

**THE CLERKS
AUTHORITY**



Georgia Superior Court Clerks' Cooperative Authority



So You're A Notary Public...Now What?

Stacy Haralson
Harris County Clerk of Superior Court

Hamilton, GA · December 1, 2015

A notary's primary responsibility is...



To Prevent

~~FRAUD~~



Notary Journal?



While Georgia law does not require a notary to keep a journal, which documents each notarial act in detail, it is **strongly** recommended that a journal be maintained.

- The journal serves as an archive of each notarial act
- Elements of the act, including name of signer, signer's address, signer's signature, signer's telephone number, date and time of notarization, type of ID presented by signer, elements of the ID, date of document, type of document presented for notarization, and a comment section are essential to maintaining a journal.

SIGNER'S PRINTED NAME: <i>Joel Dickas Shell</i>		SIGNER'S SIGNATURE: <i>Joel D. Shell</i>		9
SIGNER'S COMPLETE ADDRESS: <i>[REDACTED] Lenox GA [REDACTED]</i>		SIGNER'S BUSINESS PHONE: <i>(912) [REDACTED]</i>	SIGNER'S HOME PHONE: <i>(912) [REDACTED]</i>	
NOTARIAL SERVICE: <input type="checkbox"/> JURAT <input checked="" type="checkbox"/> ACKNOWLEDGMENT <input type="checkbox"/> OATH (IF OTHER DESCRIBE):		<input type="checkbox"/> OTHER: _____ <input type="checkbox"/> FEE: \$ _____	TYPE OF DOCUMENT: <i>Adoption Papers</i>	
DATE NOTARIZED: <i>10-26-99</i>	TIME OF NOTARIZATION: <i>9:45</i> <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	DATE OF DOCUMENT: <i>10-26-99</i>		TOP OF THUMBPRINT (WHEN APPLICABLE)
PERSONALLY KNOWN: <input type="checkbox"/>	PRODUCED ID: <input checked="" type="checkbox"/> TYPE OF ID: <i>GA DL # 252947745</i>	EXPIRATION: <i>8-6-00</i>		
COMMENTS, SPECIAL OBSERVATIONS:				

SIGNER'S PRINTED NAME: <i>Mamas M. Javadi</i>		SIGNER'S SIGNATURE: <i>Mamas M. Javadi</i>		10
SIGNER'S COMPLETE ADDRESS: <i>[REDACTED] Marietta GA</i>		SIGNER'S BUSINESS PHONE: <i>[REDACTED]</i>	SIGNER'S HOME PHONE: <i>[REDACTED]</i>	
NOTARIAL SERVICE: <input type="checkbox"/> JURAT <input checked="" type="checkbox"/> ACKNOWLEDGMENT <input type="checkbox"/> OATH (IF OTHER DESCRIBE):		<input type="checkbox"/> OTHER: _____ <input type="checkbox"/> FEE: \$ <i>N/A</i>	TYPE OF DOCUMENT: <i>Copy Acknowledgment</i>	
DATE NOTARIZED: <i>10-26-99</i>	TIME OF NOTARIZATION: <i>11:40</i> <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM	DATE OF DOCUMENT: <i>10-26-99</i>		TOP OF THUMBPRINT (WHEN APPLICABLE)
PERSONALLY KNOWN: <input type="checkbox"/>	PRODUCED ID: <input checked="" type="checkbox"/> TYPE OF ID: <i>GA DL # 057290730</i>	EXPIRATION: <i>3-19-01</i>		
COMMENTS, SPECIAL OBSERVATIONS:				

How much do you
know about notary
public procedures and
law?

1. _____ A notary public is commissioned by the county Board of Commissioners' Chairman.

1. _____ A notary public is commissioned by the county Board of Commissioners' Chairman.

FALSE - A Georgia notary public is appointed and commissioned by the Clerk of Superior Court in the county where the notary resides.

2. _____ A person who is not a citizen of the United States may be a notary public in Georgia.

2. _____ A person who is not a citizen of the United States may be a notary public in Georgia.

TRUE - An applicant for a Georgia notary commission can be either a United States citizen **or** a legal resident of the United States. The applicant must also be a legal resident of the county from which he will be appointed (unless the applicant lives in a neighboring state).

3. _____ A Georgia notary public may perform official acts anywhere in the United States.

3. _____ A Georgia notary public may perform official acts anywhere in the United States.

FALSE - Georgia notaries may only perform notarial acts within the geographical boundaries of this state. In other words, they have statewide jurisdiction and may perform their official duties in any county in Georgia.

4. _____ A notary's primary function is to explain legal documents and witness signatures.

4. _____ A notary's primary function is to explain legal documents and witness signatures.

