

**AVOIDING  
NOTARIO FRAUD  
IN NEW JERSEY**

**Notario  
Fraud**



## Un Notario Público no es un Abogado

En los Estados Unidos, un notario no es un abogado y no se permite que dé consejos legales. Un Notario Público que cobra para consejos legales está violando la ley.

Para consultar el índice estatal de abogados, remítase a  
[www.njcourts.gov/attorneys/index.html](http://www.njcourts.gov/attorneys/index.html).

# Warning!

## A Notary Public is *Not* a Lawyer

In the United States, a notary public is not a lawyer and is not permitted to give you legal advice. A notary public who charges money for legal advice is breaking the law.

A statewide index of attorneys can be found at [www.njcourts.gov/attorneys/index.html](http://www.njcourts.gov/attorneys/index.html).

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# Introduction

Inadequate representation in an immigration matter can have devastating consequences on immigrant communities. The United States immigration system is incredibly complex. Being represented by an experienced immigration attorney often can mean the difference between winning or losing a case.

Many immigrants are eager to find a way to obtain lawful immigration status and are willing to go to great lengths to do so. News reports are filled with stories of dishonest people who pose as attorneys and prey on unsuspecting immigrants. This practice is not only deceitful; it is illegal.

There are laws against the Unauthorized Practice of Immigration Law (UPIL), which is more commonly referred to as notario fraud. Consequences of notario fraud can range from being swindled out of large sums of money to deportation.

*Avoiding Notario Fraud in New Jersey* will explain New Jersey laws that provide protection against notario fraud and also outline how individuals can protect themselves and prevent fraud.

## What is notario fraud?

*Notario fraud*, or immigration services fraud, occurs when non-lawyers represent themselves to clients as qualified to offer legal advice, representation or services concerning immigration or other matters of law, despite having no such qualification.

*Notario* is the Spanish word for notary. In the United States, a notary can officially witness and authenticate signatures on documents. However, in a number of Latin American countries, notaries are required to have a law degree, are state-appointed and carry out legal transactions. Therefore, many immigrants reasonably come to the conclusion that notaries public in the United States also have legal authority to practice as attorneys. Some non-lawyer notaries take advantage of this confusion when immigrants seek legal assistance from them.

Many lawyers in the United States are also notaries, but a notary public is **NOT** necessarily an attorney. A notary that is **NOT** an attorney, or an

accredited representative from the Department of Justice, is **NOT** authorized to provide immigration advice or legal services.

## What does notario fraud look like?

New Jersey has one of the highest immigrant populations in the country, so it is important to recognize notario fraud when you see it or experience it.

Notario fraud can take the following forms:

- A non-lawyer **misrepresenting** that he or she is an attorney or is affiliated with an attorney, or is an Accredited Representative with the Department of Justice (DOJ). An Accredited Representative of the DOJ is not an attorney but has been authorized under federal law to provide immigration-related services through a recognized non-profit organization. More information can be found at the following website: <https://www.justice.gov/eoir/recognition-and-accreditation-program>
- A non-lawyer creating the appearance that he or she is affiliated with the federal government.
- Immigration consultants that provide more than clerical assistance and give legal advice on immigration matters.
- Unlawful practices most often associated with notario fraud include:
  - ◇ Accepting payment and not performing services
  - ◇ Keeping a client's original documents and charging a fee to give them back.
  - ◇ Falsifying government forms
  - ◇ Applying for an immigration benefit that the client is not eligible for, which exposes the client to immigration fraud
  - ◇ Applying for immigration benefits with the wrong forms

### Common intentional and unintentional fraud include:

- Filing boilerplate asylum applications
- Producing and presenting fake documents
- Filing fee waivers and keeping U.S. Citizenship and Immigration Services (USCIS) fees
- Preparing applications for which an individual is not eligible, such as an I-485, application to register permanent residence or adjust status, or I-589, application for asylum, and withholding of removal

- Submitting inaccurate or incomplete information to USCIS, such as the applicant's date and manner of entry, number of children, prior marriages and divorces, prior criminal history or memberships
- Submitting poor translations and/or interpretations
- Failing to appear in court with a client, forcing the client to represent him or herself

