

# How law firms use remote online notarization



One of the core contracting responsibilities of modern law firms is management of the notarization process for critical client documents. Since document notarization is traditionally performed in person using ink-and-paper signatures, it can become problematic.

In-person notarization usually involves painstaking coordination efforts to arrange a signing ceremony with multiple stakeholders. There may be travel involved, which could lead to unexpected delays and increased administrative costs. For law firms overseeing this imperfect and expensive process, client (and employee) satisfaction is at risk.

There's good news for law firms that notarize documents as part of their practice offerings: both governing bodies and the market are embracing the benefits of digital technology. More U.S. states and regulatory agencies are updating laws to authorize notaries public to complete work digitally. This evolution creates an opportunity for law firms to streamline their work, reduce their costs and improve client and employee experiences.

In this eBook, we'll examine the way the traditional notarization process works, explain how remote online notary (RON) solutions improve notarization activities, analyze the legal landscape of electronic notary work and present key technologies to streamline notary work. As you read, consider the way your firm currently manages the notarization process across different locations. Consider existing pain points and how new regulations might open the door for technology to improve everyday workflows and delight your clients.

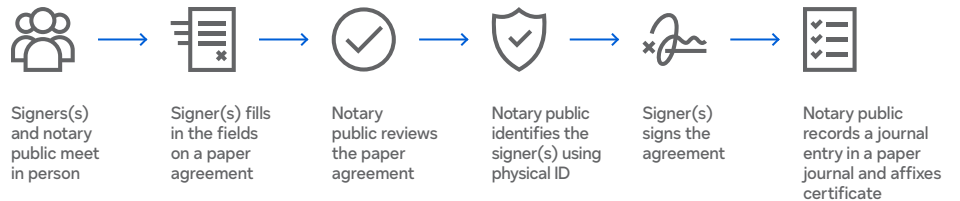


# The traditional notary process is flawed

The notarization process that law firms are familiar with is time-consuming and expensive. That's not news to anyone. Before the signing ceremony even starts, there's a significant amount of upfront coordination to get all the parties into the same room at the same time with the appropriate number of paper documents.

Here's an overview of all the activities that take place as part of that in-person event:

## Signing parties initiate notary process and schedule necessary bookings



Because of all the manual steps in that process, problems begin to appear. Law firms that oversee notary work know how painful the process is, but gaps in the process create more than just frustration. Traditional ink-and-paper notarization causes delays, increases environmental waste, drives up costs and creates duplicate work. A DocuSign survey found the following effects of traditional notary work:

**46%**

of organizations say documents need to be re-signed due to manual errors and/or not in good order (NIGO) issues

**1/3**

of organizations experience high costs with paper-based notarization processes (e.g. printing, mailing, storage)

**38%**

of organizations indicate inefficient processes as a top challenge in their paper-based notarization process

Though in-person meetings with a notary public have long been an inconvenience, there wasn't an efficient, legal alternative. Today, however, recent advances in cloud technology and new regulations regarding notarial processes, have helped to significantly further the modernization of notarial services in the form of remote online notarization solutions. It's time to think about how your law firm can move past outdated paper-based notary processes.





# Remote Online Notarization solves traditional notarization problems

At a high-level, remote online notarization (RON) is the use of electronic signature-related technologies—such as identity verification, fraud-evident encryption technology and digital audit trails—in conjunction with industry standard audio-visual technology and online journaling. Together, these technologies enable a notary to perform an efficient and secure electronic notarial act. The notary and the person seeking the notarial act can remotely communicate with one another without needing to be in physical proximity.

Most states that have enacted a RON law have followed common principles inspired by electronic signature processes, including:

- Expanding the concept of “personal appearance” before a notary to include appearance via qualifying audio-visual technology
- Specifying acceptable methods for reliably establishing the signer’s identity
- Preserving the integrity of the electronically signed documents
- Creating an electronic journal memorializing the notary’s RON transactions
- Creating an audio-visual recording of the notarial act to enhance the integrity of the process

Much like [the foundational e-signature laws](#), RON laws generally reinforce the principle of technology neutrality—that is, ensuring that no particular technology or process is accorded higher legal deference than any other. This approach helps ensure that technological innovation can flourish without the need for additional legislation or regulation.