FALSE - While notaries do witness signatures, their primary function is to **prevent and deter fraud**. They do this by always requiring the personal appearance of the signer, identifying the signer, and performing the notarial act requested for the execution of the document. Unless the notary is an attorney licensed to practice law in Georgia, the notary may not explain the contents or the effects of a document or give any legal advice.

5. _____ When the document signer is not present, the notary is permitted to notarize the signer's signature if the notary verifies the signature via electronic communications (email, text, telephone, etc.).

5. _____ When the document signer is not present, the notary is permitted to notarize the signer's signature if the notary verifies the signature via electronic communications (email, text, telephone, etc.).

FALSE - A notary may never notarize when the signer is not physically present before the notary, face-to-face in the same room at the same time, even if the notary personally knows the signer and recognizes his/her signature. There are no exceptions!

6. _____ A notary may not certify a photocopy of a birth certificate or a deed.

6. _____ A notary may not certify a photocopy of a birth certificate or a deed.

TRUE - Georgia law prohibits a notary from making a certified copy of any public record or publicly recordable documents. Birth certificates and deeds are just two examples of documents in these categories.

7. _____ A Social Security card and a library card are not acceptable forms of identification for a notarization.

7. _____ A Social Security card and a library card are not acceptable forms of identification for a notarization.

TRUE - Georgia law specifies that a notary must rely on personal knowledge or satisfactory evidence to identify a signer. A Social Security card and a library card would not be reliable because they don't contain a photo to assist in determining positive identification.

8. _____ When performing a notarial act, the notary should indicate in the notarial certificate the state and county of the notary's residence (State of Georgia, County of _____).

8. _____ When performing a notarial act, the notary should indicate in the notarial certificate the state and county of the notary's residence (State of Georgia, County of _____).

FALSE - The notation in the notarial certificate that indicates "State of Georgia, County of _____" is called the venue, which is the location where the notarization actually takes place, not the county in which the notary is commissioned.

9. _____ A notary may notarize his sister's signature on a power of attorney giving him the authority to care for her minor child.

9. _____ A notary may notarize his sister's signature on a power of attorney giving him the authority to care for her minor child.

FALSE - The notary would be a party to the power of attorney, therefore, is forbidden by Georgia law from performing the notarial act. [O.C.G.A. 45-17-8(c)(2)]

10. _____ Georgia law allows notaries to charge any amount that is reasonable for a notarization.

10. _____ Georgia law allows notaries to charge any amount that is reasonable for a notarization.

FALSE - The law allows a maximum fee of \$2 per notarial act.

11. _____ A notary may notarize the signature mark of a person when that person cannot make a “normal” signature.

11. _____ A notary may notarize the signature mark of a person when that person cannot make a “normal” signature.

TRUE - A mark is considered a legal signature if the person making that mark designates the mark as his/her signature. Georgia law does not provide a specific procedure for notarizing the mark of a person, but the notary should exercise caution when performing this special notarization.

12. _____ If the document signer is blind, the notary should read the document to the signer prior to notarization.

12. _____ If the document signer is blind, the notary should read the document to the signer prior to notarization.

TRUE - The notary, as an impartial officer, should read the entire document to the signer who is blind before notarization. This recommendation is designed to protect the person with a sight disability by ensuring that the signer knows exactly what he/she is signing. However, the non-attorney notary may not explain the contents or effects of the document to the signer.

13. _____ The law allows notaries to keep copies of the documents they notarize in order to protect themselves in the event a complaint of misconduct is filed against them.

13. _____ The law allows notaries to keep copies of the documents they notarize in order to protect themselves in the event a complaint of misconduct is filed against them.

FALSE - Nothing in Georgia law authorizes notaries to keep copies of the documents they notarize, and doing so may be a violation of a person's privacy. If the transaction is related to the notary's employment, the employer may keep a copy of the transaction documents for the business file. If a notary wants personal protection, he/she should carefully document each notarial act in a permanently bound recordbook especially designed for this purpose.

14. _____ A notary public may be held personally liable for any financial loss caused by the notary's failure to properly perform his/her official duties.

14. _____ A notary public may be held personally liable for any financial loss caused by the notary's failure to properly perform his/her official duties.

TRUE - A notary has unlimited personal liability for any loss caused by official misconduct. The notary could be sued, which may result in a court judgment against the notary for the amount of the loss.

Please Don't !



Two handwritten signatures in black ink.

Give it some thought



laration, with a firm reliance on the protection
John Hancock

Easy to read !



A. Lincoln

Seal Over Signature Isn't "More Official"



State of Georgia
County of Fannin
Signed and sworn to (or affirmed) before me on Aug. 20, 2014
Date
by Rachel Rice
Printed name(s) of individual(s) making statement

who proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Personally Known
or
 Produced Identification
Type and # of ID (last 4 digits) _____
ID Expiration Date _____

BOO!

