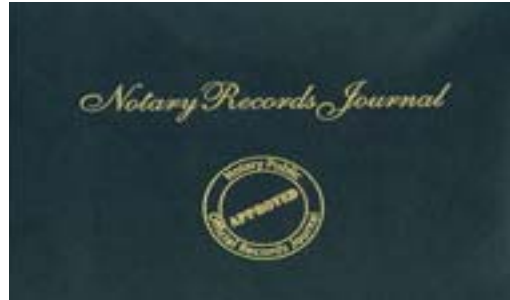


New Jersey Notary Association

~ A state registered not-for-profit organization ~



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**Newsletter Editor
*Jean Marie Pesut***

Notary Journal Definition:

An official record book of notarizations performed by a notary

Many states require the maintenance of a notary journal as a legal record of all notarial acts performed. The New Jersey Notary Public's Manual has no guidelines or instructions for keeping a journal therefore some New Jersey notaries may debate the necessity of keeping a journal.

Consider your own busy day. How many use 'to do' lists? How many people work in an office where you keep track of someone else's calendar? If an errand, event or reminder is forgotten, you have some form of recorded information, whether written or electronic, to refer back to as a reminder of what was accomplished or completed

The notary journal can work in exactly the same way. As a notary, how do you keep track of all the documents you notarize? Did you notarize a copy certification by document custodian or a Jurat? Was the notarization completed at work or on your kitchen table? What was the date of your last notarization? What were the names of those nice people you did the loan signing for? If you were sued for an improper notarization, what could you produce to show that the notarization was done properly? To protect yourself, keeping a record book of notarial acts is key for recording purposes and would be able to prove the validity of the notarizations. Also, due to the nature of the information written in your journal it should be kept in a safe place and kept confidential.

So, the NJNA suggests that you begin your own 'best practice', keep a journal and be ready when New Jersey becomes a state that will list this as a requirement in its Notary Public Manual.

OPINION 41:

**New Jersey Notaries are not attorneys licensed to practice law in the state of New Jersey
and may not give legal advice**



www.newjerseynotaryassociation.org

Notary Know How (continued)

Journal Recordkeeping

Listed below are some best practices you, as a notary, may find helpful when recording notarial acts in your journal.

The journal itself should be a bound book with sequentially numbered pages. This will prevent pages from being removed or altered

Date and time of the notarial act

Type of notarial act

Type, title or a description of the document or proceeding

Signature, printed name, and address of each principal and witness

Description of New Jersey's accepted evidence of identity of each person including

- a) a notation of the type of identification document, the issuing agency, serial or identification number and its date of issuance or expiration
- b) a notation if the notary identified the individual on the oath or affirmation of a credible witness or based on the notary's personal knowledge of the individual

Circumstances as to why you may not have completed a notarial act

Address where the notarization was performed

Any request to inspect or copy an entry in the journal, including the requestor's name, address, signature, and evidence of identity.

Any fees charged for notary services including n/c statute fees as outlined in NJSA 22A:4-14

The press release from the National Notary Association's website is a good example of the importance of why you should keep a journal.

~ See inserted press release provided by the National Notary Association ~

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NOTARY BULLETIN

NATIONALNOTARY.ORG



NEWS



BEST PRACTICES



QUIZ



MIND THE GAP



THE NATIONAL NOTARY

NATIONAL NOTARY ASSOCIATION

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Notaries Have "A Common Law Duty To Keep Records Of Their Official Acts," Says Article In Prominent Law Review

Article Adds Impetus To Legal Precedent That States Notaries And Employers Have A Responsibility To The Public That Goes Beyond State Laws

August 3, 2009

LOS ANGELES — Laws in most states do not require that Notaries Public maintain records of their official acts. But in a recent 230-page article in a prominent law review, a case has been made that America's Notaries have a "common law" duty to keep a journal record of all their notarizations — further underscoring the effect of a recent landmark Illinois Appellate Court ruling that asserts Notaries have responsibilities to the public that go beyond what is specified in existing state laws.

Published in the winter 2009 edition of *The John Marshall Law Review*, "The Case That There Is a Common Law Duty of Notaries Public to Create and Preserve Detailed Journal Records of Their Official Acts" states that only one-third of the nation's 4.8 million Notaries are required by statute or rule to maintain a record of their notarizations — even though officials in virtually every state highly endorse the public benefits of Notary recordkeeping.

The article maintains that the advantages of recordkeeping by public officials are so deeply embraced and entrenched in the standards of English common law (the foundation of the American legal system), the practice cannot be set aside. The article is co-authored by Michael L. Closen, Professor Emeritus of The John Marshall Law School of Chicago, and Charles N. Faerber, Vice President of Notary Affairs of the National Notary Association.

Professor Closen had earlier served as an expert witness in the case of *Vancura v. Katris*, which inspired a precedent-setting December 2008 ruling by the Illinois Appellate Court. In its much-noted decision, the Court held that both Notaries and their employers have a common law duty not to harm the public they serve, regardless of what is specifically required by local statute. In the absence of statutory rules, the Court said, Notaries must be guided by such recognized standards as the National Notary Association's *Model Notary Act*.

The Appellate Court also ruled that employers are obliged to train and supervise employee-Notaries to ensure they do no harm to the public for whom they provide notarial services. In the *Vancura* case, an Illinois Notary was so ill-informed about his notarial duties that he believed the identification process consisted merely of comparing signatures. He also felt it was acceptable practice to surrender his seal to an employer for safekeeping when not in use.

The *John Marshall Law Review* article, in citing the benefits to the public of maintaining notarial records, states: "The authors know of not a single reported court decision in all of U.S. history involving a notarization in which the Notary, who had not prepared and retained a journal record, could recall the specific circumstances about the notarization in question." While the *Law Review* article makes an exacting and persuasive case that Notaries must keep a record of what they perform, the message of the *Vancura* case is even more sweeping: Notaries must apply notarial best practices to everything they do as a public official, regardless of the limited requirements of statute.

From the President

What's new NJNA?



Since its inception on September 14, 2004, the New Jersey Notary Association (“NJNA”) has covered a lot of ground in building its non-profit status and making its mark in assisting New Jersey with their notary questions. Along with our growing membership, other areas that are moving NJNA forward are:

- Established a telephone call-in system (hotline) to assist NJ notaries, lawyers and the general public with questions regarding proper notarization procedures and ethics
- A newly updated website with current meeting information, newsletter access, NJNA’s involvement in pending legislation for notary training and an introduction from those behind the scenes within NJNA
- The ability to renew your membership or become a new member through the secure, online web pay system found on NJNA’s website
- NJNA can now be found on Facebook

Change is good and NJNA is working hard to become New Jersey’s premier contact for new and seasoned notaries. Consider becoming a member today and take your knowledge, skills and abilities as a notary in the right direction.

For more information contact:

Alice Tulecki, NJNA President at

president@newjerseynotaryassociation.org

DID YOU KNOW?

The long and distinguished history of a Notary dates back to ancient Rome. Notaries, or Public Officials, began their training as scribes, perfecting the profession of copiers and transcribers. These duties eventually led to positions with officials in the Senate and courts of law where the scribes (Notaries) would record state papers, public proceedings and register decrees and judgments of magistrates.

Continuing into modern day, a Notary in the US may not practice law however some countries require special training and an apprenticeship before being commissioned. Take South Africa for instance, the office of notary public is considered a legal profession and requires education very similar to that of a lawyer.

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