# RON vs. in-person notarization

The best way to illustrate the effects of RON solutions is to make a direct comparison to the paper-based, in person notarization processes they are built to replace.

## DocuSign credential analysis:

1

A signer presents a government-issued ID

3

The ID's visual, physical and cryptographic features are confirmed

2

The ID is confirmed with checks against public and private data sources

4

The signer may answer personal background questions to satisfy knowledge-based authentication (KBA) requirements

RON provides numerous benefits to parties seeking notarial acts, furthering the vital societal function that notaries perform via an efficient digital tool that modern society has come to expect, and increasing the value that law firms offer to their clients. These benefits include:

### Convenience and increased access to notarial services

At a basic level, RON is a more convenient method to receive notarial services because individuals can choose both a time and location that is convenient for them. Because of this convenience, more people—such as those who may work long hours and have difficulty scheduling during a traditional 9-5 workday—will have easier access to vital notarial services. With RON, law firms—especially those serving clients in different states or countries—can make the most of their employee time by eliminating travel, scheduling and other logistical challenges, thereby reducing the cost of doing business. It also helps attorneys meet tight deadlines by ensuring speed and accuracy.

### Fraud minimization

The cornerstone of any notarial act is verifying a person's identity. Compared to a traditional in-person notarial act, RON can help minimize fraud by better authenticating a person's identity. RON does this with well-established identity proofing technologies, which are regularly utilized by those who rely on electronic signatures for their digital transactions.

RON utilizes a robust credential analysis that provides a better and more sophisticated process for ensuring the legitimacy of the underlying credential than the traditional process of an in-person review performed by someone who may not have training or expertise in identifying fraudulent credentials.

RON provides the ability for notaries to apply innovative identity proofing technologies to increase the certainty and consistency of properly identifying the signer. This identification proof is preserved as part of the transaction log, which gives legal firms a record of exactly how a person's identity was confirmed in case of an audit.

### Security and enforceability

A RON act is more secure than a traditional in-person notarization. The enhanced security used in a RON transaction relies upon electronic signature technologies that have been consistently and securely used for nearly two decades. These technologies, like tamper-evident sealing of electronically signed and notarized documents, allow for parties to determine later whether the document has been altered. Further, RON relies upon electronic signature technologies to generate a digital audit trail called a journal. In conjunction with these mature technologies, RON also utilizes industry-standard audio-visual technology to:

- Protect both the notary and the signer by documenting the notarization session, making it easier to establish that neither party is signing or notarizing a document under duress
- Enhance the attribution and reliability of any signed document by documenting the RON session with a secure recording of the session that complements the journal record

This multifaceted approach of securing and ensuring the auditability of a RON session provides law firms a robust digital record that can be used as evidence to substantiate the authenticity of the signed and notarized document.





# RON is already part of everyday agreement work

Legal regulation to accept RON as a viable alternative to in-person notarization accelerated in 2020 to accommodate the shift to remote business brought on by the COVID pandemic. In a very short time period, RON became a legally recognized practice in almost every U.S. state. As of March 2022, more than 40 states have accepted the use of RON (via permanent law or executive order) as a valid notary option.

