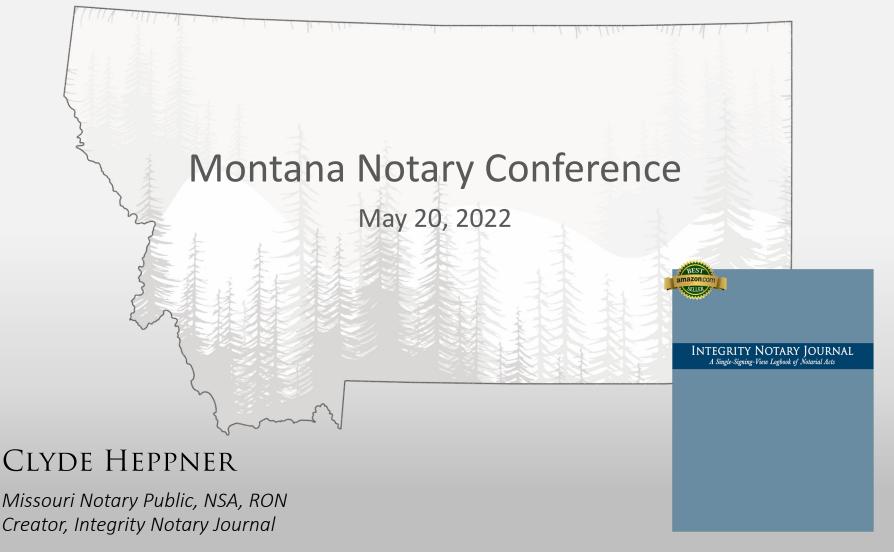
### ON THE RECORD

Reasonable Care through Due Diligence



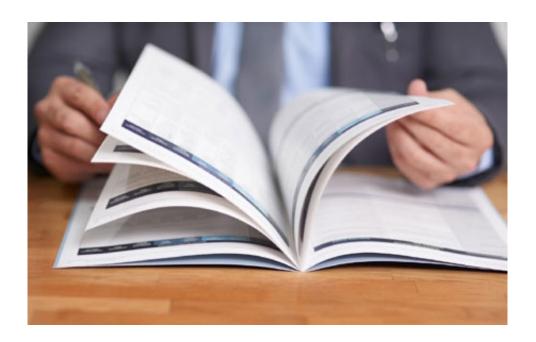
#### This is NOT legal advice.

 I am not an attorney, and I am not providing legal advice.

Always follow your state statutes and/or executive orders.

### My Goal Today

- Gain your buy in that journaling is:
  - Essential to our profession, and
  - Deserves our due diligence.



#### Purpose of Notary Journal

- The journal is an official record of acts performed by a notary public.
- In essence, it can be described as a public record and can be available to members of the public under appropriate conditions.

#### Why Care

- A well recorded notarization in a securely retained journal protects the notary and the public.
- We provide a valuable service to the public.
  - Acknowledge the signing of critical documents by verified signers.
    - POAs, Wills, Deeds, Health Directives, etc.
  - Administer oaths to obtain a pledge of truthfulness under the penalty of perjury.
    - Without this oath, the signer cannot be prosecuted if known falsehoods appear in the document.
- We have an obligation (duty) to ensure the notarizations are valid.

# Notary Ceremony provides the structure to a valid notarization.

#### • Two components:

- The notarization identify confirmed, oath administered if needed, document signed, and certificate completed.
- The documentation recording of evidence the notarization was completed – when, who signed, how identified, signer details, physical presence (sign journal, thumbprint), where performed, document presented, etc.

### Scary Stuff

- Only one-third of notaries in the US are required by statute to create and preserve records in a notary journal.
- Per Closen and Faerber (2009), "many of the affected notaries do not obey those laws at all or perform their record-keeping responsibilities irregularly and inadequately."
- These researchers estimate, "some two-thirds of U.S. notaries neglect to prepare and retain journal records of their notarial acts."

# You don't see it coming until it happens.

- Why are we so complacent?
  - 99% of our appointments are routine; no issues.
  - Significant time delay between notarization and the issue.
  - We don't hear about notaries being charged with a crime.
  - It takes too much time to journal.
  - I don't make mistakes and/or I have not been called to testify about a notarization.
  - My state does not require me to maintain one.

#### Three years ago today ...

1. A family contests the legality of a POA being used by the son. The family says, "Dad never signed the POA. He did not have one."

- 2. You are contacted to valid the authenticity of the notarization as your name and stamp appear on the document.
  - How will you validate or invalidate this notarization?

#### Notaries Act with Reasonable Care

- By law, the notary is not required to act perfectly, but it does require the notary act with reasonable care.
- Creating a habit of diligence provides evidence of reasonable care.
- "... the journal not only drives the notary to be diligent and careful but also proves the notary has actually performed [their duties] with reasonable care." (Closen, 2018)

Consistently documenting information, from notarization to notarization, shows a habit of diligence on the part of notary, which provides evidence of reasonable care.