## **Does my work permit give me legal status in the U.S.?**

No. Possessing a work permit does not mean you have achieved legal status in the United States. This false assumption contributes to the ease in which notarios or unscrupulous lawyers are able to defraud immigrants. USCIS may issue work permits based on the submission of certain petitions for lawful status in the United States. An Adjustment of Status, U-Visa, and Asylum are all petitions that may permit work authorization while the petition is pending. However, the approval of work authorization does not mean that the underlying application is going to be approved or even viable. USCIS approves the work authorization regardless of the merit of the underlying petition. Therefore, unscrupulous attorneys or notaries may say they are applying for "work authorization" when they are really applying for a fraudulent asylum application, for example, which will eventually be denied, leaving you without status in the United States or worse, facing removal.

## **Are there laws in New Jersey to protect me against notario fraud?**

Yes. In order to discourage notarios from providing services they are not authorized to provide, New Jersey law criminalizes the unauthorized practice of immigration law (UPIL), which is defined as holding oneself out to the public as someone authorized to practice immigration law, or using the title of lawyer when the individual is not a licensed attorney.

NJ Rev Stat § 2C:21-31 is the criminal statute that prohibits notario fraud and lays out the crimes and penalties associated with the UPIL. NJ Rev Stat § 2C:21-31.1 lays out civil causes of action for victims of the unauthorized practice of immigration law. (See Appendix for full statutory language.)

## What happens when a notario mishandles an immigration case?

Because notarios are not lawyers or accredited representatives, even a well-intentioned notario may not provide adequate representation to a client in immigration matters. These frauds can have serious legal consequences for victims, such as arrest by immigration officials and possible deportation and family separation. Victims often pay thousands of dollars in fees.

## Is notario fraud only found in immigration cases?

No. While the consequences for using a notario in an immigration case can be the most disastrous, notario fraud is not limited to representation in immigration matters. Notarios may also engage in:

- Marriage fraud
- Incorporations of fictitious businesses
- IRS fraud, often involving the Child Tax Credit
- Benefits fraud
- Tax and accounting services
- Translation services

The consequence of notario fraud in the above matters could result in missing out on potential relief, and/or penalties or prosecution for fraudulent applications. For example, using a notario, even unknowingly, for a tax case could result in incorrectly filing your taxes, not receiving the appropriate refunds, or worst case scenario, being subject to an IRS penalty for incorrectly filing or prosecution for tax fraud. In the case of a marriage or divorce, using a notario might mean that the marriage or divorce is not legal, which could have additional consequences for other legal cases as well (immigration, taxes, benefits, wills and estates).

## How can it impact me if a notario helps me with my divorce case?

Notarios often charge high fees for filing divorce complaints. Many times the fee is even higher than what a lawyer would charge. A notario often incorrectly advises a party to give up rights to which they are entitled, including spousal support and distribution of property.

Additionally, if a party wants to change the terms of an agreement, for example to request child support after the divorce, they might have a problem if the notario originally filed the complaint and said they did not have any children.

Notarios are not bound by the ethical rules that attorneys must follow. This means that they could be more susceptible to pressure. For example, one party in a divorce could persuade the notario to give the other party incorrect information. In addition, there are fewer opportunities for recourse if a notario gives bad advice.

## What can I do if I find myself a victim of notario fraud?

If you suspect that a lawyer is involved in notario fraud, often by affiliating with a non-lawyer notario, you can file a complaint with the Office of Attorney Ethics, the investigative and prosecutorial arm of the Supreme Court of New Jersey. You may also file a complaint with the New Jersey Division of Consumer Affairs, Office of Consumer Protection (see Resources Section for information).

If you have been defrauded by a notario, seek assistance from a trustworthy, licensed attorney and ask them about your legal remedies, as they pertain to your particular immigration case, and your civil remedies as well. Below are examples of legal remedies that could be used to rectify the impact of any adverse action taken by the notario in a client's immigration case:

- **Motions to Reopen due to Ineffective Assistance**
  - ◇ **Motions to reopen are used in two circumstances:**
    1. In applications USCIS has denied; and
    2. In removal proceedings where a judge has ordered an individual removed.