## State-by-state RON acceptance

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### Permanent RON laws

Alabama	Kansas	New Jersey	Texas
Alaska	Kentucky	New Mexico	Utah
Arizona	Louisiana	New York	Vermont
Arkansas	Maryland	North Dakota	Virginia
Colorado	Michigan	Ohio	Washington
Florida	Minnesota	Oklahoma	West Virginia
Hawaii	Missouri	Oregon	Wisconsin
Idaho	Montana	Pennsylvania	Wyoming
Illinois	Nebraska	Rhode Island	
Indiana	Nevada	South Dakota	
Iowa	New Hampshire	Tennessee	

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### Temporary authorization of RON

Delaware	Georgia	Maine
Mississippi	North Carolina	Massachusetts

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### Notaries cannot perform RON

California	Connecticut	District of Columbia
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### No laws or guidance

South Carolina

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(source: National Notary Association)

The laws that govern RON acceptance are always changing, with a general trend toward greater acceptance of digital document activities. To learn more about the remote notary laws in a specific state, visit the [National Notary Association](#).



# Notarization requirements and tech provider support

Much as we saw with electronic signature laws over the past 20 years, state RON laws tend to align around a set of core principles designed to enable adoption of this highly valuable, secure and efficient technology. As described above, these principles include expanding (i) the concept of personal appearance, (ii) the method of establishing a signer's identity, (iii) the integrity of the document signed and (iv) the creation of electronic journals.

RON laws—along with supplemental state agency regulations and guidance for these laws—do differ somewhat from state to state. States have adopted varying requirements around the following elements:

## **Notary registration**

Certain states require that the notary obtain a registration to act as an electronic notary in addition to the standard notarial registration. This requirement may entail additional education, training and/or bond requirements.

## **Technology requirements**

For RON, the parties must use two-way audio-visual technology. States have adopted further requirements, such as (i) the recording must be continuous; (ii) the recording must be secure from unauthorized interception; (iii) there must be encryption or tamper-sealing or (iv) when necessary, facilitate communication with a person who has a vision, hearing or speech impairment.

## **Identity verification**

As noted above, identifying the signer is recognized as an important aspect of a notarial act. In a remote environment, states require that the person undergo “identity proofing,” which can mean (i) remotely presenting a government-issued credential to the notary, (ii) using a third-party vendor to perform “credential analysis” to confirm the credential’s authenticity and (iii) having the signer complete a dynamic KBA process in which the signer must correctly answer a specific number of personal questions that only the signer would know.

## **Electronic signature**

Most states require an electronic signature, but some states require digital signature. A certificate-based digital signature is a type of e-signature that provides the highest level of assurance of a signer’s identity.

## **Electronic notarial seal**

States will frequently have requirements regarding the content and form for electronic seals. These requirements may include the type of information that must appear in the seal and where the seal must be displayed in the signed document as well as the notary’s responsibilities regarding maintaining the notarial seal.

## **Journaling**

States typically require that notaries maintain an audit trail (journal) of their notarial acts. For RON, states may impose additional journal obligations such as the digital format that the journal must be in and what entries must be included in the journal to document the RON session, that the journal is digitally backed up, that the journal (and its backup) be maintained and retained for a specified period and that the journal is secured by tamper-evident digital technology.

## **Session requirements**

States will have requirements governing the RON session itself, including whether the notary must be in-state to perform RON and where the signer can be located during the RON session.

## **Storage and retention**

States also have requirements that apply to maintaining the recording of the RON session. These requirements may include maintaining a backup recording as well as a specified period in which the recording (and if required, the backup recording) must be maintained. Additionally, states may impose security requirements, such as tamper-evident technology, on the stored recording.





# How modern law firms can use DocuSign Notary

Today, over a billion documents are notarized each year. A significant portion of that total—ranging from powers of attorneys and affidavits to wills and deeds—are performed as a service by U.S. law firms.

## Common uses for DocuSign Notary

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### Litigation

- Affidavits
- Motions and pleadings
- Judgments
- Settlement agreements
- Confessions

### Estate Planning

- Wills
- Powers of Attorney
- Beneficiary designations
- Letter of Intent
- Trust documents

### Real Estate

- Deeds
- Closing documents
- Commercial leases
- Zoning variances

### Other

- Spousal consents
- Patent applications
- Loans and mortgages
- Options agreements
- Financial Powers of Attorney
- Disclosures
- Many more

The changing notarization landscape doesn't mean that law firms will stop performing notary acts. As more people and organizations move to remote-friendly operations, demand for secure notary services will likely accelerate. The new digital-friendly RON landscape is an opportunity for those firms to provide the same client services in a faster and less costly environment.

