

## **THE CASE OF IMMIGRATION NOTARIO FRAUD IS WON IN FAVOR OF CONSUMERS**

Attorney Bryan Cave is combating notarios who fraudulently represent themselves as immigration attorneys or consultants qualified to help clients with immigration-related issues. Mr. Cave has been filing federal and state cases to stop them and asking the American Bar Association and the Federal Trade Commission (FTC) for help.

The term "notario publico" is particularly problematic in that it creates a unique opportunity for deception. The literal translation of "notario publico" is "notary public." A notary public in the United States is authorized only to witness the signature of forms. On the other hand, **a notary public in many Latin American (and European) countries refers to an individual who has received the equivalent of a law license** and who is authorized to represent others before the government.

The problem arises when individuals obtain a notary public license in the United States, and use that license to substantiate representations that they are a "notario publico" to immigrant populations that ascribe a vastly different meaning to the term.

Misrepresentations as to an individual's qualification to offer legal advice can have severe implications for immigrants. In many cases the work performed by such individuals results in missed deadlines, the filing of incorrect or incomplete forms, or the filing of false claims with the government. As a result of the advice or actions of such individuals an immigrant can miss opportunities to obtain legal residency, can be unnecessarily deported, or can be subject to civil and/or criminal liability for the filing of false claims. In addition, immigrants often spend hundreds, thousands, or tens of thousands of dollars in payment for what they believe are the services of a licensed attorney.

The efforts to combat notario fraud include an adversary proceeding that Mr. Cave filed in U.S. Bankruptcy Court for the District of Maryland that resolved victoriously in March 2009. A state court case was also filed in Virginia. *Reyes v. Olazaba*, No. 20006-2009 (Fairfax Co., Va. Cir. Ct.) The test case began in state court but ended up in bankruptcy court when the defendant filed a voluntary Chapter 7 case.

Claims in the case include alleged violations of the Maryland Consumer Protection Act, the Maryland Immigration Consultant Act and common law fraud. According to court papers, the defendant admitted that she was liable for violating the Maryland state laws but not for common law fraud.

On March 18, 2009, Judge Thomas J. Catliota issued a final judgment and order for permanent injunction barring the defendant from providing legal services or immigration consulting services unless she obtains a valid license to practice law or is certified by U.S. Citizenship and Immigration Services to represent people in immigration-related matters.

The order bars the defendant from advertising herself in various misleading ways for 10 years, including as an attorney; as a notario, notaria or notario publico; or as an abogado or abogada, which are Spanish words for an attorney.

The court authorized Catholic Charities of the Archdiocese of Washington, or any other agency appointed by the court, to enforce the injunction.

This is the beginning of attempts to bring civil cases against notarios that allege that notarios committed fraud. Usually the victims do not come forward and pursue such claims because they are embarrassed.

The FTC received a petition on Feb. 2, 2009 on behalf of Catholic Charities of the Archdiocese of Washington to boost enforcement against individuals involved in notario fraud. The petition also asks the agency to issue industry and consumer guidance.

The ABA has cooperated in setting up an online notario fraud clearinghouse, [fightnotariofraud.org](http://fightnotariofraud.org), which includes an online referral system for cases.

The notario fraud cases are important for the victims, but they're also important because ultimately lawyers' reputations are at stake. When something bad happens to people who use fraudulent notarios, they attribute it to attorneys in general and the legal system. That is why this battle to bring notarios to justice is important. You can find more information about fighting notario fraud at [www.fightnotariofraud.com](http://www.fightnotariofraud.com).