

Virginia Association of Notaries

Notary News

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Issue 6



SPECIAL REPORT

VANs BOARD OF DIRECTORS MEMBER MAKES IMPORTANT CONNECTIONS IN RICHMOND

VAN was started by a group of concerned Notaries Public from across the Commonwealth of Virginia to provide information, assistance, and support for all Notaries. In addition, we have a personal stake in how Notaries are governed, specifically how the Notary Law impacts our businesses. Our Founders discussed from day one, the need to have a voice in the state legislation so that we can be sure that Notary Law gives the guidelines needed while protecting the Notary Public.



Van Board Member, Shawan Davis
with Senator Jeremy McPike

We are excited to announce that The Virginia Association of Notaries has opened a dialog with state representatives in Richmond that we hope will give us that voice. VAN Board of Directors Member and The Virginia Black Chamber of Commerce Member, Shawan Davis, recently attended the Chamber's Annual Legislative Day. Members are given the opportunity to gain information and to be heard concerning public policy. Shawan met with Senator Jeremy McPike and his Policy Director, Shannon Geraghty. She discussed the importance of keeping a Notary journal, citing a case in which a Notary had a lawsuit filed against her for \$1 million. Shawan's example of the need for a journal made an impact on Senator McPike who stated that he could understand the severe consequences Notaries would face from not having a record of each Notarial act. Shawan also spoke with Ms. Geraghty about the work with Legislator Kathy Tran on House Bill 996 (the bill that raised Notary fees from \$5 to \$10).

Shawan has been a Notary Public for more than 30 years and is the owner/operator of Shawan's Notary Services, LLC. She has been instrumental in assisting new Notaries to set up their businesses and introducing electronic Notary services. Shawan has held bootcamps and has been a mentor for new Notaries providing guidance in general Notary work as well as Signing Agent work.

We thank Shawan for bringing awareness to state representatives of VAN's existence and mission. We look forward to continuing our work with legislators for the future of Virginia Notaries Public.



NOTARY KNOW-HOW

NOTARIAL ACTS - Acknowledgments

According to the Code of Virginia as it pertains to Notaries Public, Chapter 3: Powers and Duties, the powers given to Notaries are as follows:

“§ 47.1-12. Powers

Each notary shall be empowered to perform the following notarial acts: (i) take acknowledgments, (ii) administer oaths and affirmations, (iii) certify that a copy of any document, other than a document in the custody of a court, is a true copy thereof, (iv) certify affidavits or depositions of witnesses, (v) perform verification of fact, and (vi) perform such other acts as permitted by law.”

We will briefly discuss each of the acts according to Virginia Notary Law. If you are not sure of the Notary powers, you can check the “A Handbook for Virginia Notaries Public” on the website of the Secretary of the Commonwealth (<https://www.Commonwealth.Virginia.gov>). You can also use the link on VANs website (<https://vanotaryassoc.org>).

In this issue of Notary News, we will discuss Acknowledgments. An acknowledgment is used to ensure that the signer of a particular document is, indeed, the person(s) who is/are supposed to sign and that they are signing the document voluntarily and without coercion. The signer(s) **MUST** appear with the document in front of the Notary Public. Acknowledgments may be signed prior to meeting with the Notary; however, the signer(s) **MUST** appear with the document to be notarized and with a proper form of identification. No oath or affirmation is needed for acknowledgments. Remember to follow the proper notarization procedure as mentioned in prior newsletter issues: personal appearance, proper identification, review of the document to make sure there are no blanks, etc., has the proper notarial certificate, signed by the Notary, proper Notary seal, certificate filled out correctly and a journal entry completed.

Next Issue: Jurats/Affidavits/Verification



NOTARY TIPS

JOURNAL MISCONCEPTIONS

Notary Journals are not required by the Commonwealth of Virginia, however, in the Notary Handbook by the Secretary of the Commonwealth, there is a section that states that the SoC recommends every Notary keep a record of all transactions. VAN recognizes the real need to make journals mandatory. We **STRONGLY** recommend (as well) that every Notary Public keep a journal, record every single transaction, and notate information that could be helpful later if any transaction is called into question. There are a few misconceptions surrounding Notary Journals.

