

The National NOTARY®

IN THIS ISSUE

- 16 2016 Legislative Impact
- 18 NSAs Discuss Life with the New Closing Disclosure
- 21 Signing Service: How to Get More Assignments

www.NationalNotary.org



Can you identify the owner of this I.D.?
See answer on p. 10



Identifying Signers

A Notary's Greatest Challenge



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The National NOTARY

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OUR MISSION

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

OUR CORE VALUES

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

Our Core Values of Membership promote:

- **Compliance** with state laws and regulations
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TABLE OF CONTENTS



COVER STORY

10

Identifying Signers: A Notary's Greatest Challenge

Michael Lewis

Verifying a signer's identity is the most important and arguably the most challenging task Notaries perform. There are myriad variations of IDs and different methods of verifying identity — not to mention the risk of fake IDs and impostors. Despite all this, Notaries must always exercise a high-level of judgment in deciding if signers are who they say they are. The consequences of a wrong choice can be significant — for the Notary and others. So just how much expertise do you need to meet your essential responsibilities?

13 Identity-Vetting Resources

14 Notaries Show Mixed Results in Face-Matching Research Survey

DEPARTMENTS

ASSOCIATION NEWS	6
YOUR COMMUNITY	7
YOUR WORLD	9
HOTLINE	24
NOTARY ESSENTIALS	26
BEYOND THE BASICS	27

FEATURES

16

Texas Seals, Webcam Notarizations and Other Trends

Kelle Clarke

Several states enacted new laws and adopted regulations in 2015 that significantly impact Notaries across the nation. While most are state-specific, they represent legislative trends that may reach a larger Notary population in the near future.

18

Signing Agents Discuss Life with the New Closing Disclosure

David Thun

It's been several months since the Consumer Financial Protection Bureau's Closing Disclosure rule went into effect, and *The National Notary* recently asked Signing Agents how loan signings have changed and how the rule has impacted their business.

21

Make Me Want to Work with You

Marcy Tiberio

Notary Signing Agents often ask how they can get more work. NNA 2015 Notary of the Year Honoree Marcy Tiberio, who owns a national signing service, discusses the things that really set apart the good NSAs from the bad and even the mediocre.

ASSOCIATION NEWS



NNA 2016 Workshops You Won't Want to Miss

THE FEEDBACK YOU PROVIDED ON CONFERENCE WORKSHOP surveys last year gave us clear insight to the kinds of sessions you want. In addition to the traditional workshops covering core Notary essentials, we've added a variety of content and a line-up of expert speakers for the NNA 2016 Conference geared toward Notaries as well as Notary-business owners.

This year, there is a big focus on identity-related issues with three separate workshops: "How To 'F.L.A.G.' A Fraudulent ID"; "How To Identify Signers With Proven Facial Recognition Techniques"; and "How To Protect Yourself And Your Clients From Identity Theft."

Managing life as a self-employed Notary isn't easy, so we're planning a line-up of practical sessions for business owners such as "Income Taxes and Your Bottom Line" and "Retirement Is Not A Four-Letter Word."

NNA 2016 will also feature a strong selection of business-building workshops. Take the "Marketing Master Class" and learn how to get more assignments without a marketing degree or spending a fortune, and work on "7 Ways tO Make More Money As A Notary" by adding services to grow your business.

Whether you're interested in "Understanding I-9 Forms: What Notaries Need To Know" or "The Good, The Bad And The TRID," our workshops will deliver practical information you can put to good use.

The complete list of NNA 2016 workshops is available at bitly.com/NNA2016Workshops.



Medal of Honor Journal Benefits Military Foundation

YOUR SUPPORT OF THE NATIONAL NOTARY FOUNDATION'S newest philanthropic journal has raised \$5,000. Our journal is one way for the Notary community to say "thank you" to our valiant servicemen and women. Five dollars from each sale is donated to the Congressional Medal of Honor Foundation, which supports efforts to educate students and the public on the values embodied in the Medal of Honor. The Medal of Honor is the highest award presented to U.S. military personnel. It is awarded by Congress to recognize exceptional bravery in combat above and beyond the call of duty.



Notaries Boost Support for Breast Cancer Research

EVERY YEAR, WE ENCOURAGE THE NOTARY COMMUNITY to join us in supporting breast cancer research. This year, we want to share how donations from the National Notary Foundation and others impact research at City of Hope. Watch the short video (bitly.com/cityofhopevideo) and view the photo gallery (bitly.com/cityofhopephotos) to go on the virtual tour with us.

In 2015, more than 230,000 women were diagnosed with breast cancer and more than 40,000 succumbed to the disease.

The NNF's Linda Bazar Breast Cancer Research Fund benefits national cancer research programs. Our annual Breast Cancer Awareness Journals provide an easy way for Notaries to contribute to research focused on finding a cure.



Janet Morgan, Senior Director of Philanthropy accepted the \$10,000 check from the National Notary Foundation and the Notary community.

YOUR COMMUNITY

Hello 2016!

AS WE GO THROUGH 2016, hopefully some of us still have some unbroken resolutions ... which can be especially important in helping your Notary business flourish. What are your New Year's resolutions? Share them with us on our social media pages and see what your fellow peers are shooting for this year.



Notary Seal Adventures



WE LOVE RECEIVING PHOTO submissions of Neil and Camille, our favorite Notary Seals! If you take any awesome photos with your Notary Seal, share them with us! Use the hashtag **#NotarySeal** with your post or share your photos and videos on our Facebook page: www.Facebook.com/NationalNotary.

Mobile Notary Payment Options

WITH SO MANY PAYMENT OPTIONS available, we asked Notaries on Facebook what method of payment they prefer using when accepting fees from their customers. To many cash is king; but it's a scarce commodity.



Kim B. Voloshin: "I prefer Cash, Debit/Credit cards. I bill only repeat customers and I do accept personal checks but those I deposit immediately after having been burned by an inmate."

Amanda Keene Lang: "A former Square user, I now use Flint for credit — easy app that doesn't require a reader. But of course cash is my preference."

Cathy Davies Boston: "Prefer not to take checks. Cash or Square."

For more insight on the top preferred payment methods by Notaries, visit this discussion thread at www.bitly.com/notarypayment.

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Long-Term Mortgage Outlook Strong

THE HOUSING MARKET WILL EXPERIENCE STRONG GROWTH in the next decade, according to a research report from the Mortgage Bankers Association. That is good news for the mortgage industry and Notary Signing Agents.

“By 2024, demographic and economic changes will bring what could be one of the largest expansions in the history of the U.S. housing market — 15.9 million additional households,” the MBA report notes.

For NSAs, the report suggests that loan signings will remain a strong part of their business offerings. It also justifies making the ongoing investment in training and certifications designed to keep up with the growing expectations of the mortgage lending industry.

NSAs who are bi-lingual or multi-lingual will find those language skills helpful. According to the report, nearly half of the new households are expected to come from the Hispanic and Asian communities.



