

October 2000

EXECUTIVE OFFICE OF THE GOVERNOR NOTARY SECTION

Notary E-Mail E-ducation October 2000

Greetings Florida Notaries!

In a proclamation signed by the Governor recognizing November 7th, 2000 as Notary Public Day and November 5th - 11th, 2000 as Notary Public Week, the Governor states that Florida notaries public have long held a position of respect and dignity in this state, hold a trusted and valuable role in our legal system, are vital to business transactions involving domestic and international commerce for our state and provide a valuable community service to the general public. The Governor wishes to extend greetings and best wishes to all observing Notary Public Day.

OATHS AND AKNOWLEDGEMENTS

Many notaries use their commissions to perform one specific duty related to their employment. Some notaries specifically administer oaths to individuals while others take acknowledgements from signers on various documents. It is when you are asked to perform notarial acts outside of your normal job functions that it is important to understand the differences between oaths and acknowledgements.

When you notarize a signature, you must perform one of two official notarial acts: take an acknowledgment from or administer an oath (or affirmation) to the document signer. These two acts have different purposes. The lack of understanding of these basic duties causes confusion and often leads to errors in notarizations, even among the most experienced notaries.

To make an acknowledgment, the document signer must personally appear before you, the notary public, and declare that he or she has signed the document voluntarily. You should ensure that the signer understands the document and has not been coerced into signing. If there is any question about the signer's willingness to execute the document or his or her understanding of the contents of the document, you should refuse to notarize and perhaps refer the person to an attorney for legal advice. You may want to ask the signer, "Do you acknowledge that this is your signature and that you are executing this document of your own free will?" If the answer is yes, you should then complete a certificate which states that the execution of the document was acknowledged by the signer. Documents typically requiring an acknowledgment include deeds, mortgages, contracts, and powers of attorney (except those pertaining to motor vehicle titles).

An oath or affirmation is administered to a document signer when the signer is required to make a sworn statement about certain facts. The signer personally appears before you to swear (or affirm) to you, an officer duly appointed to administer oaths, that the information contained in the document is true. A person who makes a false oath or affirmation is subject to criminal charges for perjury. Sworn statements are commonly used in affidavits, depositions, and applications.

A notarization requiring an oath begins with the administration of an oath or affirmation. The courts have held that there should be a verbal exchange between the notary and the document signer in which the signer indicates that he or she is taking an oath. An oath similar to one administered in court by a judge or bailiff would be sufficient. Or, you may simply ask, "Do you swear (or affirm) that the information contained in this document is true?" After receiving an affirmative answer, you must complete a proper notarial certificate indicating that an oath or

affirmation was taken.

If the document you are asked to notarize contains a prepared notarial certificate, look for the key words "acknowledged" or "sworn to" to tell you which notarial act is required. If there is no notarial certificate on the document, the signer must direct you whether he or she wants to make an acknowledgment or take an oath. Unless you are an attorney, you are not authorized to advise a person which notarial act is appropriate for the document presented for notarization, and you may not advise the person about the contents of the document.

Here are some sample certificates for oaths and acknowledgements:

For an oath or affirmation:

STATE OF FLORIDA
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, (year) , by
(name of person making statement) .

(Signature of Notary Public - State of Florida) (seal)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

For an acknowledgment in an individual capacity:

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, (year) ,
by (name of person acknowledging) .

(Signature of Notary Public - State of Florida) (seal)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

For an acknowledgment in a representative capacity:

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, (year) ,
by (name of person) as (type of authority, . . . e.g. officer, trustee, attorney in fact) for (name of
party on behalf of whom instrument was executed) .

(Signature of Notary Public - State of Florida) (seal)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____

Remember November 7th, 2000 is Notary Public Day, so I would also like to extend my appreciation and best wishes to all! You perform a valuable and trusted service in our Great State of Florida!

Thank you for your time!
Jennifer Bertsch
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