◇ In order to reopen an adverse USCIS decision or removal proceedings, a client must be able to show that:

1. The individual has relied upon a representative; and
2. This reliance has robbed the individual of the opportunity to qualify for relief that he/she would otherwise have been eligible for.

◇ Common examples of ineffective assistance of counsel include:

- Filing untimely documents;
- Filing incorrect applications;
- Filing inadequate applications for asylum, Temporary Protected Status (TPS), or other forms of relief;
- Misinforming the client of the time, date or place of hearing, resulting in an in absentia ruling.

## What civil remedies are available to me if I find myself a victim of notario fraud?

In New Jersey, victims of notario fraud may seek three times the value of all costs incurred by the victim as a result of the notario's activity, including fees paid for the fraudulent services, costs incurred for attorney's fees, court costs and any out of pocket expenses.

Victims may seek an injunction through a civil lawsuit to bar the notario from future fraudulent conduct.

A civil lawsuit could lead to the victim recovering the money lost as a result of the notario fraud. However, there are pros and cons of bringing a civil lawsuit.

Benefits of Filing a Civil Case	Drawbacks of Filing a Civil Case
Client can obtain monetary damages, an injunction, or other individual restitution.	Bringing civil claims is costly, specialized and complex.
A positive outcome in a civil suit results in financial accountability for the notario and creates a public record of his/her activity.	It can be difficult or impossible for lawyers to take on these cases for a profit. Many state laws limit class actions, damages, and/or attorneys' fees for various types of civil claims.

Benefits of Filing a Civil Case	Drawbacks of Filing a Civil Case
A civil suit is often comparably faster than criminal charges.	It can be difficult to locate <i>pro bono</i> (free) representation.
The plaintiff has more control over when and how the suit is brought.	There is always a risk that an undocumented plaintiff might be brought to the attention of the authorities, particularly if the notario decides to retaliate once served with a lawsuit.

## Do I have any blame in notario fraud?

It is possible to be totally unaware of being victimized by notario fraud. However, if you allow information that you know is not true to be placed on any government application in your name, then you could bear personal responsibility. A notario could pressure you to include false information (for instance, the amount of children you have) on your asylum claim to obtain some benefit that you would not otherwise be entitled to. It is important to understand that by signing the form you knowingly acknowledge the false information to be true. If you know the notario is including false information on your form, the notario and you are both providing false information to the government, which is illegal. Each application submitted to USCIS contains warnings about false information that include criminal charges, heavy civil penalties, and loss of the privilege to file for additional immigration benefits in the future. If you believe the information you are submitting is false, remember you will be responsible for the information contained on the application.

# How can I avoid being a victim of notario fraud?

**THERE ARE STEPS YOU CAN TAKE TO PROTECT YOURSELF. FOLLOWING ARE SOME SUGGESTIONS.**

## **ALWAYS:**

- Make sure that the person you hire is LICENSED to practice law in the U.S. In New Jersey, and many other states, you can access lists of all licensed attorneys online.
- Use caution with providers who ask you to pay before applying for services or filling out applications.
- Make sure that you understand what needs to be done in your case and why.
- Read any form before signing it.
- Ask for a written contract, a three-day right to cancel, and a receipt for monies paid.
- Get a copy of all applications in your case.
- Get a second opinion if you're not sure about the advice you've been given.
- Look for help if your representative threatens to harm you or your immigration case.

## **NEVER:**

- Hire a “notario,” “notary” or “notary public” to help you with your immigration case.
- Pay someone who will not give you a receipt.
- Sign anything that you don't understand or that is left blank.
- Leave behind your original documents.
- Trust a representative who says they have a special connection in the government because the government does NOT accept bribes.
- Trust anyone who says that they can “guarantee” to win your case.

## **AVOID IMMIGRATION SERVICE PROVIDERS THAT:**

- Promise to get you green cards, work visas or other benefits, even if you are not eligible
- Tell you they have influence or a connection with a government agency.
- Use terms in their ads implying that they are attorneys (e.g. “notario,” or “poder notario”)
- Cancel interviews, or tell you government interviews have been cancelled without written proof.
- Make excuses for not filing documents.
- Charge high fees.
- Maintain websites that resemble official USCIS or other government websites.
- Sell you immigration forms that are available for **free** at <http://www.uscis.gov/forms>
- Falsify, or encourage you to falsify, information on documents submitted to USCIS.
- Tell you to sign blank forms.