Borrower Myths about Notary Signing Agents

BORROWERS OFTEN MISUNDERSTAND THE NSA'S ROLE at a closing. Here are some of the most common borrower myths and misconceptions Signing Agents have encountered:

The Notary is an employee of the lender or title company. “Many borrowers believe I am an employee of the title company,” said Margaret Paddock of Cottonwood, Arizona. Some people get upset when they realize the NSA cannot explain the documents.

The NSA is delivering money. David Wayne Schuster of South Chesterfield, Virginia, said he has encountered signers who expected him to show up with a check in hand. “Of course, they are very upset when I tell them ‘No’ and ask them to please call the lender ASAP,” he said.



The Notary can offer an opinion about the terms of the loan. Some borrowers ask the Signing Agent for advice on whether the borrower got a “good deal” on the loan. Brenda Parsons Tucker of Acton, California, said she’s been asked this by her signers. “They ask my opinion on whether they are getting a good interest rate,” she said.

If you’ve come across other myths, please share them with us at bitly.com/NSAmyths.

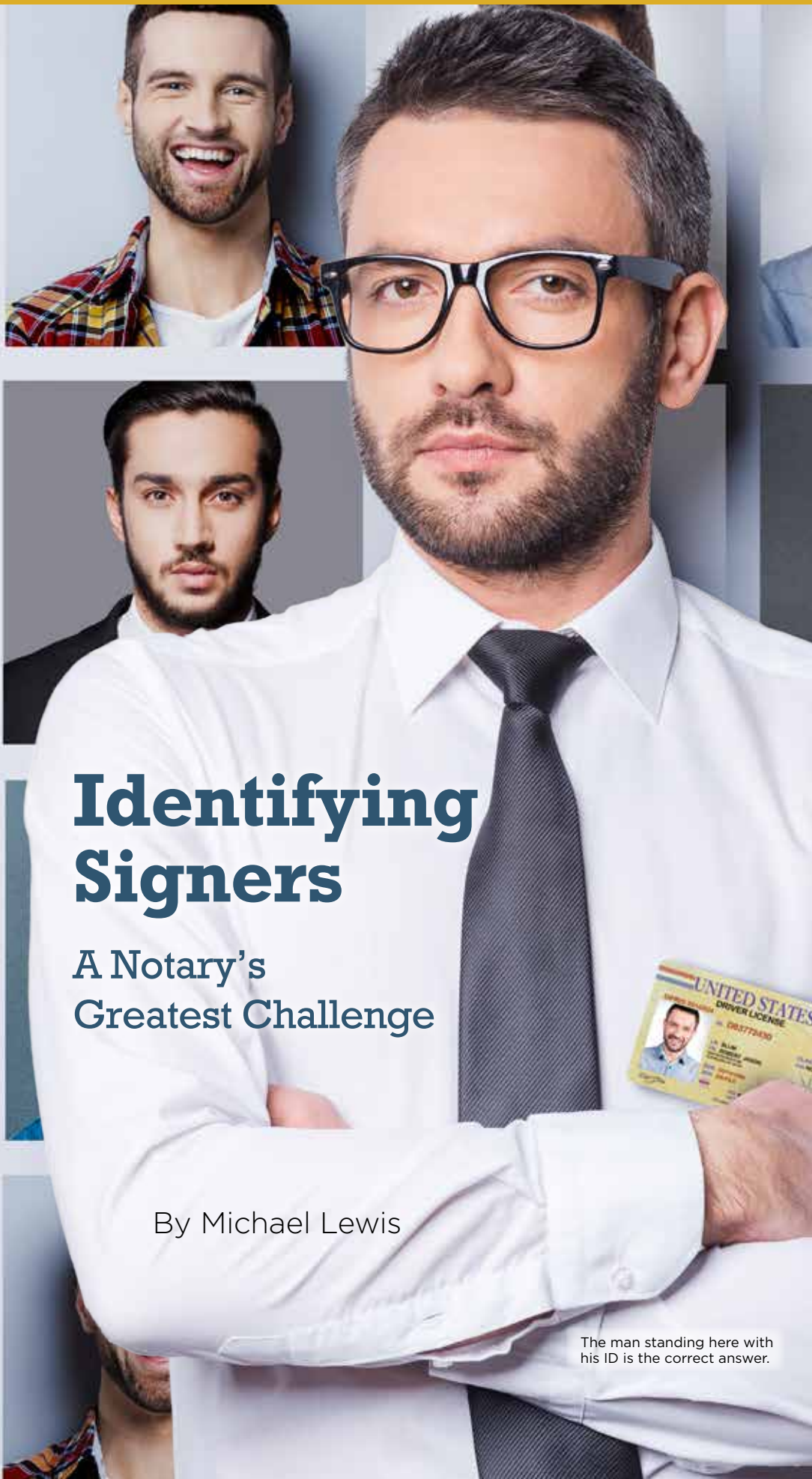
Serving as Remote Testimony Witnesses

MORE AND MORE MOBILE NOTARIES are discovering that witnessing court-mandated telephone hearings for non-criminal cases can be a lucrative service.

The process varies depending on the rules of your state, the court or circumstance. But generally the court sets up a conference call, which begins by having the Notary identify the individual providing testimony. The Notary may be asked to remain on the line with the individual throughout their testimony, serving as a witness.

In Florida, for example, Notaries are permitted to administer an oath or affirmation and confirm the identity of a witness for testimonies taken by telephone. State law requires the Notary to be physically present with the witness to administer the oath, and file written certification with the presiding court officer confirming the identity of the witness and that the affirmation or oath was administered.

If you are asked to take part in a telephone deposition, be clear on the exact nature of the services you will be expected to perform. Law in most states allows Notaries to administer an oath for a deposition. However, some states, such as Nevada, have repealed the authority of a Notary to “take” the deposition — that is, recording the testimony and transcribing it — or require a Notary to have additional credentials.



Identifying Signers

A Notary's Greatest Challenge

By Michael Lewis

The man standing here with his ID is the correct answer.

“Can I accept this ID?” “My signer doesn’t look like the photo on her ID.” “What if the ID is expired?” Of all the questions Notaries ask the National Notary Association, the most common involve issues with verifying signers’ identities. With good reason.

Compared to other tasks Notaries perform, verifying a signer’s identity is the most important, and arguably the most challenging. There are myriad variations of IDs and differing methods of verifying identity. And Notaries must always exercise a high-level of judgment before proceeding.

Every state and U.S. territory issues driver’s licenses and ID cards. In addition, there are inmate IDs, tribal IDs and identity cards issued by federal agencies, as well as the identity cards and passports issued by every country in the world.

What if the ID is issued by a county government? What if the passport is in a foreign language? Twelve states plus the District of Columbia issue driver’s licenses or driving cards to undocumented immigrants, according to the National Conference of State Legislatures, but they all have restrictions. What if you encounter a driver’s license marked with the words,

“Federal Limits Apply” or “Permits Driving Only. Not for ID Purposes?” These issues and more constantly come up in the Notary community.

And even if a signer has what appears to be a valid ID, how do you know it’s real? A recent face-matching research survey involving more than 1,150 Notaries found that they failed to spot impostors about 28 percent of the time. And about 20 percent of the time, the survey-takers thought people were impostors when they were not.

