

Notary Updates - Tips for Avoiding Lawsuits, Apostilles & AB 199

Notary Tips to Avoid a Lawsuit

1. Check the SOS Notary website every Feb 1 – current forms, best practices, changes to law
2. Ask to see a copy of your client’s ID – check the name before you prepare your docs
3. Attend the NNA annual conference at least once
4. Reconsider the “free notary” down the hall / UPS notary
5. Use the Notes box in the journal
6. Cert of Trust – include for refi’s, revoke: and/or
7. Consider partnering with a professional independent notary
 - a. Employees are as fault as the notary
 - b. I’m neutral (as a witness & financially)
 - c. Only focus is the proper execution of the paperwork
 - d. Evening signings are my sweet spot
 - e. Seniors, hospital signings, end of life signings, disabled folks might need a home visit

Apostilles – FOR DOCUMENTS HEADING OUT OF THE COUNTRY

Translation: 1520–30; *Middle French, noun derivative of apostiller - to add marginal notes*



1. Verifies the verifier to prevent fraud
2. ONLY issued by the Secretary of State of the notary or government official
3. The apostille is a special certificate stapled to the notary page
4. Typical docs requiring apostilles
 - a. POA
 - i. Banking, real estate transactions, legal matters
 - b. BUSINESS: entity formation, good standing, employee hierarchy,
 - ii. Proposals, contracts, trademarks, new business start-ups
 - c. Background Checks, ID Copies
 - d. VITAL RECORDS - dual citizenship
 - e. Marriage / divorce status
 - f. School transcripts

Thank you for your business!

He

State of California Secretary of State

APOSTILLE (Convention de La Haye du 5 octobre 1961)

1. Country: Pays / País:		United States of America	
This public document Le présent acte public / El presente documento público			
2. has been signed by a été signé par ha sido firmado por		TERRIE GILLETT	
3. acting in the capacity of agissant en qualité de quien actúa en calidad de		Notary Public, State of California	
4. bears the seal / stamp of est revêtu du sceau / timbre de y está revestido del sello / timbre de		TERRIE GILLETT, Notary Public, State of California	
Certified Attesté / Certificado			
5. at à / en	Sacramento, California	6. the le / el día	23rd day of December 2015
7. by par / por	Secretary of State, State of California		
8. N° sous n° bajo el número	38845		
9. Seal / stamp: Sceau / timbre: Sello / timbre:		10. Signature: Signature: Firma:	

This Apostille is the trilingual model Apostille Certificate as suggested by the Permanent Bureau and developed in response to the 2009 Special Commission on the practical operation of the Hague Apostille Convention.
 This Apostille only certifies the authenticity of the signature and the capacity of the person who has signed the public document, and, where appropriate, the identity of the seal or stamp which the public document bears.
 This Apostille does not certify the content of the document for which it was issued.
 This Apostille is not valid for use anywhere within the United States of America, its territories or possessions.
 To verify the issuance of this Apostille, see: www.sos.ca.gov/business/notary/apostille-search/.



Cette apostille est le modèle d'Apostille trilingue tel que suggéré par le Bureau Permanent et élaboré en réponse à la Commission spéciale de 2009 sur le fonctionnement pratique de la Convention de La Haye Apostille.
 Cette Apostille atteste uniquement la véracité de la signature, la qualité en laquelle le signataire de l'acte a agi et, le cas échéant, l'identité du sceau ou timbre dont cet acte public est revêtu. Cette Apostille ne certifie pas le contenu de l'acte pour lequel elle a été émise.
 L'utilisation de cette Apostille n'est pas valable en / au États-Unis d'Amérique, ses territoires ou possessions.
 Cette Apostille peut être vérifiée à l'adresse suivante: www.sos.ca.gov/business/notary/apostille-search/.

Esta apostilla es el modelo trilingüe Certificado de Apostilla según lo sugerido por la Oficina Permanente y desarrollado en respuesta a la Comisión especial de 2009 sobre el funcionamiento práctico del Convenio de La Haya sobre Apostilla
 Esta Apostilla certifica únicamente la autenticidad de la firma, la calidad en que el signatario del documento haya actuado y, en su caso, la identidad del sello o timbre del que el documento público esté revestido.
 Esta Apostilla no certifica el contenido del documento para el cual se expidió.
 No es válido el uso de esta Apostilla en Estados Unidos de América, sus territorios o posesiones.
 Esta Apostilla se puede verificar en la dirección siguiente: www.sos.ca.gov/business/notary/apostille-search/.

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1. Remote Online Notarizations

- a. California bill "AB-199 RON"
RON typically works as follows: (i) the business entity uploads; (ii) the RON platform receives the documents and sends notice to the signer; (iii) the signer receives the notice and accesses the website; (iv) at the website, the signer begins the authentication process; (v) the notary receives notice that the signer has accessed the website and joins the signer for a two-way audio/video session that is recorded and completes the authentication process; (vi) the signer signs the documents and the notary electronically notarizes the documents (all while each party can see and hear each other through the two-way audio/video session); (vii) copies of the executed documents are returned to the business entity and signer; and (viii) copies of the audio/video recording of the authentication process and other authentication data is deposited in the notary's electronic journal along with information about the signer and the notarized documents.
 - i. ISSUE: data privacy invasion - the servicer holds all this information. notaries will also be housing everyone's paperwork. This bill does nothing to protect signers' data.
 - ii. ISSUE: Each servicer requires their notaries have a journal for that company. Notaries in CA are required to hold just one sequential journal at a time.
 - iii. ISSUE: mental capacity - how do we assess a person's mental capacity online?
- b. Currently available in Virginia, Montana, Texas, and Nevada.
 - i. Soon: Minnesota, Michigan, Tennessee, Ohio, Indiana, and Vermont.
- c. AB 199 permits "video and audio" recording as an acceptable method for identifying the signer.
 - i. ISSUE: a) the use of webcam notarizations will compromise notarial acts because Audio/Video can be created from anywhere by any means.
b) Impossible to see if signer is being coerced.
- d. Issues of Liability and Responsibility. California will have vendors operating a \$250 million business in California while disclaiming all liability and requiring "hold harmless" agreements.
 - i. ISSUE: the notary will absorb all the liability; bonds and E&O insurance have not been updated yet for online work.
 - ii. Cyber courts might required for lawsuits arising out of cyber signings.
- e. This bill calls for a maximum fee of \$25 for performing an e-notary act; California notaries are limited to \$15 per signature.
- f. Notarizations are permitted in this state.

Thank you for your business!

- i. Outside CA but within the United States.
 - ii. Outside the United States if the online notary public has no actual knowledge that the act is prohibited in the jurisdiction in which the principal is physically located at the time of the act.
- g. The online notary public shall keep the online notary public's electronic journal in a secure manner under the direct and exclusive control of the online notary public.
 - i. ISSUE: No exclusive control since the servicer will hold the journal, not the notary.
- h. Notary training and requirements are not the same in other states as in CA. Journals, thumbprints, training, exams, background checks etc. vary state to state. How will this affect your CA signers?

Thank you for your business!