

## Proper Notary Journal Techniques

States' laws vary widely on requirements regarding notary journals. The information that one state says must be captured in a journal may be considered unlawful in another state. So the standard practice to impress upon readers that they must be mindful that laws vary from state to state. Also, please note that some states use the phrase "record book" to describe the volume in which notarial acts are recorded and other states use the word "journal." The term "journal" will be used to represent them both in this article.

As readers are aware, many states do not require their notaries to keep journals. However, the majority of notary public administrators in states that do not require journals suggest that notaries keep accurate records of their notarial acts. *This article will be valuable to both notaries in states that require journals and notaries in states that do not require them.*

### Journal Ownership

Only one notary may use a single journal. Notaries must not share a journal. A notary's journal is the property and responsibility of the notary who uses it. Even if a notary's employer purchases a journal for him or her, the journal must remain in the notary employee's possession and under his or her protection. This is true even if the employer/employee relationship is terminated. Employers should follow the notary's state laws in order to request a copy of the journal contents for business record purposes.

The best notary journals are well-bound books or booklets that are constructed so that the pages cannot be tampered with. The pages should be bound with glue, sewn, or securely stapled together at the spine. The pages should be numbered. Spiral or loose leaf notebooks are not as desirable as books that are bound because they can be altered and new pages substituted for original ones.

Notaries should write their names, addresses, email addresses, and phone numbers in the inside covers of their journals. Some notaries include a note that says that a reward will be provided if the journal is lost and returned to the notary, but that is a personal decision, not a requirement.

It is helpful to note in the front cover of the journal how the journal should be handled in the event of the notary's death. Some states require that a notary's journal be returned to the commissioning office. Others require that the journal be tendered with the county clerk of the notary's residence.

Notaries may want to glue a pocket folder into back of the journal to hold a copy of his or her state's allowable fees, his or her commission, license, copy of his or her bond, copy of his or her errors and admission insurance policy and/or a printed copy of his or her notarial handbook. Notaries may have other sheets of information that are useful during notarizations and those items can also be stored in the pocket folder of the journal. Some of this items listed are not required in the State of Delaware.

When a notary retires a journal to begin a new one, he or she should label the retired journal with the dates of the first notarization and the last notarization. Archived and active notary journals must be locked into a secure area when outside of the physical presence of their owners.

### **Start the Process with your Journal**

When a signer appears before you, pull out your journal. Cover any previous journal entries with a file folder or piece of paper. Some notaries use an open file folder to hide previous entries. Others tape the short edges of two letter-sized pieces of paper together and lay them across the previous entries on current page(s) of the journal. When the notarization is complete, tuck the folder or paper inside of your journal for use with the next client.

The task of completing the journal is often listed as the last step of proper notarization; however, the act of capturing information for the journal actually begins immediately. Since you must identify the signer and record information about the signer's ID first before moving forward, you can begin capturing journal requirements at that time, as well.

While some may argue that the transaction has not taken place until the document is signed and notarized, the American Association of Notaries maintains that notaries public can be trusted to strike the information and make note if the notarization is not completed and why the transaction was halted.

By filling out the journal early, the notary has an opportunity to see the signer's signature on his or her ID documents. If the notary wishes to ask for a signature in the journal before the document is signed, the journal signature can be compared with the ID document. Finally, the signature on the document can be compared with the two previous signatures and that gives a level of assurance that the person in the ID document is the same person who signed the document.

### **Writing in Journals and Making Corrections**

Notaries must use ink when writing in a journal. If a notary makes an error, he or she draws a line through the error and makes a correction. He or she should then initial the correction. Never use correction tape or fluid in a journal.

### **Why keep a notary journal?**

If not required to keep a journal, why should a notary go to the time and expense to maintain one voluntarily? A notary journal is a record of acts performed by a notary public, who is a commissioned public servant. If an act is called into question, a properly maintained notary journal will assist in determining critical facts about the act in question.

Government clerks must keep records of their acts; all members and levels of the judiciary must keep records of their acts. Notary acts are critical to the public and to the legal system. It stands to reason that the public deserves for its notaries to keep an archive of

their acts. A notarial journal assists the public with documentation of important transactions in the same way that public property records and court clerk files contain transactional evidence and historical facts that businesses and individuals rely upon in order to conduct business.

A properly maintained notary journal provides its owner a factual account of his or her acts. Therefore, a journal supports its owner, as well as the public. It is a business record that assists in verifying that the notary properly conducted his or her business if a notarial act is called into question.