Michael V. Smith
MICHAEL V SMITH
Fulton County
Signature of notary
My Commission Expires
January 31, 2017
Michael V. Smith
(Name of notary, typed, stamped or printed)
Notary Public State of Georgia

Stamp/Seal

The Proper Way To Affix Seal



Acknowledgment in an Individual Capacity

State of Georgia

County of DeKalb

This record was acknowledged before me on August 20, 2014
Date

by Rachel Rice
Printed name(s) of individual(s) signing document

who proved to me on the basis of satisfactory evidence to be the person(s)
who appeared before me.

Personally Known
or
 Produced Identification

Type and # of ID (last 4 digits) _____

ID Expiration Date _____

Michael V. Smith
Signature of notary public

Michael V. Smith
(Name of notary, typed, stamped or printed)
Notary Public State of Georgia

My commission expires: Jan. 31, 2017

YAY!

Stamp/Seal



§45-17-2 Qualifications of notaries



(a) Any individual applying for appointment to be a notary public shall:

- (1) Be at least 18 years old;
- (2) Be a United States citizen or be a legal resident of the United States;
- (3) Be a legal resident of the county from which such individual is appointed;
- (4) Have, and provide at the time of the application, the applicant's operating telephone number; and
- (5) Be able to read and write the English language.

(b) The qualification of paragraph (3) of subsection (a) of this Code section shall not apply to any nonresident individual applying for appointment as a notary public under the provisions of Code Section 45-17-7.

§45-17-7. Commissioning of nonresidents as notaries; powers and duties



(a) Any person who is a resident of a state bordering on the State of Georgia and who carries on a business or profession in the State of Georgia or who is regularly employed in the State of Georgia may be commissioned as a notary public by the clerk of the superior court of the county in which the person carries on said profession, business, or employment.

(b) Such person wishing to be commissioned as a notary public must meet all the requirements of Code Section 45-17-2, as it applies to this Code section.

§ 45-17-2.3. Grant or denial of commission or recommission; grounds; unauthorized practice of law



(a) After an applicant submits to the clerk of superior court of the county the application, endorsements, and declaration of applicant as required in Code Section 45-17-2.1, the clerk of superior court shall either grant or deny a commission or recommission as a notary public within ten days following the applicant's submission of the necessary documents.

§ 45-17-2.3. Grant or denial of commission or re-commission; grounds; unauthorized practice of law



b) The clerk of superior court may in his or her discretion deny a commission or re-commission to an applicant based on any of the following grounds:

- (1) The applicant's criminal history;
- (2) Revocation, suspension, or restriction of any notary commission or professional license issued to the applicant by this or any other state;
- (3) The commission in this or any state of any act enumerated in subsection (a) of Code Section 45-17-15, whether or not criminal penalties or commission suspension or revocation resulted; or
- (4) The applicant is found by the State Bar of Georgia, a court of this state, or a court of any other state to have engaged in the unauthorized practice of law.

(c) Any applicant who is denied a notarial commission or re-commission by the clerk of superior court shall upon demand be allowed a hearing and adjudication before the superior court clerk with a right of de novo appeal to the superior court, such appeal to be determined by the court without the intervention of a jury.

§ 45-17-8 Powers and duties generally



(a) Notaries public shall have authority to:

(1) Witness or attest signature or execution of deeds and other written instruments;

(2) Take acknowledgments;

(3) Administer oaths and affirmations in all matters incidental to their duties as commercial officers and all other oaths and affirmations which are not by law required to be administered by a particular officer;

(4) Witness affidavits upon oath or affirmation;

(5) Take verifications upon oath or affirmation;

§ 45-17-8. (con't.) Powers and duties generally



- 6) Make certified copies, provided that the document presented for copying is an original document and is neither a public record nor a publicly recorded document certified copies of which are available from an official source other than a notary and provided that the document was photocopied under supervision of the notary; and
- (7) Perform such other acts as they are authorized to perform by other laws of this state.

§ 45-17-8. (con't.) Powers and duties generally



b) No notary shall be obligated to perform a notarial act if he feels such act is:

(1) For a transaction which the notary knows or suspects is illegal, false, or deceptive;

(2) For a person who is being coerced;

(3) For a person whose demeanor causes compelling doubts about whether the person knows the consequences of the transaction requiring the notarial act; or

(4) In situations which impugn and compromise the notary's impartiality, as specified in subsection (c) of this Code section.

§ 45-17-8. (con't.) Powers and duties generally



(c) A notary shall be disqualified from performing a notarial act in the following situations which impugn and compromise the notary's impartiality:

(1) When the notary is a signer of the document which is to be notarized; or

(2) When the notary is a party to the document or transaction for which the notarial act is required.

(d) A notary public shall not execute a notarial certificate containing a statement known by the notary to be false nor perform any action with an intent to deceive or defraud.