- A good journal will guide the notary through the notarization and prevent errors.
  - Through the process, the critical assessments of the signer's identity, willingness, mental competence, etc.
     will be determined before the notary begins to complete the notarial certificate.

#### The evidence is strong.

- Among the hundreds of challenges to the validity of notarizations, there are virtually no cases involving notaries who kept detailed and proper notary journals. (Closen, 2018)
- In other words, when notaries keep detailed journal entries they are unlikely to commit errors and omissions of consequence in their notarizations, and don't get formally challenged in court.

- Establishes signer presence.
  - This is the most fundamental requirement for a valid notarization.
  - Our notarial certificates leave us once the signing over.
  - The only evidence to corroborate a signers appearance is a permanent, contemporaneously completed, chronologically sequenced journal containing a signer's signature, initials, and/or thumbprint.
  - This provides tangible proof of due diligence by the notary.

- Assists in the assessment of signer identity, willingness, and mental competence.
- Completing the journal entry, requires a conversation between the notary and signer.
  - We begin to assess the signer's mental alertness.
    - What day it is. Season.
    - Why I am there.
  - We inspect the document to ensure the:
    - Notarial certificate has compliant wording.
    - Document does not have blanks.
  - We inspect the signer's ID and note the information in the journal.
  - We assess their willingness to sign the journal and/or provide a thumbprint.
    - We compare their signatures—journal to ID.
  - We learn what the signer knows about the document.
  - We gauge their willingness to sign the document.

- A journal should remind the notary to administer oaths, if required.
- "The most frequent of all notary mistakes or omissions is to neglect to administer oaths or affirmations when they are required." (Closen, 2018)
- Without administering the oath:
  - The signer cannot be prosecuted if know falsehoods appear in the document.
  - When the notary certifies in the notarial certificate that the signer was "sworn," the notary has falsely certified and has committed the crime of official misconduct.

## Montana Law requires Notaries to Chronicle all Notary acts in a Journal

- Multiple journals are allowed to be used at the same time.
  - Examples
    - One in the office and one at home.
    - One for loan signing (LS) and one for general notary work (GNW).
  - Two types are allowed:
    - A <u>permanent</u>, <u>bound paper</u> journal designed to deter fraud.
      - Cannot be a word or excel document.
      - Examples: Modern, Dome, Integrity, NNA, etc.
    - A <u>permanent</u>, <u>tamper-evident</u> <u>electronic</u> journal (e-Journal).
      - Must be a "real" commercially available product. No word or excel documents.
        - Examples: NotaryAct, Jurat Inc, AAN e-Journal, etc.
      - This is independent of the RON journal provided by the platform, which is not considered under the control of the notary.
- Entries in a journal must be made at the same time as the notarial act and be in chronological order.

## Montana Law requires the following Information to be Journaled

- Date and time.
- 2. Document name/date of document.
- 3. Type of notarization, seven types are possible in Montana:
  - Taking an acknowledgment ("Acknowledgement");
  - Administering an oath/affirmation ("Oath");
  - Taking a verification on oath/affirmation ("Jurat");
  - Witnessing/attesting a signature ("Signature");
  - Certifying/attesting a copy ("Certification of Copy");
  - Certifying/attesting a transcript of an affidavit or deposition ("Deposition"); and
  - Noting a protest of a negotiable instrument ("Protest Instrument").
- 4. Signer's name and address.
- 5. How signer was identified. \*\*Be mindful. Do Not collect ID serial number, Birth Date, SS # Collection of personal identification information for the journal is not allowed in Montana.
  - Personal Knowledge ("PK")
  - Credible Witness
  - ID type/issuing entity/date of issue or expiration ("Drivers License", "US Passport", etc.)
- 6. Signer's signature.
  - Exception. Certifying transcripts of depositions and certifying copies do not require the signature of the individual for whom the notarial act is performed.
- 7. Notary fee charged.

# Montana Law regarding RON and Journaling

- RON platforms provide integrated journals. Referred to hear as the "RON Journal".
  - This is different than the e-Journal previously discussed.
- Notaries are required to enter their RON notarizations in their paper or e-journals.
- The same information needs to be journaled for RON as previously outlined—date/time, name, how identified, documents, notarial acts, etc.
- Modifications:
  - The storage location of the audiovisual recording in lieu of the signature of the principal; and
  - A notation identifying the system and/or technology used to perform the notarization.

#### Safeguard Electronic Assets

- Download and safeguard the data from your e-Journal.
- Download and safeguard the RON digitals assets video, RON journal, history—on your own system.
  - Some platforms do not allow the history to be downloaded.

#### Lost or Stolen Journals

- The notary must notify the Secretary of State.
- Lost or stolen journals should be reported filing an amendment via the online portal: biz.sosmt.gov

#### Retention of Journals

- Journals (paper & electronic) must be kept for 10 years after the performance of the last notarial act.
- Notaries have the choice of either retaining their journals themselves for 10 years after the last entry or choose to leave them with an "approved repository".
- If a notary elects to retain their journals, upon resignation of a commission (or revocation or suspension of a commission), the notary must notify the Secretary of State of the journals' location.