Given all this, verifying the identity of signers is far more challenging than simply asking to see their ID. Yet the point of a notarization is for you to certify that your signers are who they say they are. If you neglect your duty or make a mistake, there could be serious and costly consequences. While most states define what is commonly called “satisfactory evidence of identity,” no state tells you how to apply those definitions.

By understanding the different challenges, you will be in a much better position to protect the signer, the public and yourself.

Fake Or Real

Many teenagers see getting a fake ID as a right of passage, and they represent a big market for bogus IDs. Just check any college town bar. But serious criminals have been increasingly exploiting counterfeit IDs, and in big ways.

Glenn Garrity, founder of the Southern California-based G2 Identity Management, noted that 49 percent of all identity theft crimes involve the use of fake IDs. In Connecticut, so many fake IDs were coming into the state that

“When somebody goes to a Notary with a false ID, they’re probably trying to do something a lot more sinister than just getting into a bar.”

— **Tim Dees**

some grocery stores started asking customers buying alcohol for back-up identification, according to media reports.

Many of the websites that sell fake IDs are located overseas, especially in China. While they officially sell the IDs as “novelties,” they often are high-quality imitations of the real thing. And for criminals, that can be a gateway to big financial gain.

“If you have one good piece of identification, that’s what you use to leverage your way into other good pieces of identification or other documents that are going to be worthwhile to you,” said Tim Dees, a law enforcement consultant and former Reno, Nevada, police officer. “When somebody goes to a Notary with a false ID, they’re probably trying to do something a lot more sinister than just getting into a bar.”

Garrity noted that scam artists are getting

savvier. He has seen cases where scammers in California, for example, use fake IDs supposedly from the East Coast. “They rely on the fact that you won’t be as familiar with those IDs.”

While Notaries should be familiar with the IDs issued by their state, he suggested keeping the latest edition of the *I.D. Checking Guide* on hand. The book, which is updated every year, includes descriptions and sample images of driver’s licenses and ID cards issued in the U.S. and Canada, as well as U.S. federal IDs. It also notes the security elements — such as holograms, UV images and microprinting — that appear on the IDs.

To spot a fake, Garrity recommends that you take the ID in hand so you can feel the texture and tactile elements, and notice any unusual features. Then look for the right security features. Compare the photo and description with your signer.

You can ask questions. Garrity said that scammers probably will know the fake date of birth, but not always their zodiac sign. Or ask for the name of a major cross street at their address.

Are You An Impostor?

Perhaps the hardest task in checking a person’s identity is matching the ID photo to the person in front of you.

“It’s incredibly difficult to match a face to a photo ID,” said **Megan Papesh, Ph.D.**, an assistant professor of psychology at Louisiana State University, who conducted the face-matching survey mentioned above.

One of the problems is that ID photos and descriptions can be 10 or more years old, and people often change their appearance, even over relatively short periods of time.

New Jersey Notary Michael Harris experienced that first hand. He recalled a loan signing where the borrower, a middle-aged woman, looked very different than the woman in the ID photo. “She showed me a series of photos on her refrigerator that documented her year-long weight loss of 100+ pounds,” Harris said. “By examining the progression of the photos, I was convinced that she was who she claimed to be.”

Dr. Papesh noted that cross-cultural differences are particularly challenging. People have a much harder time accurately identifying individuals from another culture or race. As imperfect as matching faces to ID photos is, she said, there isn’t a better way to identify people at present because reliable facial recognition technology is not available.

She offered some suggestions to minimize the risk of missing an impostor.



“It’s incredibly difficult to match a face to a photo ID.”
— Megan Papesh

Features such as hair and weight can change, so Dr. Papesh recommended focusing on features that don’t change much, such as the size and shape of a person’s ears, nose, mouth and eyes.

Examine the nose line or general size and shape of the chin. The distance between the nose, mouth and chin also can be revealing. But don’t just stick to one set of features.

“What works when checking some individuals will not work for others,” Dr. Papesh said. “It’s a good idea to check a few features without getting tripped up by hair, weight and skin shade.”

The ‘Reasonable Person’ Standard

To some, it may seem as though Notaries are expected to be experts at verifying identities. In fact, given the sheer mass of identity-related issues in the world, it might seem that you have to be experts to carry out your duties.

But that’s not the case. For the most part, Notaries are expected to take the same steps that a reasonable person would take in performing their duties, including verifying signers’ identities.

California, which has a specific list of IDs that Notaries in the state may accept, further defines satisfactory evidence of identity as “the absence of information or other circumstances that would lead a reasonable person to believe that the signer is not the individual he or she claims to be.”

Florida, which has a similar list of acceptable IDs, applies what it calls a “reasonable care” standard, which is defined as the “degree of concern and attentiveness that a person of normal intelligence and responsibility would exhibit.”

And, both states have the same language in their laws clarifying that the standard for identification is “reasonable reliance on the presentation” of the ID to the Notary.

“Verifying identity is not an exact science,” said Bill Anderson, the NNA’s Vice President of Government Affairs. “This is an area where the Notary needs to exercise the most judgment.”

Notaries can compare a signer to the ID photo and the physical description. They can compare the signature on the ID to that on the document. But it is still a judgment call. (See page 13 for resources about your state’s requirements.)

Because there are so many potential gray areas, Anderson emphasized the need to take reasonable steps when making a judgement.

He recommended an identity-vetting protocol for Notaries incorporating three best practices:

“Verifying identity is not an exact science.”

— Bill Anderson

- *Look for suspicious circumstances:* Is the signer trying to rush you or distract you from your normal procedures? Is the signer explaining why their signatures might not match or why they don't look like their ID photo? “A little common sense goes a long way,” Anderson said.
- *Examine the ID:* Look at the ID closely and check the various security features, such as the ghost images, microprinting and raised lettering. Have an ID guide handy for out-of-state IDs.
- *Match the ID to the signer:* Instead of looking at hair, weight and other changeable features, focus on features that don't change as much, such as the shape and position of ears, the nose, the mouth and the eyes.

“By following these steps you can you clearly explain your method of reasonably verifying signers' identity,” he said.

Dr. Papesh offered another suggestion to the protocols: Take your time.

“Most of the time when people make a really critical error in checking someone's ID, it's because they inconvenience the person whose ID they are checking,” she said. “They let something go. So it's important to take more time.” ■

Glenn Garrity will be presenting a workshop “How to Recognize a Fraudulent Identification” at the NNA 2016 Conference.

Megan Papesh will be presenting a workshop “Using Proven Facial Recognition Practices to Identify Signers” at the NNA 2016 Conference.



