



Notario Fraud

If you are an immigrant to the United States, you need to be aware of a common scam targeting newcomers, called notario fraud. Here, we provide information about what to watch for when approached by someone offering legal advice or services; we describe the problems that can arise from that interaction; we provide advice about avoiding fraud; and, we describe some steps for potentially addressing the issue if one were subject to fraud.

What is Notario Fraud?

- The unauthorized practice of immigration law.
- In Latin America a notary is a powerful attorney with special legal credentials. However, in the United States, a **notario publico (or notary public) is not a lawyer!** S/he is appointed by state governments to witness the signing of important documents and administer oaths. This is a main source of confusion and a gateway to fraud.
- When individuals represent themselves as qualified to offer legal advice or services to immigrants. They may use terms like attorney, representative of the United States Citizenship and Immigration Services (USCIS), legal assistant, or holder of a court license.

How are immigration scams commonly implemented?

- Telephone, email, or phishing scams from individuals claiming to be from USCIS. They may request personal information or ask for payment to correct made-up problems with an applicant's immigration records. USCIS does not accept Western Union, MoneyGram, PayPal, or gift cards as payment for immigration fees. In addition, it will never ask you to pay fees to a person on the phone or by email. You can pay some immigration fees online, but only if you pay through your USCIS online account and pay.gov.
- Persons charging fees for USCIS forms that can be downloaded for free from <https://www.uscis.gov/forms>.
- Local businesses or individuals guaranteeing immigration benefits, faster services, and/or access to USCIS officials for a fee. USCIS has no exceptions to the normal processing times and no one can obtain these services faster.

PLEASE NOTE: This handout does not offer or substitute for legal advice. For more information: CALS-RuralStudies@uidaho.edu

Potential Problems Related to Notario Fraud

- Contrary to common perception, using family connections to immigrate does not guarantee success. The **definition of “immediate relative” varies** depending on whether one is a US citizen or a legal permanent resident, a legal qualification some notarios may not be aware of or explain to their clients. This can result in some family members being in the United States unlawfully, that can lead to the separation of families and/or an individual’s removal to countries where they no longer have any personal contacts/networks.
- Immigrants can lose large sums of money to **scammers who falsely promise “papers”** that would allow the immigrant to live or work lawfully in the United States. This can result in removal, difficulties related to immigration status, separation of families, loss of money, loss of employment, or detention.
- Notarios may not advise clients that **some criminal convictions with negligible consequences to US citizens can result in the removal of noncitizens**, including lawful permanent residents. Thus, if noncitizens with criminal convictions file immigration applications, they not only risk removal but also the loss of large sums of money by pursuing an immigration status they will never get.
- Fraudsters are unlikely to receive a favorable outcome in an immigration case and may even initiate the fraud to elicit such an outcome.

How to Avoid Notario Fraud

- Be VERY wary of any individual who claims that an attorney is not necessary to help with your case.
- Always confirm that the person offering assistance is a licensed attorney or an accredited representative of the US Board of Immigration Appeals.
- Know that a notary’s license is NOT the same as an attorney’s bar license.
- Always make sure a legal service provider is qualified to provide legal services and officially acknowledges their role as an attorney or accredited representative to the government. To do this, the provider must submit a Form G-28 (for immigration petitions and applications; this form requires signatures from both the client and the provider) or EOIR-28 (for immigration court proceedings; this form names the client but is only signed by the legal service provider). If the provider refuses to submit these forms or provides vague, nonidentifying information, be extremely cautious about working with this person.
- If you believe that you received a scam email from USCIS, report it to the Federal Trade Commission (<https://www.uscis.gov/avoid-scams/report-scams>). If you are not sure if it is a scam, forward the suspicious email to the USCIS webmaster (uscis.webmaster@uscis.dhs.gov).

Addressing Notario Fraud

Remedies for victims of notario fraud are limited. They can involve complex legal procedures, high burdens of proof, probable payment of additional filing fees, and quality legal representation. Three potential mechanisms to remedy an individual’s immigration case include the following:

1 | Motion to reopen. A successful motion results in de novo consideration of a claim of immigration relief. These time-consuming motions, however, are granted sparingly and involve compliance with requirements of Matter of Lozada, as well as due diligence, exhaustion of administrative remedies, and establishing prejudice.

Addressing Notario Fraud cont.

2 | Fraud waiver. Victims of notario fraud who do not receive removal orders, and who would be eligible for permanent residence if not for the fraud committed by the notario, face fewer hurdles. They may challenge the fraud allegation by arguing lack of knowledge and lack of intent to commit fraud. A fraud waiver is limited to applicants for permanent residence who can show that their removal from or inadmissibility to the United States will cause extreme hardship to their spouse or parent who is a US citizen or lawful permanent resident.

3 | U visa. U visas are intended to encourage undocumented victims of 26 qualifying crimes to report these crimes and to cooperate with law enforcement in their investigation without fear of removal. Beneficiaries of the U visa are authorized to remain in the United States temporarily and to apply for employment authorization.

For guidance on reporting notario fraud, visit the American Immigration Lawyers Association website:

<http://www.StopNotarioFraud.org>

Resources to Legal Representation

- Catholic Charities of Idaho (<http://www.ccidaho.org/>)
- Community Council of Idaho (<http://www.communitycouncilofidaho.org/>)
- Immigrant Justice Idaho (<https://www.immigrantjusticeidaho.org/>)
- International Rescue Committee (<http://www.rescue.org/>)
- Jannus, Inc - Agency for New Americans (<http://www.jannus.org/program/agency-for-new-americans>)
- University of Idaho College of Law Immigration Law Clinic (<https://www.uidaho.edu/law/academics/practical-skills/clinics/immigration>)

Title 3-Section 420 of the Idaho Statutes provides for prosecution of individuals involved in the unlawful practice of law (<https://legislature.idaho.gov/statutesrules/idstat/title3/t3ch4/sect3-420/>). In addition, complaints concerning notario fraud may be filed with the Consumer Protection Division of the Office of the Idaho Attorney General (<https://www.ag.idaho.gov/consumer-protection/consumer-complaints/>)

Authors: Kelsey Gooden, Law Student, University of Idaho, Christy Dearien, Research Associate, Grant and Project Development, University of Idaho, John Rumel, Professor, College of Law, University of Idaho, Paul Lewin, Associate Professor and Extension Specialist, Agricultural Economics and Rural Sociology, University of Idaho

Issued in furtherance of cooperative extension work in agriculture and home economics, Acts of May 8 and June 30, 1914, in cooperation with the U.S. Department of Agriculture, Barbara Petty, Director of University of Idaho Extension, University of Idaho, Moscow, Idaho 83844. The University of Idaho has a policy of nondiscrimination on the basis of race, color, religion, national origin, sex, sexual orientation, gender identity/expression, age, disability or status as a Vietnam-era veteran.

