though some Notaries were required to obtain a bond as a mandate of the office, the bond did not actually protect the Notary but rather the signer if some damage was later found as a result of the Notary's act. Bonds were widely misunderstood as being insurance protecting the Notary — a misunderstanding that surprisingly persists to this day.

For Notaries who understood that the bond offered them no protection, the need was apparent for some sort of safeguard for their personal assets.

Though we may educate ourselves about Notary laws and procedures and obtain certifications that identify us as having superior understanding of our notarial duties, the sentiment of the signing public is often more litigious than we are willing to recognize.

It is hard to imagine that Notaries, whose acts themselves provide security and protection in the documentary process, wouldn't consider a safety net for themselves.

As I often heard as a student, insurance was a "bet against yourself!" It gave the concept a bad connotation and certainly discouraged any thoughts about needing it unless it was required by law or regulation.

When it comes to insurance, we would do well today to focus less on the negative and more on the positive.

Insurance for Notaries is like requiring a signature in the journal. If state law doesn't require it, best practices does.

When you hold a commission as a Notary, you assume a level of responsibility and obligation that indicates a commitment to your community and the public. At the same time, our state laws have determined that it is fitting that the position be balanced with personal liability.

Perhaps it is the state's way of reminding us of the trust they have put in us to act on their behalf. It is also a way of reminding us not to be careless and act responsibly by protecting ourselves.

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

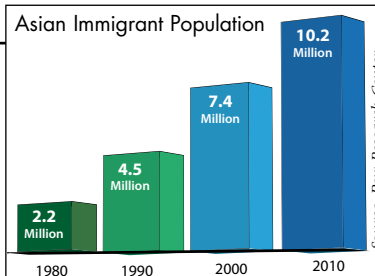
## Pew Report: Asians Now Lead Immigration

Asians now represent the largest wave of new immigrants entering the United States, according to a Pew Research Center study.

In 2010, 36 percent (approximately 430,000) of all immigrants arrived from Asia compared with 31 percent (about 370,000) from Hispanic countries. Three years previously, 540,000 people came from Latin nations and 390,000 from Asia.

A majority of the H-1B skilled worker visas allotted annually by the U.S. Citizenship and Immigration Services (USCIS) also now go to Asian immigrants. India led the pack with 56 percent of H-1B visas with China in a distant second place with eight percent.

This immigration trend comes as the USCIS is spearheading a nationwide federal, state and local campaign to combat scam artists offering phony immigration services. Many states have toughened their laws regulating how Notaries may advertise their services in foreign languages.



## New Requirements Likely To Boost Mortgage Fraud Reports

The number of reports of suspected mortgage fraud likely will jump next year now that non-bank mortgage lenders and originators must abide by federal reporting requirements.

The U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN) issued a reminder to all non-bank mortgage companies that they now must report suspicious activity related to mortgage fraud. Previously, only federally regulated financial institutions were required to submit suspicious activity reports.

The agency is also conducting public outreach at mortgage industry events to help non-bank firms understand their compliance obligations.



## Proposal May Force Banks To Outsource

Proposed new mortgage servicing rules designed to protect homeowners could force many financial institutions to outsource some of their mortgage operations.

The Consumer Financial Protection Bureau proposal would require servicers to speed up processing loan modification requests. Servicers also would be prevented from moving forward on foreclosures until decisions on those possible modifications are made.

These efforts are likely to present a bottleneck for many financial institutions, which will need to rely on third-party service providers to handle many mortgage accounts.

## The National NOTARY

Milt Valera, Founding Editor and Publisher

Vol. LVI, No. 6, November 2012

Published by the National Notary Association

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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.

### MEMBERSHIP CORE VALUES

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

Our Core Values of Membership:

COMPLIANCE  
LIABILITY PROTECTION  
RISK MANAGEMENT  
PROFESSIONALISM  
OPPORTUNITIES

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## Forbes Keynotes Coolidge Event

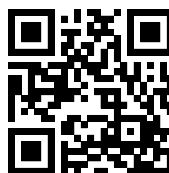
*Notaries Share Pride With 30th President's Oath Of Office*

Milt Valera, National Notary Association Chairman, from left, shares a moment with David Serra, executive director of the Calvin Coolidge Memorial Foundation, and Steve Forbes, chairman and editor-in-chief of Forbes Media and publisher of *Forbes* magazine, at the Foundation's annual fundraising gala in Plymouth Notch, Vermont last August. Forbes, a candidate for the U.S. presidency in 1996 and 2000, was the keynote speaker. Valera, a member of the Coolidge Board of Trustees, has been active in working to make Americans more aware of the important contributions of the 30th President. In 2009, the NNA published *Why Coolidge Matters*, a book acclaimed by critics for the respectful and civil way Coolidge worked with Congress and others. Coolidge is the only president in U.S. history to have been sworn into office by a Notary Public.

### The NNA Discusses 'Robo-signing' On Syndicated Talk Show

"Charter Edition" recently interviewed Chris Sturdivant, NNA's Director of Corporate Relations, to get an expert's viewpoint of the "robo-signing" crisis. Sturdivant covered the role that lending institutions and Notaries played in contributing to one of the worst financial disasters in the country. He also explained the responsibility a Notary carries each time a notarization is performed.

The "robo-signing" episode with Sturdivant aired in early September on cable networks throughout California, and can be viewed on the NNA's website in the *Notary Bulletin* section or via this QR code.



<http://bit.ly/robointerview>

## U.S. Law Primer Now Available On Kindle

For Notaries who need state law information at their fingertips, the NNA has released an electronic version of *The U.S. Notary Law Primer* for the Amazon Kindle e-reader.

The e-book includes summaries of important Notary laws for all U.S. states and territories, including journal, identification and seal requirements, qualifications for a commission and fee schedules. To help guide Notaries in situations not covered by state law, also included are recommended best practices from the NNA, including the full text of *The Notary Public Code of Professional Responsibility*. The Kindle version allows Notaries to easily store and transport this valuable information for whenever it is needed during notarizations.

The Kindle edition of *The U.S. Notary Law Primer* is available online through Amazon at <http://bit.ly/usnotaryprimer>.







# Effective Business Development for the Notary Signing Agent

By Chrissey Ladd

**F**or any business to succeed over the long-run, it must create and follow an effective business growth plan. This is just as true for independent Notary Signing Agents as it is for the CEOs of multi-national conglomerates.

Whether you are just starting out or are a seasoned NSA, the best approach is to develop a growth plan focusing on business development activities designed to reach specific, concrete financial goals. Then you should follow the plan.

A good way to create a business development plan is to apply the acronym SMART — Specific, Measurable, Attainable, Realistic and Timely — to your goals. Your plan should consist of very specific activities that are measured, realistic to attain, and take place over a specific time frame.

## Setting SMART Goals

Instead of saying, “I will earn more money this year,” decide how much money you want to make, say \$60,000. If you earn an average of \$100 per closing, that’s 600 signings a year.

That might seem ambitious, but break it down into manageable, attainable pieces. Divided into 50 weeks, that’s 12 appointments a week.

You now have your “SMART” Goal: “I will earn \$60,000 this year by completing 12 loan signings each

week.” This goal is specific, can be measured, is attainable, realistic and has a set time frame.