Identity-Vetting Resources

There are so many issues involved with properly identifying signers that every Notary could use some helpful resources. Here is a list of resources that are readily available to you:

- **Your state Notary handbook:** Most states publish handbooks for their Notaries that include identification requirements or expectations. They usually are available from your commissioning agency.
- **State Law Summaries:** The NNA's library of State Law Summaries provide overviews of each state's Notary laws (at bitly.com/StateNotaryLaw), including ID requirements, and are available at no charge to the entire Notary community.
- **The Notary Bulletin:** The NNA's online publication has many articles covering a wide range of identity-vetting subjects that are available (at nationalnotary.org/notary-bulletin) to the entire Notary community at no charge.
- **NNA “Commonly Asked Questions” Webinars:** The NNA's free webinar library (bitly.com/NNASeminars) includes “ID Fraud — A Notary Trap” and “How to ID in a Multi-Cultural World.”
- **I.D. Checking Guide:** This publication comes in two editions — U.S. & Canada, which is updated annually, and an International Edition. They have been described as the “ID Bible” and include images and descriptions of most of the IDs you may encounter. They are available at nationalnotary.org/supplies/notary-books.
- **NNA® Hotline:** This is one of the most important member benefits. You can get answers to your specific questions at 888-876-0827 or Hotline@NationalNotary.org.

Notaries Show Mixed Results In Face-Matching Research Survey

The results of a recent face-matching research survey involving members of the NNA's Notary community show how hard matching faces to ID photos can be.

Approximately 28 percent of the time, survey takers failed to spot impostors, and 20 percent of the time they said people were impostors when they were not, reported the survey's co-author, Megan Papesh, Ph.D., an Assistant Professor of Psychology at Louisiana State University.

The 1,151 Notaries who took the survey represent the largest group of professional participants ever studied in this field of research. The average age of the respondents was 48, and 86 percent were women.

"Having Notaries participate in this research has been invaluable," Dr. Papesh said "Notaries check IDs as part of their jobs, and they take it seriously. If they make a mistake it could be devastating."

The Methodology

The survey consisted of 30 pairs of photos. Each

pair included a driver's license photo and a recent photo of an individual who looked like the person in the driver's license picture.

In half of the pairs, the photos were of the same person. In the other half, they were of impostors.

One of the surprises of the survey is that new Notaries performed as well as those who had been Notaries for more than 20 years.

How often the respondents verified identities did seem to matter. Notaries who check 15-20 IDs a week were much better at spotting impostors than Notaries who checked 10-15 IDs a week.

The Next Step

Performance also varied wildly between photo pairs. In the next research phase, Dr. Papesh will show the photo pairs with the best and worst results to a new group and track their eye movements.

This should provide some insight about which features trip up people and which features or other techniques prove most helpful in correctly identifying people. ■

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Victim: Stanley Bupkis

Crime: Tax-Related Identity Theft

Status: Married, Home Owner,
Two Kids, Never Shreds
Personal Documents.

Perpetrated Crime:

- Stanley's Social Security number stolen from documents tossed into home garbage.
- False tax return submitted in Stanley's name claiming a \$4,800 refund.

Resulting Impact:

- Spending months trying to resolve his stolen identity claim with the IRS.
- Stanley is not \$4,800 richer.
- Mother won't return calls because he has disgraced the family name.

*Event and character represent a fictitious portrayal.

No one can prevent all forms of identity theft.

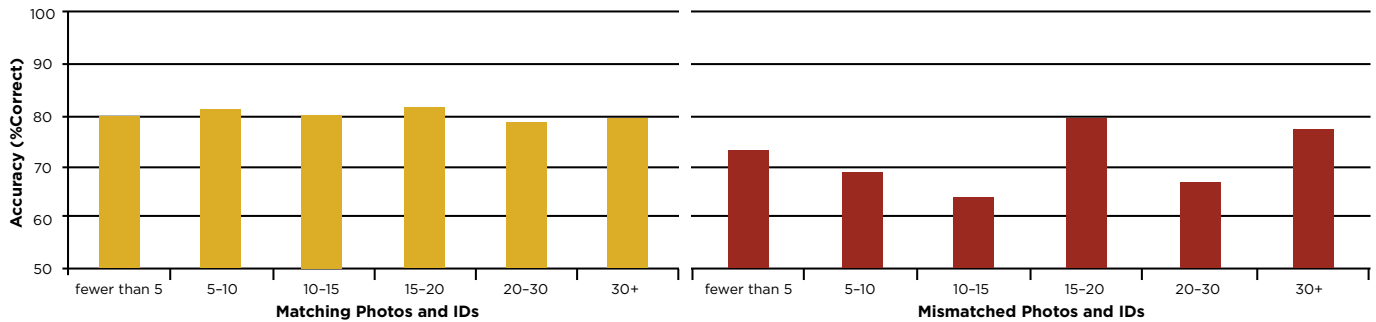
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‡The benefits under the Service Guarantee are provided under a Master Insurance Policy underwritten by State National Insurance Company. Under the Service Guarantee LifeLock will spend up to \$1 million to hire experts to help your recovery. As this is only a summary please see the actual policy for applicable terms and restrictions at [LifeLock.com/legal](https://www.lifelock.com/legal)

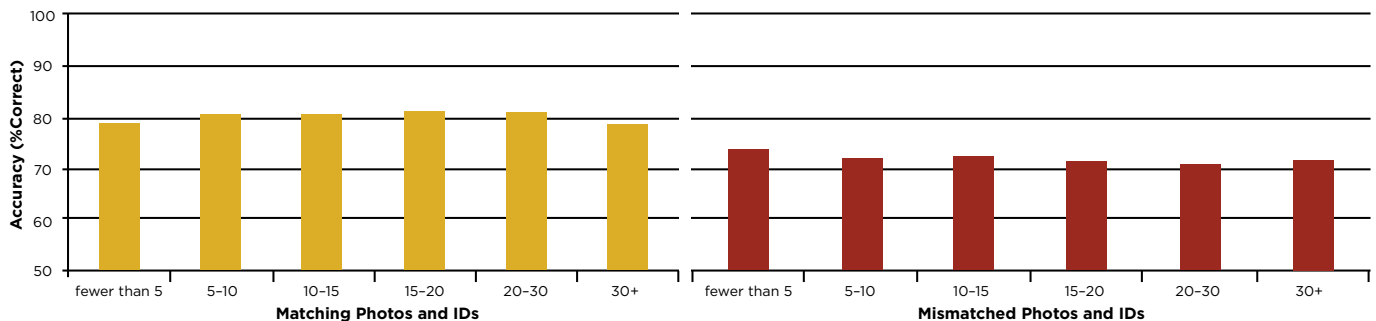
*At the end of the no-cost 30-day trial period, your card will be billed automatically (\$8.99mo/\$98.90yr for LifeLock Standard™ service or \$17.99mo/\$197.70yr for LifeLock Advantage™ service or \$26.99mo/\$296.90yr for LifeLock Ultimate Plus™ service. All pricing excludes applicable sales tax.) You can cancel any time without penalty by calling 1-800-LifeLock. Offer is for new LifeLock members only.

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TEXAS SEALS, WEBCAM NOTARIZATIONS AND OTHER LEGISLATIVE AND REGULATORY TRENDS

By Kelle Clark



SEVERAL STATES ENACTED NEW LAWS and adopted regulations that go into effect throughout 2016 and significantly impact Notaries across the nation. While most are state-specific, they represent legislative trends that may reach a larger Notary population in the near future.

In 2015, much of the new legislation was focused on four major categories: changes in Notary seal requirements, the wider acceptance of webcam notarization, a stricter scrutiny of election-related notarizations, and changes to Notary education and testing.