Law firms in the U.S. can keep up with the current trends by modernizing their notarization processes using remote online notarization. Some of the highest impact practice areas include:

### Litigation

In nearly all litigation, an affidavit, which is a written and notarized statement from an individual that is sworn to be true, will likely be required to support each party's filings—allowing the case to proceed. As cases progress, subject to court rules, parties may notarize and file additional documents such as motions and pleadings, which are written requests for the court to make legal rulings. And finally, if the parties reach a settlement agreement, agreeing to a judgment in advance, that document must also be notarized in many cases.

Notary eliminates travel, scheduling and other logistical challenges associated with onsite signing for attorneys, who are often faced with strict filing deadlines—to help ensure documents are notarized quickly and accurately.

### Estate Planning

Estate planning attorneys, responsible for helping clients manage their assets, will inevitably create one or more documents requiring notarization during the course of their representation. In many cases, a power of attorney, which is a legal document giving one person the power to act on behalf of another person, may need to be notarized to empower someone to make financial or medical decisions on behalf of the client. The distribution of specific assets such as life insurance policies and retirement accounts may also require a notarized beneficiary designation, which is a legal document describing who shall receive an asset owned by an individual upon their death.

Using Notary for these, and other documents can simplify a process that estate planning clients often view as long and burdensome.

### Real Estate

Legal services related to real estate range from simple two-party residential sales to complex multiparty transactions, and because they involve real-property, state, municipal and other agencies, may require related documents to be notarized. For individuals, closing documents such as a deed, which is a legal document transferring ownership of real property from one person to another, will likely need to be notarized. For business clients, commercial leases which are contracts between the owner of a property and a business tenant for commercial activity may also require notarization.

Law firms offering legal services related to real estate can help their clients more efficiently navigate the sale, lease or transfer of property using Notary—enabling them to execute documents from virtually anywhere.

As remote and electronic client services continue to gain acceptance, we expect the applicability of Notary will extend to additional business uses and practice areas as a convenient and secure alternative to traditional in-person notarization.

# Transform your firm with DocuSign Notary

It's time for a better approach to notarization—one that avoids delays, enhances the client experience and preserves a more complete record of the notarial transaction. With [DocuSign Notary](#), law firms and their clients can conduct remote online notarizations securely and efficiently, leveraging DocuSign's trusted eSignature platform.

## Why law firms love DocuSign Notary

### Delight clients

Notary meets clients' growing expectations for convenient, digital experiences with notarizations that work from virtually anywhere.

### Ensure reliable identification

Notary combines identity verification and knowledge-based authentication in a single, automated platform to ensure accurate identifications.

### Reduce turnaround times

Notary provides easy-to-use fields and templates to help legal teams quickly prepare documents digitally, ready to be signed and notarized.

### Preserve the record

Notary preserves a certificate of completion for each transaction and provides long-term storage of the secure audio-visual recording and electronic journal within DocuSign.

## Key DocuSign Notary features

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- Native integration with DocuSign eSignature
- Secure identity proofing
- Robust audit trail
- Notary API
- Use your trusted notaries public
- Deploy with confidence

[Contact DocuSign](#) to learn more about how your law firm can use Notary to simplify your document notarization needs.

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#### About DocuSign

DocuSign helps organizations connect and automate how they prepare, sign, act on and manage agreements. As part of the DocuSign Agreement Cloud, DocuSign offers eSignature, the world's #1 way to sign electronically on practically any device, from almost anywhere, at any time. Today, over a million customers and more than a billion users in over 180 countries use the DocuSign Agreement Cloud to accelerate the process of doing business and simplify people's lives.

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