In a tough economy, even this goal can seem intimidating. But look at your appointment history. Say you average 10 appointments from your various network boards, registries, and social media outlets. All you need to do is find two more appointments to meet your weekly goal. That’s the gap between what you currently are producing and your goal.

## Honing Your Marketing

Marketing is the key to establishing and growing any business. If the market doesn’t know about you, it won’t give you its business. Established Signing Agents typically use multiple signing registries, referral services, networking organizations, and various other resources to find work. You often can increase your assignments by improving your marketing or sales message.

First impressions often are the most important, and they usually happen fast. So it’s important to be prepared with an initial sales message or pitch that identifies who you are, what you do, why you do it, when you do it and how you do it. An effective sales message can be used anywhere from a Chamber of Commerce reception to an elevator ride.

Developing your own message is simple. First,

write down all the services and benefits you provide. For example:

- **Service:** 24/7 Mobile Notary
- **Benefit:** Convenience of having your documents notarized in your own home/office
- **Benefit:** Excellent customer service
- **Benefit:** Ethics and integrity

Next, craft the message to show your audience what's in it for them — the only thing your audience wants to hear is what you can do for them.

Here's an example. Imagine you're at a business conference, and you've just introduced yourself as a Certified Notary Signing Agent to a potential client. You have 30 seconds to leave an impression: "Title companies rely on me to achieve their goals and provide their clients with the highest quality service and integrity in every loan closing — 24/7. When you need an experienced Signing Agent to make sure everything is done right the first time, call me."

Avoid leading with statements that focus on you rather than your customer, such as, "I am proud to

provide excellent customer service to all my clients 24/7 with ethics and integrity."

Everyone needs a Notary now and then, but no one will remember you if you cannot drive home how you can serve them.

You also should reinforce your message with an effective marketing kit. Avoid those expensive, gimmicky versions we've all seen at trade shows and other business-to-business events. Glossy brochures, branded poly-bags and branded trinkets might have an immediate "wow" effect, but they usually wind up in your trash bin or at the bottom of your desk drawer.

Keep your marketing kit simple. It should consist of a cover letter that includes a schedule of your fees, your hours of operation, and

several of your business cards. All these items can be placed in a large envelope, a folder or they can even be unpackaged.

The purpose of your marketing kit is to keep your name and phone number front and center of the recipient so they will call you when they have a need for your services.

*If the market  
doesn't know about  
you, it won't give  
you its business.*

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## Expanding Your Horizons

While your bread-and-butter business comes from the mortgage industry, don't overlook the potential of other industries. Every industry needs a Notary or comes in contact with people who do. While many companies employ Notaries, conditions change. Employees turn over, other service providers become unavailable, or they are in a new location without access to the service you provide.

You could consider anything from convenience stores to auto services to travel and concierge services. Your options will vary depending on your location.


A good approach is to develop a list of all of the potential businesses in the geographic area you serve. Then set up a tracking system to keep tabs of your outreach efforts to them. There are many applications for laptops, tablets or smartphones to do this, or writing in a simple binder notebook will work.

At minimum, your tracking system should include: the name of the business and person visited, the date of each visit, and notes about any relevant conversation or follow-up appointment.

Now it's time to put your plan into action. Set aside time each week to visit potential new clients and start making the rounds to deliver your sales message and marketing kit. Keep the initial visit short — no more than two minutes in the office. This initial visit is not to sell a product; it is to sell the idea of you. Ask for a business card (if appropriate) and keep it.

Be patient and repeat the same visits in two weeks. It is common in business development practices to make at least three visits before a sale is closed. Your business is no different.

## Managing Yourself

Sole proprietors often behave like the “worker” as opposed to the “CEO.” You are also your own best sales rep, so it's crucial to manage yourself, track your progress, and hold yourself to your expectations. Be your own best boss. No business is successful without a dynamic sales team with effective leadership. 

*Chrissey Ladd is the NNA's 2011 Notary of the Year. She is active in the Notary community in New Jersey and has held commissions in three states over the past 15 years.*

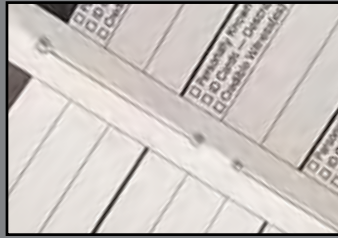
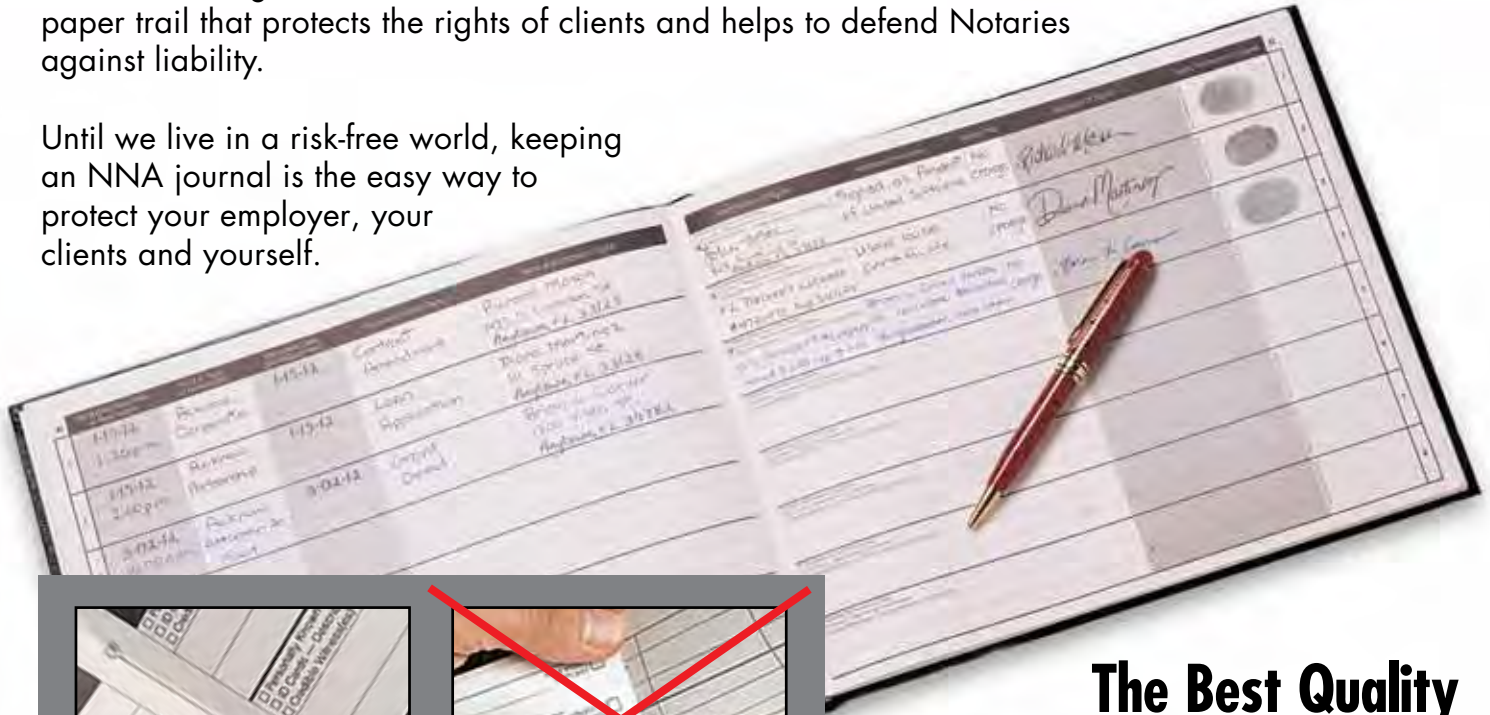