### **More than One Active Journal**

Some states are clear that a notary may only keep one active journal at a time. Others do not specify that only one journal may be active. Therefore, notaries must consider their states' laws before deciding to use more than one journal at a time.

### **Walking a Fine Line: Protect NPPI**

States that require notaries to keep journals usually describe the information that must be captured for each transaction. If notaries do not have guidance on this matter, a good rule of thumb is to record enough information in a journal to develop evidence of a transaction in a way that does not make the non-public private information (NPPI) of signers readily available to the public. Protection of the NPPI of signers is a critical duty of notaries.

The AAN believes that the following statement should apply to all notaries who have no guidance regarding collection of information. This statement comes from page 10 of [Montana's Notary Handbook](#) -- it follows a listing of required points of information that a Montana notary must collect regarding notarial acts:

***“You may include other information regarding the specific circumstances or other non-private information relevant to the identification of the party or to the situation.”***

Many state laws are silent on whether notary journals are considered to be a part of the public record and accessible by the general public upon request.

Texas and California, two states with large populations of notaries, are clear on this point of law. For the sake of example we refer to Texas and California to show how one state makes the information very private and the other state says it is public record, yet both of them protect the information by using different methods.

California's laws require that notaries enter NPPI in their journals. By NPPI, we mean the numbers on driver licenses and passports. However, of note is that California's laws are clear in the state's notary laws that a notary's journal is the property of the notary and that only single line items may be copied for a member of the public IF certain criteria are met by the requester who seeks the information. Failing that, a California notary journal may be copied if the notary is served with a subpoena *duces tecum*. Alternately, a journal may be

confiscated by a member of law enforcement if the law enforcement agent has clear probable cause. Therefore, California laws protect notary journal contents by placing strict requirements on confiscation and legal distribution of the contents of a journal.

On the other hand, Texas laws say that the journal is a matter of public record and members of the public may request copies of the same by paying an appropriate fee. Texas strictly forbids collection of NPPI and thumbprints in journals. Texas protects signers' information by not allowing NPPI to be captured.

### **Notable variances in notary journal laws**

Again, we rely on California and Texas as contrasting examples. California notary laws require notaries to capture thumbprints during certain notarial acts. By comparison, Texas privacy laws and the Texas Secretary of State indicate that notaries may not capture thumbprints in notarial journals because thumbprints are biometric identifiers. Furthermore, Texas notaries may not capture the numbers from driver licenses or passports, but California requires that notaries capture that information. This is another example of why notaries MUST know and adhere to their states' laws.

### **17 Points that Identify Notarial Acts**

We have identified 17 critical points that tie the notarial act described in the journal to the signer as well as to the notary that recorded the information.

Notaries in states without journal laws may wish to build their journal-keeping techniques on these suggestions. Notaries in states that require journals may benefit by adding some of these critical pieces of information about notarial acts, as long as the information is not forbidden for collection by their states' laws.

1 – Date of notarization. All notaries should capture this information in their journals. One of the most important facts about the signing of a document is the date on which it was signed. This information appears in the notary certificate. A notary may also wish to document in the journal the time of the notarization. Some states may require both the date and time to be recorded in the journal.

2 – Document date. All notaries should capture this information in their journals. A document may bear a date on which it becomes effective or it may simply have a date stated at the top or bottom of the document. That date is the document date. The document date does not have to be the same date as the date of notarization. It can be a date in the past or a date in the future. Documents may become effective at a date later than the date of notarization; documents may be dated on the date they were drafted for signature or they may be dated for a date in the past for another reason. Some notaries may be required by their state laws to note the time of the notarization, as well.

3 - Title (or type) of the document. All notaries should capture this information in their journals. For example, the entry would state "Affidavit," "Deed," "Power of Attorney," "Automobile Title," "Contract," "Last Will and Testament," or other document title or type.

4 - Parties. This is a time consuming task, but the information is helpful to conclusively identify a document. For instance, parties listed in a deed would be the person giving the property to another (grantee) and the person receiving the property from another (grantor). Parties identified on a mortgage instrument would be the party receiving a loan and the entity providing the loan. These are called the mortgagee and mortgagor. Parties on a power of attorney would be the grantor who is giving power of attorney to the grantee (attorney-in-fact). Texas notaries are required to identify the information regarding grantors, makers, signers, and original grantees relating to documents. The following example illustrates why this entry is important. A notary may enter "deed" in the journal and the name of the signer. However, if a person (signer or otherwise) intends to commit fraud, he or she could remove the notarial certificate from the deed noted in the journal and put it on another document. If the notary notes the grantee (person receiving the property) as well as the grantor (signer/giving the property), those notes create a closer tie to the actual document.