## **QUESTIONS TO ASK TO MAKE SURE YOU'RE NOT HIRING A NOTARIO:**

- Ask in what state(s) they are licensed to practice law.
- Ask to see their “proof of good standing.”
- Call the office that licenses attorneys (usually either the state bar association or the supreme court of the state) and ask whether the person is an attorney with a bar number and whether the attorney is in “good standing.”
- If someone claims to be an accredited representative, go to the Executive Office for Immigration Review (EOIR) website ([justice.gov/eoir/find-legal-representation](http://justice.gov/eoir/find-legal-representation)) and verify that they are on the Accredited Representatives Roster. ([justice.gov/sites/default/files/pages/attachments/2016/03/21/raroster-reps/pdf](http://justice.gov/sites/default/files/pages/attachments/2016/03/21/raroster-reps/pdf)). If they are not on this list, they are not authorized to act as your accredited representative.

You can also check with the New Jersey Supreme Court to be sure that someone is actually an attorney licensed in New Jersey and not subject to any disciplinary measures. Their website can be found here:

[https://portalattyssearch-cloud.njcourts.gov/prweb/PRServletPublicAuth/-amRUHgepTwWWiiBQpI9\\_yQNuUm4oN16\\*/!STANDARD?AppName=AttorneySearch](https://portalattyssearch-cloud.njcourts.gov/prweb/PRServletPublicAuth/-amRUHgepTwWWiiBQpI9_yQNuUm4oN16*/!STANDARD?AppName=AttorneySearch)

# Resources

## RESOURCES TO REPORT FRAUD

### **New Jersey Office of Attorney Ethics**

840 Bear Tavern Road

Ewing Twp, NJ 08628

Phone: 609-403-7800

Toll free: 800-406-8594

Mailing Address:

Office of Attorney Ethics

PO Box 963

Trenton, NJ 08625

### **New Jersey Division of Consumer Affairs**

Office of Consumer Protection

124 Halsey Street

Newark, NJ 07102

Consumer Service Center Hotline: 973-504-6200

Toll free (NJ only): 800-242-5846

Email: [AskConsumerAffairs@dca.lps.state.nj.us](mailto:AskConsumerAffairs@dca.lps.state.nj.us)

## RESOURCES FOR IMMIGRATION ADVICE

### **American Friends Service Committee**

89 Market Street

6th Floor

Newark, NJ 07102

Phone: 973-643-1924

Fax: 973-643-8924

Website: [afsc.org/office/Newark-nj](http://afsc.org/office/Newark-nj)

Email: [nymro@afsc.org](mailto:nymro@afsc.org)

**Catholic Charities of the Archdiocese of Newark Bishop Francis Center  
for Immigration Services**

590 N 7th St

Newark, NJ 07107

Phone: 973-733-3516

Fax: 973-733-9631

Website: [www.ccannj.com](http://www.ccannj.com)

Email: [catholiccharities@ccannj.org](mailto:catholiccharities@ccannj.org)

**Legal Services of New Jersey**

100 Metroplex Drive, Suite 402

P.O. Box 1357

Edison, NJ 08818-1357

732-572-9100

1-888-576-5529

Website: [lsnj.org](http://lsnj.org)

Note: LSNJ has regional offices across the state

**Make the Road New Jersey**

42 Broad Street

Elizabeth, NJ 07201

908-368-1196

Email: [info@maketheroadnj.org](mailto:info@maketheroadnj.org)

# Appendix:

## **NJ Rev Stat § 2C:21-31 (2013): Unauthorized Practice of Immigration Law; Penalties**

1. a. As used in this section:

(1) “Immigration consultant” means any person rendering services for a fee, including the completion of forms and applications, to another person in furtherance of that person’s desire to determine or modify his status in an immigration or naturalization matter under federal law.

(2) “Immigration or naturalization matter” means any matter which involves any law, action, filing or proceeding related to a person’s immigration or citizenship status in the United States.

(3) “Immigration-related document” means any birth certificate or marriage certificate; any document issued by the government of the United States, any foreign country, any state, or any other public entity relating to a person’s immigration or naturalization status.

b. (1) Any immigration consultant not licensed as an attorney or counselor at law who engages in this State in the practice of law is guilty of a crime of the fourth degree.