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# If the World Were a Perfect Place, You Wouldn't Need a Journal

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

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



Smyth-sewn binding guards against undetected page removal



Inferior staple binding as seen in most other journals

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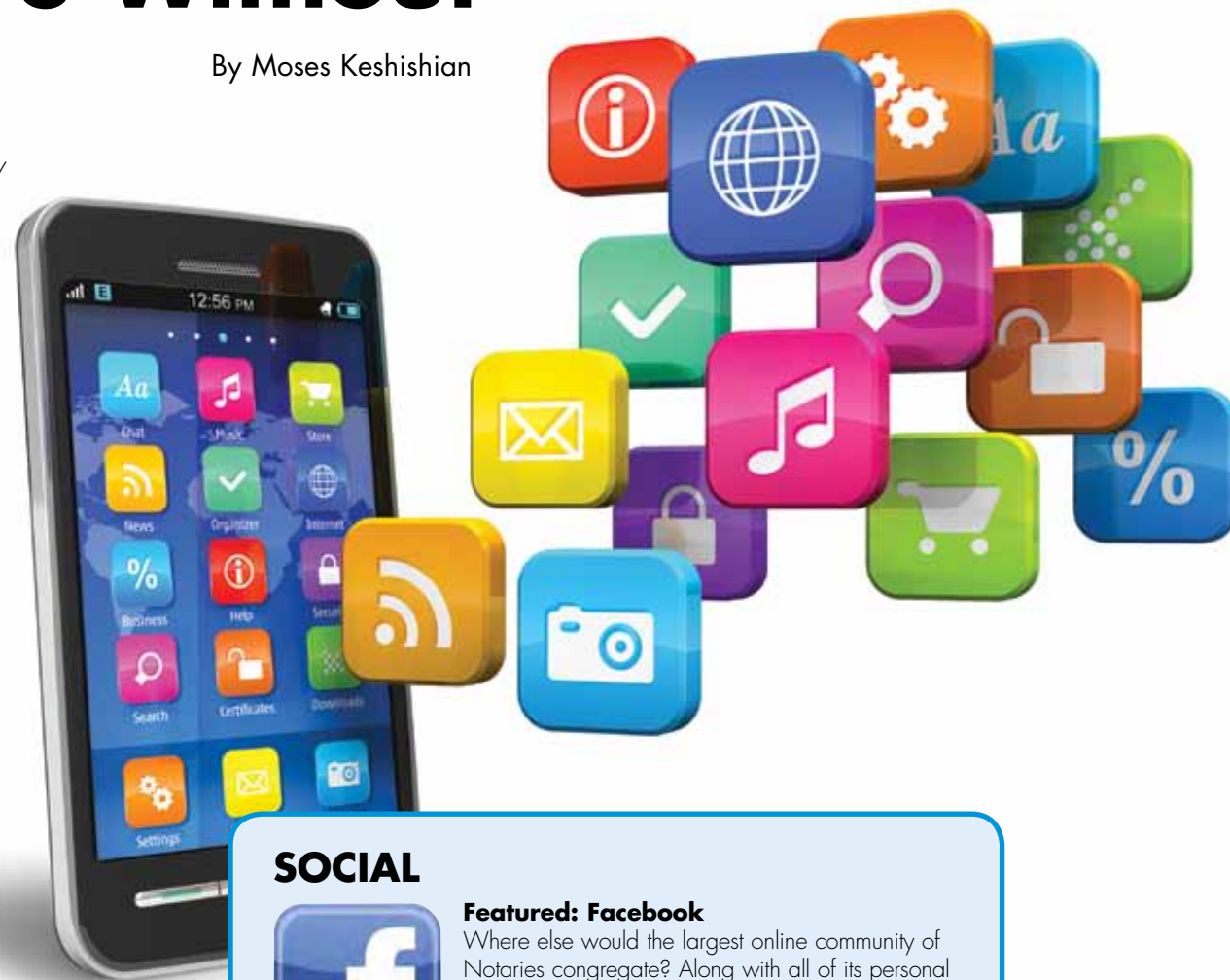
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# The TOP 5 APPS Mobile Notaries Can't Live Without

By Moses Keshishian

Everyone knows mobile devices are essential for conducting business in today's world. But what are the "must have" apps that make our tablets and smartphones effective business tools? *The National Notary* reached out to Notaries across the country and posed the question via our social media channels to find out what apps you couldn't live without. While Angry Birds didn't make the list, it was mentioned as a nice stress reliever. Here's what did make the list.



## PRODUCTIVITY



### Featured: Files Pro: Document Reader

Files Pro: Document Reader was listed among the most valuable productivity apps because of its ability to view and manage your PDF documents with ease. The app is also very useful for sending documents as email attachments to your clients or title companies.

Download: \$4.99 on the iPhone\* and iPad\*

\*Files: Document Reader free version is available without the ability to send documents as email attachments.

**Other hot apps in this category:** Evernote, Google Voice, My Lists, TeamViewer, CamScanner, Pocket Informant, Type on PDF, QR Reader

## TRAVEL



### Featured: GasBuddy

This app is a bit of a no brainer for the Mobile Notary population. With GasBuddy you can find the cheapest gas on the go, locate gas stations near you and see their current gas prices. GasBuddy is a community of users working together to update gas prices.

Download: Free on the iPhone, iPad, Android, Blackberry, and Windows Phone

**Other hot apps in this category:** AroundMe, Swackett, Tom Tom, PayByPhone, Waze Social GPS Traffic & Gas, MapQuest

## SOCIAL



### Featured: Facebook

Where else would the largest online community of Notaries congregate? Along with all of its personal benefits, Facebook provides the best platform for Notaries to develop an online presence. Facebook Pages are free, easy to set up, and can act as the primary website for your Notary business. With over 900 million users, Facebook provides the largest audience for you to target through social ads and relatable content. Visit our Facebook Page at [www.facebook.com/nationalnotary](http://www.facebook.com/nationalnotary) and Like us. Leave a comment on our page if you would like our social media specialist, Moses, to help you with setting up your own Notary business page in minutes.

Download: Free on the iPhone, iPad, Android, Blackberry, and Windows Phone

**Other hot apps in this category:** Pinterest, LinkedIn, Twitter, Google+, Instagram, Bump, Flipboard, Thirst, TweetDeck

## FINANCE



### Featured: Mint

See all your accounts in one place with Mint. Mint automatically pulls all of your financial information into one place, so you can finally get the entire picture. Since Mint is automatically updating and categorizing your information, it suggests ways to help you save money. It even sends automatic alerts — like bill reminders — to your mobile phone or email. With over 10 million users, Mint uses 128-bit SSL encryption — the same security that banks use — and all the data is protected and validated by VeriSign and TRUSTe.