5 - Property involved. If property is involved as a material part of the transaction, a notary would cite information that identifies the property. This would be in the case of a deed, mortgage, lease agreement, or other document bearing a property description or address. Texas notaries are required to collect information about property that is the subject of a conveyance document such as a deed or mortgage instrument. The reason for this is similar to the example above involving parties. A notary may enter "deed" in the journal and the name of the signer. However, if a person intends to commit fraud, he or she could remove the notarial certificate from the deed noted in the journal and put it on another document. Noting in the journal the actual property described in the deed provides a better tie to the actual document that the notary notarized.

6 - Number of pages in document. For example, the entry would state that the document has 45 pages. Notaries who choose to use this information must be careful to be absolutely accurate.

7 - Type of notarization performed. All notaries should capture this information in their journals. For example, the notary would record "Jurat," "Acknowledgment," "Oath," "Certified Copy / Name of Document," or "Oath Administered."

8 - Verbal ceremony performed. To note and affirm that a verbal ceremony was performed is an excellent tool because some who try to back out of transactions have tried to say that a presiding notary did not administer the verbal ceremony. The notary confirms in the journal that an oath or affirmation was administered, or that an acknowledgment was taken, or, in the case of a certified copy, the notary confirms that the bearer of the document that is copied makes a statement about the genuine nature of the document.

9 - Venue of the notarization. This is another great tool to prove that acts are valid. The presiding notary would list the city, county, and state where the notarization was performed. If an act is called into question, this information can be very helpful if a notarization is called into question to show that both the notary and the signer were in the same location at the same time.

10 – Fee. All notaries should list this information in their journals. If a fee for notarization was charged, the fee should be listed. Also, note if no fee was charged.

11 – Identity of the signer. This may include the document signer’s name, the signer’s address, and his or her telephone number. List the name on all ID documents used during the notarization. Make a note if the signer signs with a slightly different name.

12 – Signature of signer. All notaries should request that signers sign their journals as proof of his or her appearance before the notary at the time of notarization. (This is a good practice but since the Journal is only recommended here in the State of Delaware, the most important thing to remember is that **Personal Appearance** is done every time a document is notarized. The document signer may refuse to sign your journal and not feel comfortable in doing so).

13 – ID method. All notaries should note this information. This is the method by which the document signer was identified. The notary would list that he or she personally knows the signer, that the signer was identified by the personal knowledge of one or more credible witnesses, or by presentation of one or more documents of identification.

14 - ID documentation. If the signer's identity is established by documents of identification or credible witnesses, note the document types and their expiration dates or the names, addresses, and telephone numbers of the witnesses. (Do not list numbers from the ID documents unless state laws require them.)

15 – Thumbprint. Do not take thumbprints unless (1) state laws require them or (2) the notary public administrator in the notary’s state has agreed with this practice. Texas does not allow notaries public to record thumbprints in notary journals. (Thumbprints are NOT required in Delaware).

16 – Observations about special circumstances. A notary may include information about special circumstances that arose. For instance, information about others present at the time of notarization may be recorded. A notary may document things like (1) the reason(s) for declining a notarization, (2) that a signer required special assistance due to a disability, or (3) that a person’s ability to understand his or her actions seemed questionable and why or why not the notarization was performed.

17 – Other fees/entity paying fees. If a notary performs a mobile notary assignment, the notary may choose to write in a breakdown of the fees and the entity that hired the notary and will be paying the fee.

## States required to maintain journals

For your reference, according to the [Notary Public Section](#) of the National Association of Secretaries of State, the following states, and District of Columbia, require notaries to maintain records of notarial acts: Arizona, California, Colorado, Hawaii, Louisiana, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nevada, Oregon, Pennsylvania, and Texas.

The same source indicates that notaries in the following 37 states are not required to records notarial acts: Alaska, Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. *However, most of the notary handbooks issued by notary public administrators in these states encourage the use of journals (which in Delaware it is not required but recommended to keep a Journal).*

As a Notary we must protect ourselves when notarizing documents. Delaware recommends keeping a journal but they do not require it. Keeping an accurate and complete Journal (Detailed Description) provides evidence that a notarization occurred and is a valuable public record. The record is vital in the event that a notarized document is lost, stolen or challenged in court.

In addition, the journal record helps prove that the notary followed sound and proper procedures in executing the notarial act. This can be valuable if the notary's credibility is ever called into question.

The Delaware Notaries Public may not use all of the steps listed but do use what will help you remember the people, ID and document(s) being notarized. Please remember that Personal Appearance is vital in notarizing documents. Nothing shows they were physical there like a signature.