

10 Steps Notaries Can Take To Avoid Being Sued



1. Never Notarize for a Signer Who Isn't Present

The most common reason Notaries are sued and have their commissions revoked or suspended is failing to [require a signer's personal appearance](#). Be sure to always abide by your state's personal appearance requirements, however it defines them. And *never skip* the requirement "as a favor" or "just this once." If you do, you're setting yourself up for trouble.

2. Don't Notarize Incomplete Documents

A document needs to be complete prior to notarization. If you notarize [an incomplete document](#) — for example, a loan document with the interest rates or terms left blank — there is a risk those blanks could be filled in with fraudulent information. *By making sure all blanks are filled in at the time you notarize*, you protect both the signer and the transaction from potential fraud, and reduce your risk of being sued.

3. Always Identify Your Signers

[Identifying your signers](#) in compliance with your state's Notary laws is crucial. Many lawsuits against Notaries are filed because the Notary carelessly failed to request proper ID which allowed a signer to commit fraud. *Always follow your state's laws* to ensure a signer's identity is properly vetted.

4. Verify Your Signer's Willingness and Awareness

One of your key responsibilities is to make sure your [signer is signing the document willingly](#) and understands what they are signing. Always ask your signer a few simple questions. If the signer appears reluctant to sign, disoriented — or another person appears to be trying to pressure the signer — do not proceed with the notarization. This will protect all parties to the document, including you, from allegations of duress. *(Use your gut feeling / layman's judgement.)*

5. Keep a Journal Record of Your Notarizations

A well-kept [journal of your notarial acts](#) is one of the best defenses you can have against lawsuits. A legible, complete journal entry provides evidence to help determine what happened if a notarization is disputed, and can also help show you followed appropriate steps when notarizing. If your state sets rules for what information must be recorded in a journal entry, be sure to follow them. Incomplete and sloppy journal entries are red flags that can call into question your Notary practices in court. *(Recommended in Delaware.)*

6. Stay Impartial and Don't Offer Advice

Never notarize your own signature or a document in which you are personally named because a Notary's impartiality can be questioned in these circumstances. If you will receive a direct benefit, fee, commission or advantage other than the fee allowed by state law, you also should NOT notarize. Some states also prohibit Notaries from notarizing for close family members. Even if not specifically prohibited by law, it's a good idea to avoid notarizing for close family members to make sure your impartiality is never questioned. Also, never give advice about the contents of the document or details of the transaction. Doing so can lead to your being sued or facing other penalties for the unauthorized practice of law. If a client asks you for advice about the legality of a document or how to complete it, tell the signer that you are prohibited by law from giving unauthorized legal advice.

7. Complete the Notary Certificate Correctly

Careless mistakes with Notary certificates, such as forgetting to fill in a certificate or writing the wrong information, are another common reason Notaries get sued. The public relies upon the facts attested in every certificate of acknowledgment or jurat you sign. Make sure you enter the correct county and state, name of the signer, and date of notarization. Also, be sure your seal is legibly affixed.

8. Never Notarize After Your Commission Expires

If your commission expires and you fail to realize it, any document you notarize after the expiration date could be questioned. If your commission expires and there's a delay in the renewal process, do not notarize until you have your new commission in hand.

9. Never Let Anyone Else Use Your Notary Seal

If someone else gets access to your seal, they can use your Notary seal to commit fraud and do significant harm to others — and you could be held responsible. Always store your seal in a locked, secured area when not in use, and never let anyone else borrow it or take it. The seal has your name on it, and you are the only one allowed to use it.

10. Make Sure You Have Errors and Omissions Insurance (Optional in Delaware)

Even if your state requires you to obtain a surety bond, the bond isn't an insurance policy and doesn't protect you from financial liability or cover legal costs. A bond only protects your customers if they are financially damaged by your negligence. Also, you may be responsible for paying back any money the surety company pays out from the bond. An E&O insurance policy can help cover your risk of financial damages in the event you are sued. Some policies also cover legal fees such as attorney costs. Think of it like driving a car — safe drivers are mostly able to avoid accidents. However, sometimes good drivers get into accidents, and sometimes even the most diligent Notaries make mistakes.