Download: Free on the iPhone, iPad, and Android

**Other hot apps in this category:** PayPal, Craigslist Mobile, Bloomberg TV+, Calculator HD+, Google Wallet, Tip N Split Tip Calculator

## BUSINESS



### Featured: Intuit GoPayment

You chose the Intuit GoPayment app and free card reader as the premier method to accepting payments on your smartphone. Intuit GoPayment is an easy way to swipe credit cards and charge in seconds. It's also one of our highest rated partner programs.

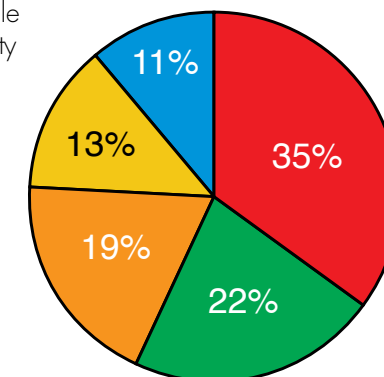
Download: Free on the iPhone, iPad, Android, and Blackberry

**Other hot apps in this category:** Square Card Reader, Invoice2go, Handy Scanner, JotNot Scanner Pro, LogMeIn, Documents To Go, Facebook Pages Manager

## The Apps You Need The Most

More Notaries say they use mobile apps to help them with productivity than any other reason.

- Productivity 35%
- Business 22%
- Social 19%
- Travel 13%
- Finance 11%



# WHAT YOU NEED TO KNOW ABOUT



By Vicki Gardner

**W**e all have insurance — for our homes, our cars, our health and our lives. The details of those policies are as varied as the people they cover. The same is true for Errors and Omissions (E&O) coverage for Notaries ... and there's a lot you need to know.

As a Notary, your commission belongs to you, and you are responsible for all your notarial acts. Whether you're a Notary Signing Agent, the owner of a shipping store or you work for a bank, the ins and outs of your E&O policy can be very different depending on your circumstances. While E&O is designed to protect you, understanding how it works and what its limits are will help you get the most out of it.

*The National Notary* recently posed a number of questions to several experts and experienced Notaries to offer an in-depth view of E&O insurance.

## **How much will it cost if I don't have an E&O policy and I get sued?**

You will have to pay all your legal expenses out of your own pocket as well as the cost of any judgment or settlement.

"Mistakes happen," said Michael Safris, an Assistant Vice President and Assistant Claims Manager with Merchants Bonding Company, an E&O insurance provider. "The costs can escalate quickly, and the financial impact on a Notary who does not have this protection can be devastating."

Even if all your records are in order and you have done nothing wrong, the cost of defending a claim or a suit can be thousands of dollars simply to prove the notarization was valid, he added.

Notary errors and omissions insurance premiums are generally much more affordable than similar insurance carried by doctors and attorneys.

## **What does and doesn't it cover?**

E&O insurance covers unintentional errors or omissions by a Notary. It covers the amount of the claim and, in most states, attorney fees and court costs up to the limit of the policy, said William A. Anderson, the NNA's Vice President of Best Practices and Legislative Affairs. In several states, E&O policies have a separate policy limit for legal costs.

E&O protection does not, however, extend to fraudulent acts or intentional errors. One of the most deliberate cases of fraud took place recently during the "robo-signing" crisis. Certain mortgage servicing companies had their Notary employees improperly notarize signatures without requiring personal appearances or identification, and some even signed documents on behalf of others.

While the resulting National Mortgage Settlement has mandated regulations and training for the lending institutions to prevent this kind of abuse in the future, Notaries involved in deliberate wrongdoing could still face stiff legal claims and E&O policies would not cover their costs in those cases.

E&O policies for Notaries only cover claims involving notarial acts, as Jan Tatangelo, a former California Notary Signing Agent, discovered.

A few years ago, Tatangelo notarized a power of attorney for an elderly man, and the notarization was performed correctly. When the man later complained to her that he felt pressured to sign the power of

## The Difference Between E&O Insurance And A Surety Bond



attorney, she contacted the police. Relatives of the man later sued Jan for defamation for calling the police. Because Notary E&O insurance excludes coverage for slander and libel, Jan's E&O insurance did not cover her substantial legal costs defending against the charges of defamation. Although the lawsuit was later ruled bogus, she was unable to recover any damages and was out of pocket \$11,000 for attorney fees.

For this reason, Notaries who are small business owners may also want to consider carrying other insurance to protect against these other exposures. In an earlier interview with the NNA, Elizabeth Milito, Senior Executive Counsel of the National Federation of Independent Business's Small Business Legal Center, recommended that Notary entrepreneurs work with a good insurance broker to make sure they have the right type and amount of insurance.

"Liability is a huge concern in today's climate," Milito said. "It's critically important to maintain adequate insurance. It will protect you if an issue escalates to legal action."

### **If there is a claim against me, what happens?**

"Generally, the client or their attorney will contact the E&O insurance carrier," Anderson said. "They may file a lawsuit and forward it to the insurance company, or serve the lawsuit to the Notary directly, who would then contact their carrier."

After the claim has been filed, the E&O attorney works closely with the Notary to obtain necessary documentation and background on the claim, and then handles the legal proceedings from that point forward.

### **How much E&O should a mobile or self-employed Notary carry?**

This is an individual decision, said Anderson. At the minimum, a Notary should have enough to cover the cost of their surety bond if a bond is required by state law and about \$10,000 over that amount for extra expenses. If the Notary has liquid assets such as a home the exposure could be much greater. In determining the right amount of coverage, ask yourself:

- What are my assets?
- How comfortable am I with risk?
- How much premium can I afford?

Signing Agent Walter Hertz of Toms River, New Jersey, handles large loan closings, most of which are \$750,000 or higher. "I feel that a Notary that handles this type of transaction should carry at least \$100,000," he said.

### **If my employer carries E&O insurance for me, am I covered for everything or just for the notarizations I perform for the company?**

Anderson recommends talking to your boss to get a full understanding of what the company policy

One of the most common misconceptions about errors and omissions insurance is that it's the same as a surety bond. They are completely different, and knowing the difference is essential in making sure you're protected against potential liability.

### **► Surety Bond**

In 31 states, a surety bond must be filed before a Notary commission becomes effective. That bond protects not you, but a signer who may suffer a loss due to an error you commit during a notarization. Unlike an insurance policy, any money paid out of a surety bond to settle a claim must be reimbursed out of the Notary's pocket.

### **► E&O Insurance**

An E&O policy, unlike a surety bond, is a personal insurance policy that protects you by covering legal expenses and the cost of damages from unintentional mistakes if you are found liable in a lawsuit, provided no fraud has taken place on your part.

In almost every jurisdiction, E&O coverage is not required. Only Louisiana requires a non-attorney Notary to either post a surety bond or have an E&O policy in the amount of \$10,000.

covers. Generally, if the employer policy covers notarial acts (not all do), then it will only cover acts performed by the Notary during the scope of employment. One employer's policy the NNA reviewed was found to cover only documents prepared in-house. Documents originating outside the company were excluded.

It also might be helpful to ask to review your company's E&O policy if you have any questions and to make sure you understand the extent of coverage or exclusions.

If you also notarize outside of work, or you are planning to leave your job, you should consider obtaining an individual E&O policy. While company policies will only cover you on the job, individual policies will cover you 24/7/365.