Seal Requirements

A new law in Texas, which went into effect on January 1, requires seals to include the Notary's ID number. The bill sponsor and the Texas Secretary of State's office have said the new law's intent was to require only new and renewing Notaries to have seals with their ID numbers.

However, the State Bar of Texas issued a statement that said existing Notaries might not be off the hook because of the way the law is worded. To be completely safe, the State Bar urged every Notary to get a new seal that complies with the ID number requirement.

The State Bar is concerned that someone could argue in court that a seal without a Notary ID number is an incorrect seal, which is the "equivalent to no seal at all" under Texas case law. That could cause documents to be rejected.

Other states, such as Colorado, have made similar changes requiring Notaries to include their ID numbers on their seals. However, the 2012 Colorado law made it clear in the wording of the law that Notaries who purchased a seal before the new law took effect would be grandfathered in.

For Texas Notaries, the "prudent course of action" is to replace existing seals with ones including the ID number, according to the State Bar's Real Estate, Probate & Trust Law Section. (To learn more about this measure go to bitly.com/TXSealFAQ).

At press time, the Secretary of State's office was in the process of drafting a rule to clarify that Notaries with existing commissions do not have to obtain a new seal with their ID numbers.



Webcam Notarizations

The trend toward wider acceptance of webcam notarizations gained

momentum in 2015, with Montana, Florida, and Louisiana either enacting new webcam legislation, or studying the move.

Webcam notarizations make use of video and audio technology on the Internet to allow signers to personally appear before and communicate with the Notary at the time of the notarization. With traditional notarizations, the signer is in the Notary's physical presence.

[Note: Webcam notarization is not the same as electronic notarization (commonly called eNotarization). With an eNotarization, the documents and notarial certificate are in digital form; the signer and Notary both sign digitally.]

In 2011, Virginia became the first state to allow Virginia electronic Notaries to use video and audio technology on the Internet to perform electronic notarizations. This redefines how signers personally appear before, identify themselves to, and communicate with the Notary at the time of the notarization.

In October, 2015, Montana began permitting its Notaries to perform webcam notarizations under specifically defined circumstances. For one, Notaries will be required to identify signers through either their personal knowledge of the individual or through the use of a credible identifying witness.

Also, the transaction must meet specific requirements and the signer must be a legal resident of Montana for all but one of these transactions. If these requirements are met, then any document, paper or electronic, may be notarized via webcam.

Florida also authorized webcam notarizations, but is limiting the practice to certain law enforcement and correctional officers who are authorized to administer oaths and affirmations.

The Louisiana legislature directed the Louisiana State Law Institute to study and examine the practice of eNotarization and webcam eNotarizations. The Institute is scheduled to deliver a report and recommendations by February, 2017, which Notary experts believe may shape the future of the practice in the state.



Tighter Scrutiny for Election-Related Notarizations

Notary fraud and notarization errors, particularly those involving the Notary's impartiality on ballot and nomination petitions, and have been to blame for legal disputes during local elections. For this reason, Oklahoma and Arkansas passed new legislation that will directly impact Notaries involved in collecting petition signatures and notarizing absentee ballots.

Arkansas Notaries are now prohibited from committing certain improper acts with local-option election petitions. They include:

- Soliciting signatures from individuals the Notary knows are not qualified to sign a petition;
- Signing other people's names to a petition; and
- Paying individuals to sign a petition.

Another new Arkansas law makes it a misdemeanor if a Notary:

- Fails to witness an election canvasser's signature affidavit in person; or
- Fails to properly identify an election canvasser when notarizing the canvasser's signature.

In Oklahoma, a new law clarified that the existing limit of notarizing 20 absentee ballots in a single election does not apply to Notaries doing this at their place of employment during normal business hours. However, it does apply to agencies or entities that provide voter registration services.



Education and Examinations

Nevada, Montana and Hawaii have updated their state Notary education and examination requirements.

In 2016, Nevada became the 13th state to require a Notary exam. In addition, the mandatory

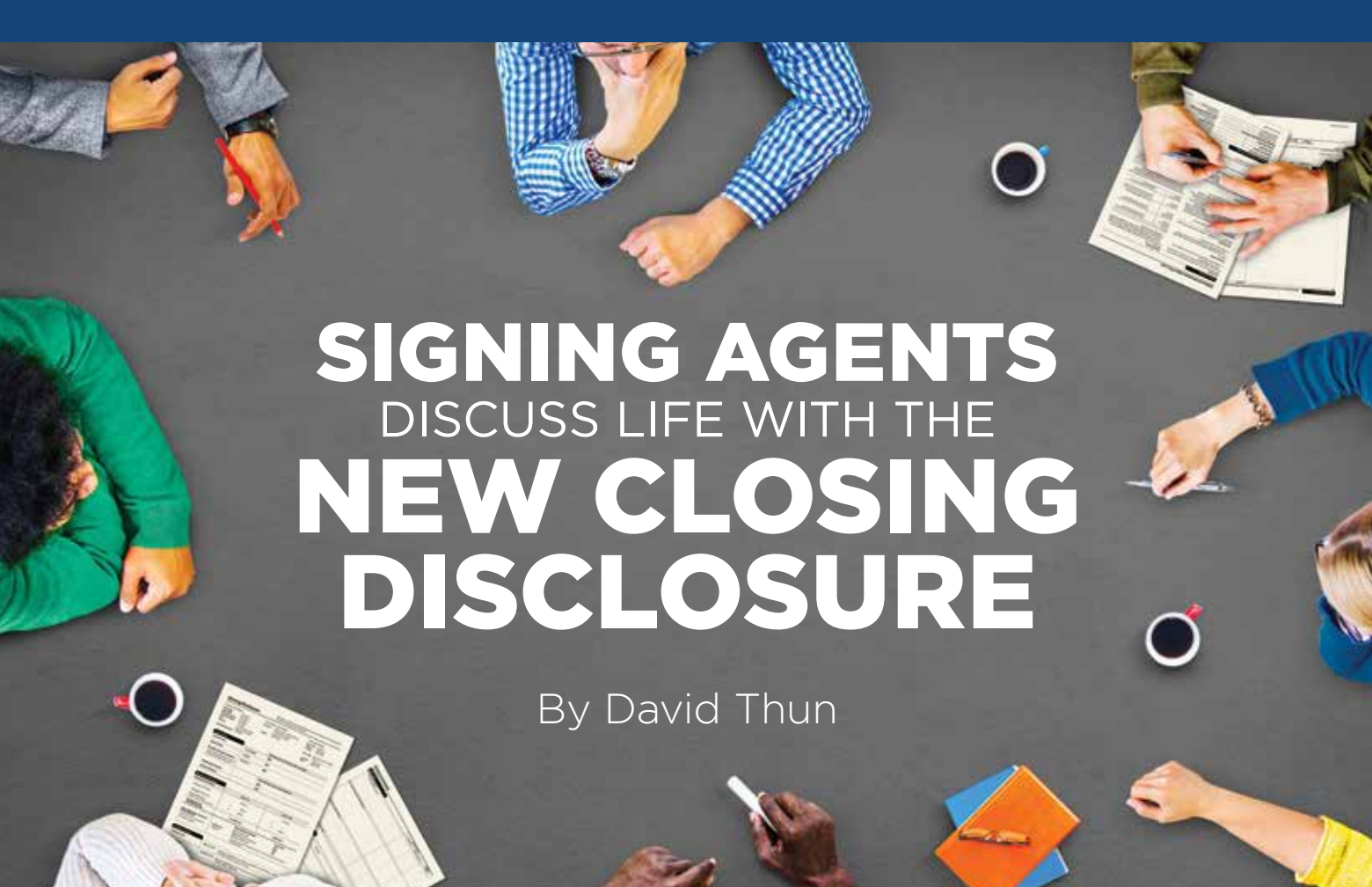
The trend toward wider acceptance of webcam notarizations made significant leaps forward in 2015.

training course has been reduced from four to three hours. Notaries who violate state laws may be required by the Secretary of State to retake the mandatory education course.