- You can skip an entry for a repeat signer. No. You must record every transaction no matter how many times a customer uses your Notary service.

- You can keep photocopies of a signer's document or ID in the journal. No. Making and keeping copies of confidential information such as that listed on identification can lead to identity fraud if lost or stolen.
- If you are an employee Notary, your journal belongs to your employer. No. Even if your employer paid for you to obtain a Notary commission, your commission, stamps and seals, and your Notary Journal belong to you and only you. The information within the journal cannot be shared with anyone due to privacy policies.

SPLIT SIGNINGS

There are occasions when a document or a loan signing has multiple signers, but they cannot all appear together. You can only notarize the signature(s) of those who appear before you. If the notarial certificate lists all signers, you can draw a single line through the name(s) of those who are not appearing, initial and proceed with notarizing the signature(s) of the ones that are appearing. The document with your completed notarial certificate attached should be forwarded to the Notary Public who will be notarizing the other signer(s) signature(s). That Notary will attach a blank certificate with the name(s) of those signing in front of him/her to complete the transaction.

If a hiring company informs you that you will be conducting part of a split signing, make sure that they are going to provide the proper notarial certificate or allow you to use a blank certification to reflect your part in the notarization process.

ERRORS & OMISSIONS (E&O) INSURANCE: NOTARY PUBLIC VS> NOTARY SIGNING AGENT

E&O Insurance provides coverage for a Notary Public if he/she makes a mistake or omission during a notarization transaction that leads to a lawsuit being filed against that Notary. Coverage amounts vary, but many lawsuits that have been documented on average \$1 million. One thing most people do not realize is that this coverage is only good for general notarial work. When mistakes or omissions are made by a Notary while working as a Signing Agent, documents that are not notarized are included but are not covered under regular E&O Notary insurance. Check with the agent or company through whom you purchased your E&O coverage to see about obtaining coverage for your work as a Notary Signing Agent.



DON'T LET THIS HAPPEN TO YOU.....

Mistakes and shortcuts can end up getting a Notary Public in a great deal of trouble and could quite possibly cause the Notary to lose his/her commission, maybe face a lawsuit or potentially face legal charges and/or fines. Notaries Public must also be aware of the unauthorized practice of law (UPL).

It may seem innocent or insignificant but providing certain kinds of services or giving certain kinds of advice can quite easily be a violation of UPL. Unless you are also an attorney or paralegal, you cannot give advice about a document that the customer might need. You cannot recommend what type of notarization they require. You cannot prepare or draft a document. You cannot give advice or answer questions about a legal matter.

To handle situations where the client is expecting you to assist them with legal situations, simply set appropriate expectations by explaining what you can or cannot do as a Notary Public for the Commonwealth of Virginia. You can explain the types of notarial acts you may perform including explaining the difference between acknowledgments and jurats. The signer must be the one to decide on what type of act he/she needs. If they cannot choose, advise them to go to whoever is requesting the document and have them determine what act to use.



QUARTERLY QUOTE

“If you change the way you look at things, the things you look at change.” --Wayne Dyer



DID YOU KNOW.....

- ❖ Scarlett Johansson played Natalie in the movie Iron Man 2. Natalie was a Notary Public for Stark Industries.
 - ❖ Notario Publico is NOT the same as Notary Public. In Latin countries, a Notario Publico is a Notary Public who is also in the legal profession as an attorney or equivalent. Unless you are also in the legal profession, you cannot advertise or use the Notario Publico title here in the United States.
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Disclaimer:

VAN does not have the power to address situations in which Notaries are conducting their businesses improperly. VAN is NOT a part of the SoC.

Note: If you feel that another Notary Public is not following the Notary Public Code, you may report them to:

**Office of the Secretary of the Commonwealth
P.O. Box 1795
Richmond, Virginia 23218-1795
(804) 692-2536**

To access the Virginia Code:

<https://www.governor.virginia.gov/media/governorvirginiagov/secretary-of-the-commonwealth/pdf/notary/Code-of-Virginia.pdf>

We are growing! VAN is seeking volunteers to collaborate with our committees and potentially for our Board of Directors.

Email us at membership@vanotaryassoc.org and request an application.