### **Am I still covered if I stop being a Notary?**

It depends on the type of policy that covers you. Anderson explained that there are two types of E&O policies: occurrence-based and claims-made.

With an occurrence-based policy, the insurance will protect you if the policy was in force at the time the notarization was performed. That's true even if you leave your employment, stop being a Notary or no

## What You Can Do To Maximize Your E&O Protection



E&O protects you financially, but you can take steps to protect yourself and arm your insurance provider with the information necessary to defend you against claims.

Michael Safris, an Assistant Vice President and Assistant Claims Manager with Merchants Bonding Company, an E&O insurance provider, described those steps that helped in a recent case his company handled.

A con artist acquired a fake California driver's license with his own photograph but the name and address of an elderly property owner. The fake ID was presented to the Notary and appeared legitimate, permitting the thief to get a notarized Deed of Trust on the property. The Notary completed the journal entry, including that final crucial step for deed notarizations required by California law — obtaining a thumbprint. The thief had previously obtained the true owner's Social Security and bank account numbers, so it was relatively easy to apply for a new loan using the fraudulent Deed of Trust.

By the time the scam was discovered, the con artist had left the area with the loan proceeds. The bank and the property owner sued the Notary for recovery of the loan. In defending the Notary, the complete journal entry, along with the driver's license information and thumbprint, were critical in proving that everything was done in accordance with statutory requirements. The thumbprint also provided proof that the signer was not the person named on the driver's license.

Even though this sounds like a simple defense, in many cases E&O attorneys still must work hard to persuade courts to dismiss a Notary from a lawsuit. Strict adherence to best practices, scrupulously following the law and keeping a thorough journal record can provide strong evidence to a court that a Notary acted properly and was not to blame in a suit.

longer have the policy. Typically, those policies are for amounts up to \$100,000.

Claims-made policies cover you only if the claim itself is made while you have the policy. Once you stop paying the premiums, you cease to be covered. Since a claim or lawsuit can happen years after the act giving rise to the claim, cancelling a claims-made policy when one ceases to be a Notary is risky. These policies generally are for amounts over \$100,000, and you can purchase a tail policy for a smaller premium that will extend your coverage.

### What does E&O coverage cost and how do I get it?

Premiums vary by state based on the amount of coverage and the term of the policy. You can contact any insurance agent or broker licensed to sell property and casualty policies.


The NNA also offers a variety of options to fit your needs and budget. There are no deductibles and no repayment of claims up to the limit you select.

One consideration that could affect your decision is where you purchase your surety bond. If you buy your E&O policy and bond from the same provider, any claim and expenses typically will be paid out of the E&O policy before your bond.

In addition, in some states, claims made against your bond must be reported to the Secretary of State's office, and your commission could be suspended until any settlement paid from your bond is reimbursed. If you have an E&O policy from your bond company, they won't have to report it to the state, and you can keep performing your notarial duties.

### Do previous errors or omissions on my record affect the amount of premium I will pay?

Policies issued through the NNA require no underwriting; they have stated premiums. However, if a Notary has a past claim, future coverage may be denied.

Michael Safris from Merchants Bonding provided some final advice regarding E&O insurance. "Whether notarizing a power of attorney, a will, a real estate document or otherwise, the one thing you can be sure of is that someone is relying on that document, and relying on the Notary to fulfill his or her duty. Particularly where there is a statutorily required bond in place, the claimants' attorneys see the potential for recovery from the Notary or the Notary's surety. For this reason alone, E&O insurance is a good investment." 

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# 5

## Common Mistakes That Can Lead To Claims

By David Thun

*The National Notary* magazine asked experts in law, government and education to share some of the most commonly made errors that can land Notaries in trouble.



### **Failing To Obtain Satisfactory Proof Of Identity From A Signer**

“Unless the signer personally appears and presents a valid ID, the Notary just cannot do the notarization. Period,” Busch said. “Otherwise, they will likely end up being sued, since more than likely there is a fraud being perpetrated.”



### **Failing To Require Personal Appearance By A Signer**

Experts all agreed that failing to require a signer to physically appear before you is the most common mistake that lands Notaries in serious legal hot water. Notarizing without a signer’s personal appearance is violation of law in every state and territory, and can result in major financial and legal penalties.

Lori Hamm, Notary Compliance and Education Officer for the Montana Secretary of State’s Office, described a case in which a man claimed his signature was forged on a notarized quitclaim deed filed during divorce proceedings. The Notary admitted that she had done notarizations in the past where she spoke with signers by telephone to ask if they signed documents. The Notary’s commission was suspended.



### **Engaging In The Unauthorized Practice Of Law**

While most Notaries would never walk into a courtroom pretending to be a lawyer, many don’t realize something as simple as telling a signer what notarization to choose or answering questions about a document is the unauthorized practice of law, which could lead to a lawsuit and other legal problems for the Notary. For example, Laura Biewer, a veteran NNA seminar instructor, says many of her students have been asked by signers to help complete forms they bring in to be notarized — but Notaries aren’t permitted to do so. Non-attorney Notaries should never prepare, complete or answer questions about a signer’s documents.



### **Failing To Properly Record Notarial Acts**

Too many Notaries fail to keep a record of their notarial acts, especially in states that do not require it. But that’s a problem because a properly maintained journal is your best protection if someone makes a claim against you, said California attorney Richard Busch, who represents Notaries for Merchants Bonding Company. In essence, your journal is a record that you did everything right. (See related story on page 20.)

Without the journal, you could find yourself trying to remember a notarization that might have happened years earlier. In addition, a poorly kept journal record can convince courts that you were sloppy and didn’t take the job seriously.



### **Making Mistakes On The Notarial Certificates**

While writing incorrect information on certificate wording or forgetting to write in information is often done accidentally, it’s a situation that can cause major headaches for a signer and trouble for Notaries if a problem with a document results. For example, Lori Hamm described how if a Notary doesn’t complete the wording on documents for a car purchase properly, the buyer may not be able to take title and must spend time tracking the Notary down in order to take ownership. Be especially careful with business transactions, Hamm warned, because if someone loses money as a result, they are likely to hold the Notary responsible for any money lost. “Not paying attention to notarial wording and the law gets you in trouble,” she said.

# Murder, Fraud And Forgery Foiled

## *The Case For Thumbprints As A Notary's Crime-Fighting Tool*

By Kelle Schillaci

Criminal trials tend to be full of drama, but the news coming out of California's high desert about one particular case has the juicy plot of a well-crafted Hollywood script — fraud, forgery, deception, and murder — with a twist. A diligent Notary, who recorded a conspirator's thumbprint in his journal, helped bring the murderers to justice.

The case began in 2008 when two San Francisco Bay area men targeted 74-year-old Palm Springs resident Clifford Lambert in a plot that would rob the man of his home, his money, and eventually his life. But despite a plan two years in the making and involving at least six co-conspirators, the criminals made one very critical error. They had an imposter, posing as Lambert, enter a Notary office to sign several power of attorney documents, transferring property and possessions to one of the criminals.

"They drained (Lambert's) bank account, used his credit cards, they took his house, used his cars, they took everything down to his shoes," said Deputy District Attorney Lisa DiMaria. "They erased him."

They even took his dog. But they left something in return: the thumbprint of conspirator David Replogle, a San Francisco attorney, who was sentenced to life in prison for his role in the plot. His four co-conspirators also have been convicted — the last two in September — and are either serving or facing lengthy prison sentences.