Applicants for a Notary commission in Montana who do not currently hold a commission are now required to pass a mandatory Notary examination administered by the Secretary of State, or an entity approved by the Secretary. However, in enacting the new examination provision, the Montana legislation also repealed the prior education requirement. Going forward, taking an educational course will not be required for first-time Notary applicants.

Finally, Hawaii Notary applicants will be facing tightened mandatory Notary examination procedures. The state has also revised its administrative rules to further clarify requirements for re-applying for a Notary commission and retaking the examination, should the applicant fail to pass the first time.

For more information about these and other new laws, visit the NNA's Notary Laws page at bitly.com/NotaryLaw. ■



SIGNING AGENTS DISCUSS LIFE WITH THE NEW CLOSING DISCLOSURE

By David Thun

IT'S BEEN SEVERAL MONTHS SINCE the Consumer Financial Protection Bureau's Closing Disclosure rule went into effect, and *The National Notary* recently asked Notary Signing Agents how loan signings have changed, how the rule has impacted their business, and what they think the future will look like as the mortgage industry continues to implement the new rules in the months to come.

For more than a year, lenders and title companies scrambled to implement the new Closing Disclosure, mandated by the TILA-RESPA Integrated Disclosure Rule, or TRID. During that time, NSAs debated whether the rule, which went into effect last October, would help or hinder loan signing assignments.

After several months of experience with the rule, here's what Signing Agents had to say:

The Bright Spots

Many Signing Agents said the new Closing Disclosure rule has made the loan-signing process smoother.

Richard Acker, a Signing Agent in Denver, Colorado, said that providing borrowers with loan information well in advance of the signing

appointment has had a positive effect on his work, with assignments being completed faster and more efficiently.

"Pre-TRID, I think the big thing was that a lot of borrowers had received documents right before the closing," Acker said. "Some borrowers are OK with this, but others may not have seen the closing statement ahead of time, so I spent a lot more time having to call loan officers and explaining closing costs."

TRID requires lenders to get the Closing Disclosure to the borrower at least three days before the signing, and that has helped tremendously, Acker said. Now that borrowers have more time to review their loan information, there are fewer delays during actual signings. "Customers are more informed before a closing now."

Acker added that borrowers he's worked with seem more at ease with the new Closing Disclosure form. Because they have more time to review their loan ahead of a closing, they tend to be less stressed during the process, which also helps with signing assignments.

"Having information ahead of time really speeds up the process. There's less need to call the loan officer with questions during the actual signing," he said.

Margaret Paddock of Cottonwood, Arizona, estimated that before TRID a refinancing typically took an hour to complete. But since October, she estimates her assignments are taking around 15 minutes less.

"Having received the financial figures ahead of time, most people feel more comfortable and do not have questions," she said.

The Frustrations

However, the rollout of the new Closing Disclosure rule and forms hasn't gone smoothly for everyone.

Berryville, Virginia, NSA Lisa Holliday said on LinkedIn that out of the first four signings she performed following the rollout, three had discrepancies in the information on the Closing Disclosure form. Fortunately, she says she caught the errors each time and brought them to the attention of the title companies.

John Axt, a Signing Agent from Melbourne, Florida, and the owner of the East Coast Signings signing agency, reported that he's had several signings cancelled by lenders or title companies due to issues getting documents to borrowers by the new deadline.

"I had one signing which had been scheduled for over a week," Axt said. "As we got to within an hour of the signing time and no documents had arrived, I contacted the borrower to see if I could reschedule for later in the day."

The borrower told Axt that the lender had canceled the signing two days earlier because some of the required closing forms could not be delivered three days before the signing.

"The lender never informed the title company about the change in plans either," he said.

For Axt, these last-minute cancellations are frustrating because often he is contacted with offers for other assignments the same day a signing is scheduled, and he loses the chance to take those assignments if the previously scheduled signing canceled abruptly due to TRID-related issues.

"The lender has a timetable, and if they don't follow it — and don't tell anyone, like what

happened to me — I'm stuck without the opportunity to make money that way," he said.

The Future

Another challenge NSAs faced immediately following the rollout was that many closings were still using older-format documents because the applications were submitted prior to the TRID rule taking effect in October. This meant a confusing process for many signing professionals because some signings used the new forms while others still included older closing documentation.

Acker estimated that around 20 percent of the closings he's dealt with since October 2015 included forms using the old format. However, he expects that number dropping significantly as time passes.

"By February 2016, 95 to 100 percent of closings should be under the new format," he said.

That will largely depend on how quickly the lenders can fully implement TRID.

Shortly after the rule went into effect, CFPB Director Richard Cordray acknowledged at the Mortgage Bankers Association annual conference "that the implementation process was not as smooth as we would have hoped."

Moody's Investor Service in December reported that as many as 90 percent of the loans originated under TRID were out of compliance with the rule. While many of the violations were technical, the fact that there were so many is "significant," the report noted.

"The number of technical violations should decline over

the next several months as lenders adjust their loan origination systems to comply with the rule's nuances," the report noted.

Despite the cancellations, Axt agrees. Providing borrowers with the Closing Disclosure form ahead of time does help signings go more smoothly.

"I think the closing process will improve over time as more industry professionals become familiar with the new Closing Disclosure form," he said.

Rochester, New York, NSA Marcy Tiberio, who owns a national signing service, also sees things getting much better for Signing Agents.

Because of the three-day rule, loan packages should be prepared well in advance of signing appointments and sent to NSAs.

"How many more signings can you complete in a day if you get all your packages the day before?" Tiberio said. "Think of how much better prepared you would be."

Even though the TRID rule is going through its growing pains, Tiberio said there is light at the end of the tunnel. "We just have to wait a tiny bit longer." ■

"Having information ahead of time really speeds up the process."

— NSA Richard Acker



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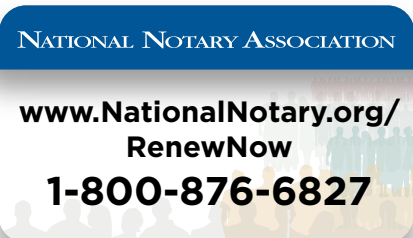
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SIGNING SERVICE OWNER: **MAKE ME WANT TO WORK WITH YOU**

By Marcy Tiberio

A **S THE OWNER OF A SIGNING COMPANY** that today does business in over 25 states and counting, I am fortunate in that I have been able to grow my business since I started as a Notary Signing Agent years ago.