(e) In performing any notarial act, a notary public shall confirm the identity of the document signer, oath taker, or affirmant based on personal knowledge or on satisfactory evidence.

§ 45-17-8. (con't.) Powers and duties generally



(f) The signature of a notary public documenting a notarial act shall not be evidence to show that such notary public had knowledge of the contents of the document so signed, other than those specific contents which constitute the signature, execution, acknowledgment, oath, affirmation, affidavit, verification, or other act which the signature of that notary public documents, nor is a certification by a notary public that a document is a certified or true copy of an original document evidence to show that such notary public had knowledge of the contents of the document so certified.

§ 45-17-8.1. Signature and date of notarial act



(a) Except as otherwise provided in this Code section, in documenting a notarial act, a notary public shall sign on the notarial certification, by hand in ink, only and exactly the name indicated on the notary's commission and shall record on the notarial certification the exact date of the notarial act.

(b) The requirement of subsection (a) of this Code section for recording of the date of the notarial act shall not apply to an attestation of deeds or any other instruments pertaining to real property.

(c) No document executed prior to July 1, 1986, which would otherwise be eligible for recording in the real property records maintained by any clerk of superior court or constitute record notice or actual notice of any matter to any person shall be ineligible for recording or fail to constitute such notice because of noncompliance with the present or any prior requirements of this Code section.

§ 45-17-8.2. Misrepresentation prohibited; required notice; posting of schedule of fees; penalty provision



(a) A notary shall not make claims to have or imply he or she has powers, qualifications, rights, or privileges that the office of notary does not authorize, including the powers to counsel on immigration matters and to give legal advice.

(b) A notary who is not an attorney licensed to practice law in this state who advertises the person's services as a notary public in English or any other language, by radio, television, signs, pamphlets, newspapers, other written communication, or in any other manner, shall post or otherwise include with the advertisement the notice set forth in this subsection in English and in every other language used for the advertisement. The notice shall be of a conspicuous size, if in writing, and shall state: "I AM NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN THE STATE OF GEORGIA, AND I MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If the advertisement is made by radio or television, the statement may be modified but must include substantially the same message.

(c) A notary who is not an attorney licensed to practice law in this state is prohibited from representing or advertising that the notary is a "legal consultant" or an expert on legal matters.

§ 45-17-8.2 (con't.)



(d) A notary who is not an attorney licensed to practice law in this state is prohibited from rendering any service that constitutes the unauthorized practice of law.

(e) A notary required to comply with the provisions of subsection (b) of this Code section shall prominently post at the notary public's place of business a schedule of fees established by law which a notary may charge. The fee schedule shall be written in English and in any non-English language in which the notary services were solicited and shall contain the notice required in subsection (b) of this Code section, unless the notice is otherwise prominently posted at the notary public's place of business.

Where From Here?




HB 381 – “Revised Georgia Law On Notarial Acts of 2015”

- Significant change to current law
 - Complete a course of study
 - Successfully pass exam
 - Better defined seal requirements
 - Maintain a journal
 - Notarial acts require certificates

<http://www.legis.ga.gov/legislation/en-US/Display/20132015/HB/815>

http://training.gsccca.org/LMS/login.asp


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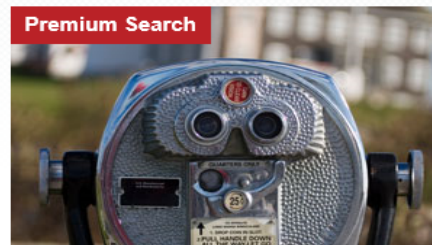
- Free online notary public training course available to everyone
- Optional exam \$10



Georgia Superior Court Clerks' Cooperative Authority

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Let's Review



- The signer **MUST ALWAYS** be present
- Government issued ID with photo **ONLY**
- Georgia notaries may notarize in any of the 159 counties of Georgia (the physical boundaries)
- Notaries are commissioned by the Clerk of Superior Court of the county in which they reside
- Notary commissions are effective for four years
- Changes of name and changes of address must be communicated in writing to the commissioning Clerk of Superior Court, with a copy to the Clerks' Authority, within 30 days
- Loss or theft of seal must be communicated in writing to the commissioning Clerk of Superior Court, with a copy to the Clerks' Authority, within 10 days of discovery
- Recommended to keep a journal
- Four elements of the seal: name as commissioned, "State of Georgia, "Notary Public," county name where commissioned
- Blue or black ink **ONLY** for notary's signature and seal
- Contact <https://www.gscca.org/clerks>

Georgia Superior Court Clerks' Cooperative Authority



mike.Smith@gsccca.org (404) 327-9753

rachel.rice@gsccca.org (404) 327-7322

(800) 304-5175

www.gsccca.org