"The most important material piece of evidence linking [the suspect] to the murder was the thumbprint in the Notary journal," said John Hall, the Senior Public Information Specialist with the Riverside County District Attorney's Office.

Replogle impersonated the victim on two separate occasions to get powers of attorney notarized, according to court documents. Following California law, the Notary had Replogle leave his fingerprints beside his journal entries.

### Protecting The Public

While Notaries may not wear badges or uniforms, the high-profile Clifford Lambert murder case illustrates the valuable role they play in serving the public by providing evidence in investigations. Thumbprints collected in journals can deter crime while also protecting the Notary from liability.

A Notary's primary responsibility is to ensure the proper identification of a signer. But there is clearly a limit as to how far one can go in his or her efforts. If the identification appears authentic, and the photo and physical description of the signer seem to match that of the ID, a Notary is likely to proceed, barring any other indication that something is amiss.

As criminal cases have shown, however, there are ways to hijack this system. There is, for example, the case of identical twins, whose IDs might look as similar as their DNA, or criminals who may impersonate a victim — which is something Notary Ed Newsom witnessed firsthand.

"You can lie about your name, fake a signature, but your fingerprint is inviolable," says Newsom, whose practice of always taking signer's fingerprints came in particularly handy several years back.

When a man walked into Newsom's UPS store in Thousand Oaks, California, needing

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a grant deed for his Beverly Hills property notarized, Newsom was happy to oblige. The man presented proper ID, he resembled the photo, and he didn't object to being thumbprinted as part of the transaction.

It wasn't until two years later, when a private investigator reached out to him, that Newsom learned that the actual property owner to whom the deeds rightfully belonged had been murdered. The criminals had stolen the man's driver's license and hired an actor to impersonate him before the Notary, one who bore enough resemblance that Newsom didn't bat an eye. Luckily for him, the fingerprints didn't lie, and Newsom was able to quickly access the signer's prints in his journal, helping law enforcement identify the imposter, and protecting Newsom against litigation.

As Newsom's encounter illustrates, crimes can go undiscovered for years, and a Notary may be hard-pressed to recall details of a past notarization. But a journal record and thumbprint makes up for that.

### Protecting Notaries

Currently, Illinois and California are the only states with thumbprint laws, and California Governor Jerry Brown recently signed a law expanding the notarial thumbprint requirement in his state.

Even in states that do not require it, recording the irrefutable evidence of a thumbprint helps protect Notaries from potential liability, should a case ever go to court, even years after the notarization.

Gaylor Smith, a Notary Signing Agent from Oceanside, California, recalled the time he answered a late afternoon call from a man who needed Smith's services. Smith promptly responded and arrived at the beachfront home belonging to the caller's aunt, where he was asked to notarize a deed transferring title to the property to the nephew.

***“The most important material piece of evidence linking [the suspect] to the murder was the thumbprint in the Notary journal.”***

— John Hall, Riverside County District Attorney's Office

A licensed California real estate broker, Smith admitted that the transaction seemed unusual, but he deemed the signer mentally and physically capable of making the decision to sign, and she presented acceptable ID.

Smith did everything by the book, but he was contacted several months later by a law firm requesting to see his journal. They specifically asked to see the signer's thumbprint. The print was deemed genuine, and Smith never again heard from the law firm.

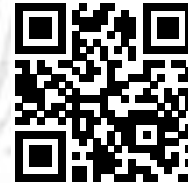
That was an important lesson. To this day, he asks to ink the thumbs of all of his signers for all notarizations, and he has yet to

have a signer refuse.

Whether required by law or not, Notaries in most states may request a thumbprint for their journal. Notaries who exercise this option further protect themselves from liability, in the same way they do when checking signer IDs or making sure that their Notary seal and journal are always secure.

In some cases, a simple print analysis might indicate that the signer is, in fact, who they say they are, and a crisis is averted. In other cases, the lines of one's thumb might reveal an imposter, a cheat, or even a murderous con artist.

In the end, recording thumbprints protects everyone. 



**For a thumbprinter and journal for your state, scan this QR code with your smartphone or visit [www.nationalnotary.org/supplies](http://www.nationalnotary.org/supplies).**





# Notarizing For A Representative Signer

TIPS ON PROPERLY NOTARIZING WHEN A SIGNER CLAIMS AUTHORITY TO SIGN ON SOMEONE ELSE'S BEHALF

In situations where people are unable to make decisions or sign documents for themselves, it is often necessary to appoint another individual to perform these tasks for them. The authority to sign documents on another person's behalf — that is, as that person's authorized representative — typically is granted through a document called a power of attorney. The person given this kind of authority through a power of attorney is commonly referred to as an “attorney in fact,” while the person the attorney in fact represents is known as the “principal.”

The attorney in fact can sign in a couple of different ways; however, the signature should always include the attorney in fact's name and authority and the name of the principal being represented. For example, attorney in fact John Smith could sign for principal Mary Doe using the following format: “John Smith, attorney in fact for Mary Doe, principal.” Alternatively, John Smith could sign: “Mary Doe, principal, by John Smith, attorney in fact.”

## NOTARIZING FOR AN ATTORNEY IN FACT

Even when acting on behalf of someone else, the attorney in fact is still the person who appears before the Notary and is identified. When a Notary completes a notarial certificate for an attorney in fact, only the attorney in fact's name should be written in the certificate wording, and it is the attorney in fact who must provide satisfactory evidence of identity prior to the notarization. So even if John Smith is representing Mary Doe, it's John Smith's name that's written in the certificate wording, and it's John Smith who must present satisfactory proof of his

own identity — he cannot present Mary Doe's ID as proof of identity, even though she is the principal he represents. When the Notary records the notarial act in the journal, it is the attorney in fact who signs in the journal entry. However, the Notary should make a note that the signer was acting as an attorney in fact and should record the name of the principal being represented in ‘Other Information’ as part of the journal entry.

## JURATS AND ATTORNEYS IN FACT

If an attorney in fact asks to have his or her signature notarized using a jurat, remember that a signer may not swear an oath or affirmation on behalf of another person. For example, if attorney in fact John Smith appeared before a Notary, the Notary could not accept John's oath saying that Mary Doe promises the document is true and complete.