I have a really great customer base and some wonderful employees. But the secret of my success has been finding and working with outstanding Notaries who do an excellent job out in the field every day.

I am aware that a lot of Notaries don't like to work with signing companies. I suspect if twenty of us sat in a room together and had to list our top 10 most disliked companies, many of us would have the same names on the list.

The harsh reality is that there are some really lousy signing companies out there. There are also some really lousy bank attorneys and title companies.

As much as it pains me, there are also some really lousy Notary Signing Agents. Fortunately, in my experience, they aren't as prevalent as the really great ones, but they do exist.

I have been asked by Notaries numerous times over the years how they can get more work. I have compiled some of the things that set apart the good NSAs from the bad and even the mediocre. A lot of these suggestions may seem like little things, but they make a huge difference.

Act Like You Are a Professional

From the moment you answer the phone until the minute you return a package, you are on the clock. You are a representative of a whole faction of people and the only face these borrowers might ever see in relation to their mortgage.

That is a huge responsibility and should not be taken lightly. You should act professionally regardless of the circumstances. It doesn't matter if the signing is in an office, someone's home or on the hood of a car.

Always answer your phone as if a customer is on the other end. "What", "Huh" and "Yea" are never acceptable greetings. Always call me back. I once asked a Notary why he never returned my phone calls. He responded that he didn't call me back if he couldn't accommodate the signing.

Think of how many businesses you interact with daily. Do you want to work with someone who doesn't return your phone calls? I don't.

Dress as though you work in an office. Speak to the borrower in a way that shows you are knowledgeable about the documents in the loan package and are there to help them through the process.

No matter how irate or upset they are, don't trash-talk the signing company, bank or title company. There is never any circumstance in which this is acceptable.

Have the Tools Necessary to Do Business

The days of printing packages at Staples or Office Max are long gone. Today, Signing Agents need to be prepared for every situation. Signing services don't want to get calls from NSAs saying, "I can't do this," or "I'm having a problem with that."

A cell phone isn't enough. You should have a printer that prints both letter and legal-size paper. You should have the ability to fax large quantities of paper. You should be able to scan more than 10 pages at a time and not only be able to scan them but password-protect them. You'd be surprised how many NSAs fall short in one of these areas.

You should have all types of packing materials for various services for sending closing documents back.

Make sure to keep up with the appropriate licenses and insurance required in your state.

I cannot tell you how many times I call a Notary who doesn't have a title producer's license in a state that requires it, or doesn't carry E&O insurance because they don't feel they need it.

Running any business carries expenses, and I understand that. I almost cried when I had to write a \$2,500 check for my full-size copier when I started out solo. Today, I realize it was the best money I ever spent. Over the long run it saved me time and money. I could print packages quickly — and print from the road, if necessary — and it saved me money on toner and parts. That copier allowed me to take on more signings which generated more income.

Educate yourself. I cannot say it enough. Stay on top of Notary changes in your state, join your local bar association or land title association. Subscribe to one of the hundreds of mortgage periodicals out there and attend seminars and conferences.

The mortgage and title industries are not stagnant. They are always evolving and changing. Taking the proper steps to make sure you are on top of those changes increases not only your knowledge base but can open more doors for you.

Look at the big picture. Decide what you want your business to look like and what you want to get out of it. That will help you decide where to spend your money.

Help Others Promote Their Business

If you are an old-timer like me, mentor someone. Teach them how to be great so that our industry becomes better. The better we are as

**Educate yourself.
I cannot say it
enough. Stay on top
of Notary changes
in your state.**

a whole, the more good that gets said about us, and the more work we will get and the more prosperous we become.

Develop relationships with other Notaries in your area. Nothing makes me happier than when I call a Notary for a signing and they can't do it but know someone who can. That shows me they have the team spirit I value in a Notary and the interest to help me succeed. If they help me succeed, I'll help them.

We all have lists of companies we don't like, but spread the word about the companies you do like. Don't be afraid that it will cost you assignments. It won't. You'll get more.

But there are two sides to that coin. Most of us have read the online forums. I often cringe over what I read. Sometimes we allow our personal feelings to overtake good judgement.

Know that what you write is bound to be read by people who make decisions regarding whether they want to work with you or not. Not every Notary wants to work with every signing company and not every signing company wants to work with every Notary.

Be careful not to become the Notary nobody wants to work with.

All that this really boils down to is you are the face of your business and a representative of a billion-dollar industry. Conduct yourself in a manner that makes me want to call you first when I have a signing in your area. Make me want to work with you.

If you do these things, fantastic. If you do some, try to incorporate a few more. If you don't do any, call me. I would love to mentor you. ■

About the author:

Marcy Tiberio is a NNA 2015 Notary of the Year Honoree and owner of Professional Notary Services, Inc., in Rochester, New York. She can be reached at marcy@professionalnotaryservices.biz.



Marcy Tiberio

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Homeless Signers without IDs, Writing in Notarial Wording, Absent Signer...

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

My boss has asked me to notarize a signature for the president of my association without him being present. I refused, explaining the consequences for both myself and the employer if I were to improperly notarize the document. Both my boss and the president were very upset, and my boss suggested that I might lose my job. What can I do if this happens in the future?
— J.S., Vienna, Virginia

Notaries frequently have a tough role when asked to accommodate a signer's wishes, because Notaries must also uphold the Notary laws of their state.

The Virginia Notary handbook states that the key function of a notarization is to be certain that the person appearing before the Notary is who he or she claims to be. Code of Virginia Section 47.1-28(B) states an employer who willfully induces an employee-Notary to commit official misconduct shall be guilty of a class 3 misdemeanor. By refusing an illegal notarial act, you protected your employer as well as yourself.

It wasn't clear from your message why the president would not appear in person before you for the notarization. If this happens again, possibly your association could arrange for a traveling Notary to go to the president's location to get the document notarized.

I work for a homeless shelter, and my signers often do not have the necessary documentation to obtain a state-issued driver's license or ID card. What other types of ID can these signers present that would allow me to notarize for them?
— D.H., Aurora, Illinois

In Illinois, an identification document used to identify a signer for a notarial act must be valid

at the time of notarization, must be issued by a state or federal government agency or consulate, and must contain the photograph and signature of the bearer (5 ILCS 312/6-102[d] [3]). Acceptable identification documents include the following, provided they meet the criteria outlined above:

- Illinois driver's license or non-driver's ID card
- Driver's license or non-driver's ID card from another U.S. state, territory or jurisdiction
- U.S. passport
- U.S. military ID card
- ID card issued by the USCIS
- Matricula or other consular identification card





Another alternative would be to use credible identifying witnesses. Illinois law requires that a credible identifying witness be personally known to the Notary (5 ILCS 312/6-102[d]). In addition, the witness must personally know the person signing the document well enough to swear or affirm that the signer is who he or she claims to be.

