
Those Uncommon Notary Scenarios: What To Do

Description

We're all very familiar with the general responsibilities of the Notary Public, and the necessity to make sure we, as notaries, are conducting ourselves in accordance with the rules. We all know the responsibility we have to make sure we are dealing with the proper parties. Checking a signer's identity seems like pretty basic stuff, but are you looking closely enough? Is the ID expired? Does the picture look like the person in front of you? Do the height and weight match (though I wouldn't dare question the weight). I recently re-read the current Handbook for Virginia Notaries Public. I was looking in particular for guidance on how to handle those weird, or at least, uncommon situations that occasionally arise.

Recently, while sitting at the closing table with new home purchasers, Mr. Purchaser casually mentioned that his wife is legally blind. I immediately went hunting for instructions on notarizing the signature of a blind person. I found none in the Notary Handbook. Interestingly, though some states have very specific guidelines for notarizing the signatures of blind, physically disabled, medically disabled or foreign speaking parties, Virginia had none that I could find. I therefore relied on some general guidelines from the National Notary Association that suggested asking the blind party if they were aware of what they were signing, or reading the documents to them if they requested. I asked a few simple questions, was assured the party knew what she was doing and didn't want the documents read to her. In my case the party could actually sign her name and so I affixed my normal notary stamp as nothing further was required.

Because I was already knee-deep in the world of "what if" notarizations, I read on and picked up some best practices for other situations. If a person is signing with an "X", two disinterested parties should witness the signing before the notary seal is affixed. The Notary or one of the witnesses will need to print the signers name on the document.

In the case of hospitalized persons, care should be taken to be sure you are dealing with a party capable of making decisions. I've been to the hospital to take the signature of a woman who went into labor and was still hospitalized on closing day. In that situation, it was pretty easy to determine she knew what she was doing. But what about the patient who is taking pain medications? Or has suffered a stroke? Or is generally befuddled or incoherent? Take the time to ask enough questions to satisfy yourself that the party is aware of what they are doing. If you are unsure, you can ask medical personnel their opinion, or you can refuse to notarize.

It is also a good idea to check with your local Clerk's office to see if they have any special instructions regarding notarization for your situation.

In each of these cases, you may want to consider making an entry in that journal that the Notary Handbook recommends. While it's not required of a traditional notary (but is required of an electronic notary), a description of the situation and how you dealt with it may be helpful for your protection and to provide evidence if there is a future dispute. Lastly, remember that every notarial act affects the rights of others. Carelessness or negligence by the notary may injure these rights.

(Excerpt from A Handbook for Virginia Notaries Public, December 15, 2017)



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Mary is a board member of VLTA and will serve as 2nd Vice President in 2019-2020. She is also President-Elect of Hampton Roads Association for Commercial Real Estate (HRACRE).

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