(2) Any immigration consultant not licensed as an attorney or counselor at law who holds himself out to the public, either alone or together with, by or through another person, whether such other person is licensed as an attorney or counselor at law or not, as engaging in or entitled to engage in the practice of law, or as rendering legal service or advice, or as furnishing attorneys or counsel, in any immigration or naturalization matter is guilty of a crime of the third degree.

(3) Any immigration consultant not licensed as an attorney or counselor at law who assumes, uses, or advertises the title of lawyer or attorney at law, or equivalent terms, in the English language or any other language, is guilty of a crime of the third degree.

c. Any person who knowingly retains possession of another person’s immigration-related document for more than a reasonable time after the person who owns the document has submitted a written request for the document’s return is guilty of a crime of the fourth degree.

d. Nothing in this section shall be construed to prohibit a person accredited as a representative by federal law pursuant to 8 CFR 292.2 from providing immigration services.

## **NJ Rev Stat § 2C:21-31.1 (2013): Civil actions resulting from unauthorized practice of immigration law.**

4. a. Any person who suffers any ascertainable loss of moneys or property, real or personal, as a result of any action or inaction by a person who knowingly engaged in the unauthorized practice of law in violation of section 1 of C. 2C:21-31 may bring a civil action in any court of competent jurisdiction.

b. In any civil action under this section the court shall, in addition to any other appropriate legal or equitable relief, award damages in an amount that constitutes the greater of:

(1) \$1,000, or

(2) Three times the value of all costs incurred by the victim as a result of the defendant’s criminal activity, including any fees paid to the defendant for services, costs incurred for attorney’s fees, court costs and any out-of-pocket losses.

c. The standard of proof in civil actions brought under this section is a preponderance of the evidence, and the fact that a prosecution for a violation of C. 2C:21-31 is not instituted or, where instituted, terminates without a conviction shall not preclude a civil action pursuant to this section. A final judgment rendered in favor of the State in any criminal proceeding shall estop the defendant from denying the same conduct in any civil action brought pursuant to this section.

d. A civil action under this section shall not preclude the application of any other civil, administrative, or criminal remedy under any other provision of law.

## About Make the Road New Jersey

Founded in 2014, Make the Road New Jersey builds the power of immigrant, working-class and Latinx communities to achieve dignity and respect through community organizing, legal, policy innovation and transformative education. The organization mobilizes people to take action in support of immigrant workers' rights and has won landmark immigrant and workers rights policies in New Jersey.

## About the New Jersey State Bar Foundation

The New Jersey State Bar Foundation, founded in 1958, is the educational and philanthropic arm of the New Jersey State Bar Association. The Foundation believes that **informed citizens are better citizens**, and is committed to providing free legal education programming for educators and the public. Programs provided by the Foundation include mock trial competitions for students in grades K to 12 and training sessions for educators on the topics of anti-bullying, anti-bias, conflict resolution, peer mediation and social emotional character development.

Publications geared for the public include *Law Points for Senior Citizens (Fourth Edition)*, *Consumer's Guide to New Jersey Law*, *AIDS and the Law in New Jersey*, *Disability Law: A Legal Primer (Sixth Edition)*, *Domestic Violence: The Law and You (Fourth Edition)*, and *Residential Construction and Renovation: A Legal Guide for New Jersey Homeowners*. School-based publications available through the Bar Foundation include *Bill of Rights Bulletin*, *Constitutionally New Jersey*, *The Bill of Rights Up Close*, *Beyond the Bill of Rights*, as well as our subscription-based publications—*The Legal Eagle*, a legal newspaper for kids, and *Respect*, a diversity newsletter. Some publications are available in Spanish and all are available in alternative formats for the visually impaired.

For more information or copies of program materials, visit the New Jersey State Bar Foundation online at [www.njsbf.org](http://www.njsbf.org) or call 1-800 FREE LAW. Please follow the Bar Foundation on social media and invite your friends to like and follow us as well. @NJStateBarFdn can be found on Facebook, Instagram, Twitter and LinkedIn. The Foundation also has a YouTube Channel.



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