## PROOF OF AUTHORITY

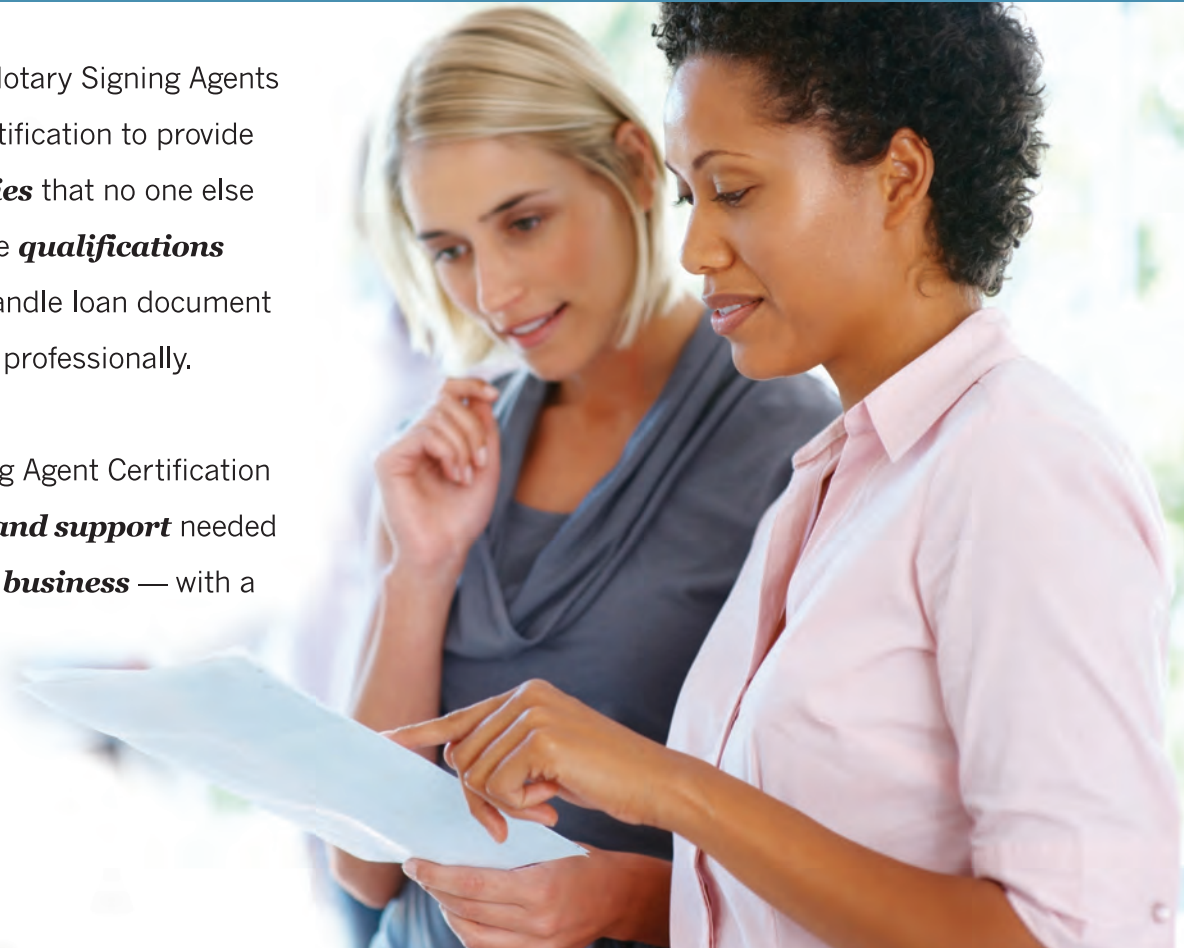
A common question Notaries ask about notarizing for an attorney in fact is whether a Notary should ask the signer for proof of the signer's authority to sign on behalf of the principal. Only a handful of states — Colorado, Idaho, Minnesota, Montana and Oregon — require attorneys in fact to show the Notary proof of their authority before having their signature notarized. A few states — California, Kansas and North Carolina — instruct Notaries not to ask for proof of authority. In all other states, attorneys in fact must formally acknowledge — that is, declare out loud in the Notary's presence — that they have the authority to sign on behalf of the principal.

# Create Your Own Options

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\*Some states have restrictions that may apply to Notary Signing Agents and their ability to handle loan signings in their state. Please see [NationalNotary.org/notary\\_signing\\_agent/state\\_restrictions](http://NationalNotary.org/notary_signing_agent/state_restrictions) for details.

# Notaries On The Move, And The Question Of Military ID Cards



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

**I am a Colorado Notary who is about to move to Texas, and I'd like to apply for a Texas Notary commission. Can I do that even though I still have my Colorado driver's license?**

**T.W., Denver, CO**

When you apply for your Texas Notary commission, you must provide evidence that you are a legal resident of the State of Texas. As long as you can provide some form of proof of legal residence, the fact that you want to use your Colorado driver's license as identification should not be a problem.

**Are California Notaries able to use a United States Uniformed Services card as an acceptable form of identification?**

**D.B., Palo Alto, CA**

Yes, you can accept a U.S. Uniformed Services (Military) card, as long as it contains a serial or identifying number and a photograph, signature, and physical description of the bearer.

**When I am notarizing for a house closing, am I required to record the information contained in the documents that I notarized into my journal?**

**J.P., Washington, D.C.**

You do not need to put the information from the document in your journal.

As a Notary in the District of Columbia, you must record the title of the document you are notarizing in your journal, but that is the only information about the document that you are required to record. If you wish, you also may record the document's date, but it is neither necessary nor appropriate for you to record anything about the document's contents.

**When notarizing recently for a couple, I logged their information in my Notary journal. However, when the couple went to sign the document, they discovered only the wife's signature was necessary. What should I do to the line in my journal where I recorded the husband's information, as I didn't have him sign the journal?**

**V.Z., Butte, MT**

Simply draw a line through whatever information you have recorded for the husband in your journal. Be particularly careful to strike out as thoroughly as possible any personal identifying information you may have recorded, such as the details from his driver's license. In the Additional Information column of the entry (or any available space in the entry, if your journal doesn't have such a column) make a notation as to why you didn't complete the notarial act for the husband, for example: "Husband's signature did not need notarization," or a similar statement.