A reliable credible identifying witness should have a reputation for honesty. The witness should be a competent individual who will not be tricked, cajoled, bullied or otherwise influenced into identifying someone he or she does not really know. In addition, the witness should have no personal interest in the transaction.

Is a document invalid if I notarized it without knowing that my license was expired? If so, am I liable or what can I do to clarify or correct the document?
— *R. R., Columbia, South Carolina*

If the notarization was performed at a time when you did not have a valid South Carolina commission, then a court could invalidate the notarization and a recorder of deeds could reject a document filing in the land records. The best course of action is to immediately inform your customer of your error and refer them to a commissioned Notary to have them notarize the document again. You should not perform any additional notarizations until you obtain a new South Carolina Notary commission. Each

time you sign a notarial certificate, you are certifying that your commission was valid at the time (South Carolina Code Section 26-1-120[B][1]). Section 26-1-160 states that performing notarial acts if your commission has expired is a misdemeanor.

A signer presented me with two credible witnesses as proof of his identity. Once the notarization is complete, can I charge a fee from the credible witnesses?
— *R.A., Santa Rosa, California*

You may only charge the signer for the notarial act. The maximum you may charge in California is \$10 per signature. Credible witnesses serve as a means to identify the signer for the notarial act and are not signers of the document.

I've been asked to notarize a power of attorney document from Russia. The receiving agency does not want a certificate attached. Can I type or copy the notarial wording at the bottom of the document if there is room to do so?
— *J.S., Redding, California*

Yes, if there is enough room on the document after the signature line, you may type, print, or stamp the appropriate California notarial certificate wording on the document. Please remember to include all words of the certificate, including the boxed notice statement required by law directly above the venue.





Avoiding the Unauthorized Practice of Law

The practical role of any Notary is straightforward: You identify signers and act as an impartial witness to the execution of documents. And you have limited discretion or judgment in carrying it out.

Providing services that go beyond your role — such as offering legal advice or drafting and explaining documents — is considered the unauthorized practice of law (UPL) and must be avoided.

Notaries who commit UPL can cause problems for their signers and may have their commissions suspended or revoked, or face other sanctions, such as hefty fines or conviction of a criminal offense.

Some Notaries who cross this line do so intentionally. But many do not. They simply want to be helpful but go too far in the process — often without knowing they're committing UPL. Here's what you need to know to avoid it.

UPL Don'ts

Unless you are a licensed lawyer or a credentialed expert in a relevant field, there are a number of things you should never do:

- Offer legal advice
- Draft or help a client draft a document
- Advise on or recommend the type of notarization to perform
- Provide legal forms or offer

advice about the type of documents to use for a given purpose

- Legally represent a client in court or in a legal proceeding

'Notario Publicos'

Notaries in many other countries, including "*notario publicos*" in Latin American countries, are licensed legal professionals with extensive legal training and qualifications. As a result, they have more authority, which may include drafting legal documents, offering legal advice, serving as a mediator or arbitrator, and issuing judicial opinions.

In the U.S., unscrupulous individuals exploit unwitting immigrants by falsely claiming they can perform the same services as *notarios* in other countries.

In order to combat so-called *notario* scams, Notaries in most states are strictly prohibited from using the misleading phrase "*notario publico*" in their Notary ads.

Furthermore, many states require Notaries to post a public notice explaining that they are not attorneys licensed to practice law, cannot offer legal advice, or accept fees for legal services. For example, Texas Notaries must include the following disclaimer in their ads: "I am not an attorney licensed to practice law in Texas and may not give legal advice or accept fees for legal advice."

Most states have similar restrictions regulating Notary advertisements, so make sure you understand what you are allowed or required to do.

What You Can Do To Help Signers

There are ways to assist signers without engaging in the unauthorized practice of law. It helps to set appropriate expectations with signers from the beginning by explaining what you can and cannot do as a Notary.

One of the most common situations Notaries encounter is a signer who doesn't know what type of notarization is needed. You may describe the types of notarial acts and certificates — generally jurats and acknowledgments — and the differences between them. However, your signer must always choose which act and certificate to use.

If there are other questions about the document, refer signers to the receiving agency of a document or an attorney if they have questions, so they can receive the proper advice they are seeking.

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

Privacy Issues and Collecting Signer Thumbprints



Collecting signer thumbprints has long been considered a way to not only identify signers and safeguard against forgeries, but also to protect the Notary from allegations of wrongdoing.

It was for this reason that the state of California passed a law in 1996 requiring Notaries to obtain journal thumbprints for signers of certain documents and is why many Notaries nationwide continue to record signer thumbprints in their official notarial journal. However, the ongoing threat of identity theft has made privacy a major issue, prompting the Notary community to take a closer look at the practice.

The Case for Collecting Thumbprints

According to the Federal Bureau of Investigation, biometrics, such as thumbprints, are the “measurable biological (anatomical or physiological) or behavioral characteristics used for the identification of an individual.”

As a biometric identifier, a signer’s thumbprint affixed in a journal of notarial acts offers irrefutable identification of the signer, helping Notaries prevent impersonation and/or forgery. It is for this reason that the practice is still heralded in some areas, particularly for transactions involving real estate and powers of attorney documents.

Currently, two states require the practice of collecting signer thumbprints. California law

requires a journal thumbprint record for all documents affecting real property, as well as all powers of attorney. (Government Code, Section 8206).

In Illinois, Notaries are required to complete a notarial record and take a thumbprint impression of signers when notarizing all “documents of conveyance” transferring title to residential real estate property located within Cook County, Illinois.

In both California and Illinois, law enforcement and public prosecutors have heralded the value of thumbprints as effective in preventing and prosecuting frauds.

Privacy Issues and Collecting Signer Thumbprints

Despite the value of collecting thumbprints as a safeguard against fraud, there are issues associated with the practice; namely, privacy concerns and tightening regulations regarding the collection of such biometric data.

We now live in an age filled with high-tech fraud, identity theft, and corporate data breaches that can, in an instant, expose the personal and financial information of millions of consumers. This ongoing concern over individuals’ private information, particularly regarding the collection, use and storage of certain biometric identifiers, has become a major problem — one that some states and private

businesses are looking to regulate. Several of these changes directly impact how Notaries are allowed to collect and retain signer thumbprints.

Texas law, for example, states that a biometric identifier (which would include a journal thumbprint) captured for a commercial purpose may be disclosed only under certain circumstances and must be destroyed within a certain amount of time (Business and Commerce Code Section 503.001). Because Notary journals are considered public record in Texas, the Secretary of State’s office discourages Notaries Public from capturing biometric identifiers from signers in their journals.

And, it’s not just state governments that are seeking to regulate the collection of thumbprints. A couple of years ago, a major mortgage lender issued a bulletin prohibiting its Notary Signing Agents from collecting journal thumbprints in their journals unless they have a Notary commission in the states of California or Illinois.

Given this heightened caution about guarding personal identifying information, it is important for Notaries to know ahead of time if their state allows the collection and usage of signer thumbprints. NNA members can access our Notary Hotline any time they are unsure of their state’s regulations regarding thumbprinting.



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