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

**1-888-876-0827**

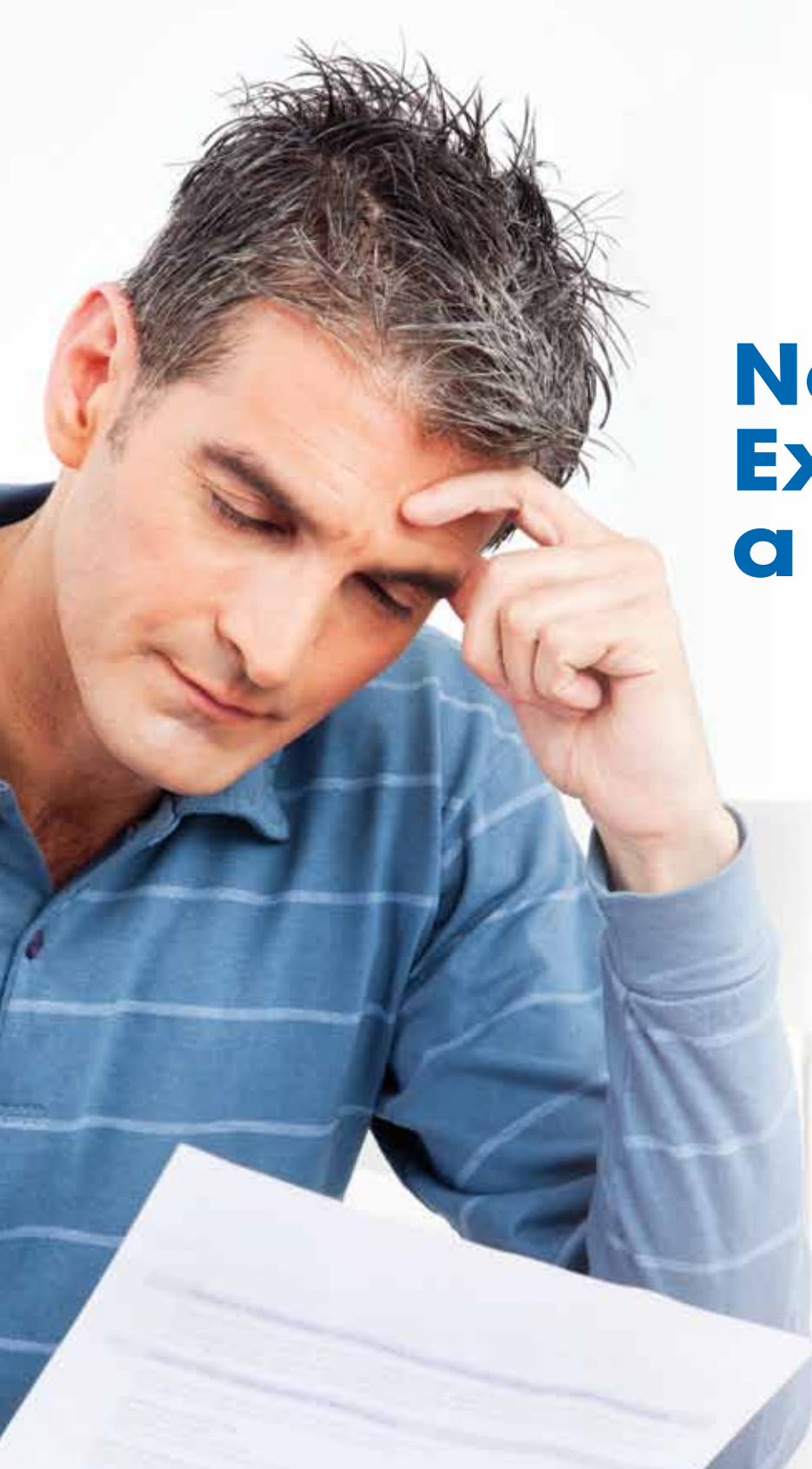
*5 a.m. to 7 p.m.*

*Monday to Friday, and  
5 a.m. to 5 p.m.*

*Saturday, Pacific Time  
or please visit*

**NationalNotary.org/  
Hotline**

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



Jim was a Notary for many years. And then... he got the letter that changed his entire outlook. Jim was being sued, even though he did nothing wrong.

# No One Expects a Lawsuit...

If Jim had Errors & Omissions Insurance from the NNA, he wouldn't have to worry. If an unintentional mistake is made or a false claim is filed against you, our E&O policies provide a lawyer experienced in Notary claims, and the judgment, court costs and other defense costs are covered — up to the limit of your policy.

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BONDS AND E&O POLICIES UNDERWRITTEN BY MERCHANTS BONDING COMPANY (MUTUAL), DES MOINES, IOWA. PENNSYLVANIA BONDS AND E&O POLICIES UNDERWRITTEN BY MERCHANTS NATIONAL BONDING, INC. (A SUBSIDIARY OF MERCHANTS BONDING COMPANY (MUTUAL)). AGENT FOR ALL BONDS AND E&O POLICIES IS NNA INSURANCE SERVICES, INC. COMMISSION NUMBER AND COMMISSION EFFECTIVE AND EXPIRATION DATES REQUIRED FOR E&O POLICY ACTIVATION. THE COVERAGE PROVIDED BY ANY POLICY ISSUED SHALL BE DETERMINED IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE POLICY ISSUED, ANY CONTRARY REPRESENTATIONS HEREIN NOTWITHSTANDING. NNA BENEFITS AND OTHER OFFERINGS COULD CHANGE WITHOUT NOTICE. CALL 1-800-US NOTARY (1-800-876-6827) FOR PRICING AND ORDER INFORMATION.

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In Hawaii: Item #7321

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## 4 Easy Ways to Order

Phone: **1-800-US NOTARY**  
1-800-876-6827

Online: **NationalNotary.org/supplies**

Mail: **National Notary Association  
Processing Center  
P.O. Box 749991  
Los Angeles, CA 90074-9991**

Fax: **1-800-833-1211** (24 Hours)

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Not a member? Stay up-to-date and informed. Add one of the membership options below to your order and write "new" in the NNA Member Number space.

One-year NNA Membership ..... **\$52**  
Item #1500-012

Two-year NNA Membership ..... **\$89**  
Item #1500-024

Three-year NNA Membership ..... **\$126**  
Item #1500-036

Four-year NNA Membership ..... **\$163**  
Item #1500-048

Five-year NNA Membership ..... **\$200**  
Item #1500-060

Additional years available at only \$37 per year.

## NNA Supplies Order Form

Source Code  
**A48228**

Name \_\_\_\_\_ Organization \_\_\_\_\_  
 Address Business \_\_\_\_\_  
 Address Home \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Daytime Phone \_\_\_\_\_ Home Phone \_\_\_\_\_ Fax \_\_\_\_\_  
 Email \_\_\_\_\_ NNA Member Number \_\_\_\_\_

Sorry, but we cannot accept purchase orders to bill on account.

Item #	Quantity	Description	Price	TOTAL

Check Enclosed/Money Order (payable to: National Notary Association)

Visa  MasterCard  AMEX  Discover

Card Number \_\_\_\_\_  
 Name on Card \_\_\_\_\_ Card Expires \_\_\_\_\_  
 Billing Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Signature \_\_\_\_\_

### Sub-total of Supply Items

**Shipping Charges** (see rates below)  
 Ground  2-Day Air  Next-Day Air

**Add State/Local Taxes**  
 (delivery to CA & WA\*)

**TOTAL**

Item Total	Shipping Rates**		
	Ground	2-Day Air***	Next-Day Air****
\$0 - \$15.00	\$6.95	\$11.95	\$20.95
\$15.01 - \$40.00	\$7.95	\$12.95	\$23.95
\$40.01 - \$65.00	\$9.95	\$13.95	\$26.95
\$65.01 - \$95.00	\$11.95	\$15.95	\$29.95
\$95.01 - \$120.00	\$13.95	\$17.95	\$33.95
\$120.01 - \$150.00	\$15.95	\$19.95	\$38.95
\$150.01 - \$250.00	\$17.95	\$22.95	\$44.95



IF THIS ORDER CANNOT BE COMPLETED WITHIN ONE YEAR (365 DAYS) AFTER THE NNA HAS RECEIVED IT DUE TO YOUR FAILURE TO NOTIFY US OF YOUR COMMISSION COMMENCEMENT DATE, YOUR PAYMENT WILL BE NON-REFUNDABLE.

\*For WA include tax on shipping rates.

\*\*Rates subject to change.

\*\*\*For U.S. states and Washington, D.C.

For shipments to other destinations, call for rates.



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NOTARY  
ASSOCIATION

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We're the NNA, here for you as your one-stop, everything-Notary resource.



### Here's what people are saying on Facebook...

Thanks for all the webinars. It's so great to be able to view them after the fact.  
— Jane S.

I have passed my exam but hadn't gotten started yet because I was nervous that I wasn't prepared. I just called the Hotline with a ton of questions and MICHAEL was AMAZING! He was so patient and went above and beyond to help me and put me at ease. I feel so confident now and can't wait to get started in my new career!  
— Cara G.

For more information about  
NNA resources, visit [NationalNotary.org](http://NationalNotary.org)

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[facebook.com/nationalnotary](http://facebook.com/nationalnotary)