### In the Event of a Notary's Death

- The notary's personal representative or guardian (or any other person knowingly in possession of the notary's journals) must transmit all journals to the Secretary of State's office.
- Journals to be retained by the Secretary of State's office should be sent to:

Montana Secretary of State Certification and Notary Services PO Box 202801 Helena, MT 59620-2801 Information to be Journaled

- 1. Date, start time, [and end time].
- 2. Signing location.
- 3. Document name/type and number of pages.
- 4. Type of notarization.
- 5. Signer's name and address.
- 6. How signer was identified. \*\*Be mindful of collecting personal information.
- 7. If oath/affirmation was administered.
- 8. Signer's willingness.
- 9. Signer's mental competence.
- 10. Signer's understanding of the document to be signed.
- 11. Signer's signature.
- 12. Signer's thumbprint, if not prohibited by law.
- 13. Notary fee, or no fee.
- 14. Any other additional information pertinent to the signing.
  - Other people in the room.



#### **INTEGRITY NOTARY JOURNAL**

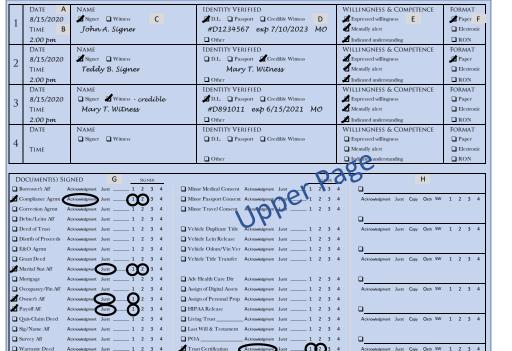
A Single-Signing-View Logbook of Notarial Acts

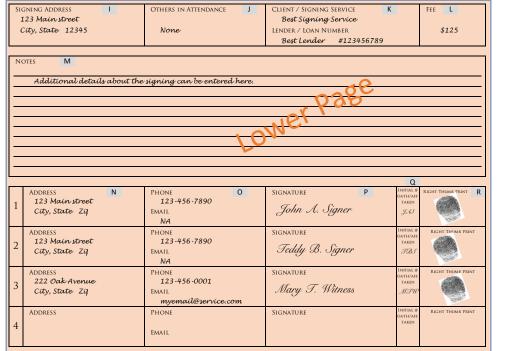
Based on these standards of care, I set out to create a notary journal.

Additionally, I wanted a journal that was ergonomically designed and efficient to use.

At different iterations, the journal was reviewed by experts, and trialed in the field by notaries.

The result was the Integrity Notary Journal.





Signings are recorded on two pages—an upper and lower page.

- Designed for multiple document signings such as real estate closings, estate planning documents (e.g., trusts), etc.
- Comprehensive list of documents and notarial acts

Visual layout provides the notary with prompts for:

- Willingness and competence of signer,
- When an oath is administered,
- Signing location,
- Documenting others in attendance,
- Client/lender information, and
- Notarization format paper, electronic, remote online notarization (RON).

#### Additional details

- Water resistant cover
- Size 8.5" X 11.0"
- Consecutively numbered pages
- 480 entries / 120 signings
- Sample oaths

	Date <b>A</b>	Name	Identity Verified	Willingness & Competence	Format
1	8/15/2020	Signer  Witness  C	☑ D.L. ☐ Passport ☐ Credible Witness ☐	Expressed willingness E	Paper F
1	Time <b>B</b>	John A. Sígner	#D1234567 exp 7/10/2023 MO	Mentally alert	☐ Electronic
	2:00 pm	-	Other	Indicated understanding	☐ RON
	Date	Name	Identity Verified	Willingness & Competence	Format
1	8/15/2020	Signer  Witness	☐ D.L. ☐ Passport ☐ Credible Witness	Expressed willingness	Paper
	Time	Teddy B. Sígner	Mary T. Witness	Mentally alert	☐ Electronic
	2:00 pm		☐ Other	Indicated understanding	☐ RON
	Date	Name .	Identity Verified	Willingness & Competence	Format
3	8/15/2020	☐ Signer	☑ D.L. ☐ Passport ☐ Credible Witness	Expressed willingness	☐ Paper
	Time	Mary T. Witness	#D891011 exp 6/15/2021 MO	Mentally alert	☐ Electronic
	2:00 рт		Other	Indicated understanding	☐ RON
	Date	Name	Identity Verified	Willingness & Competence	Format
4		☐ Signer ☐ Witness	☐ D.L. ☐ Passport ☐ Credible Witness	☐ Expressed willingness	☐ Paper
4	Time			☐ Mentally alert	☐ Electronic
			☐ Other	☐ Indicated understanding	☐ RON

Document(s) S	IGNED	G	SIC	NER				SIGN	IER		H
☐ Borrower's Aff	Acknowledgment	Jurat 1	. 2	3	4	☐ Minor Medical Consent Acknowledgment Jurat	1	2	3	4	
Compliance Agrmt	Acknowledgment	Jurat 1	2	3	4	☐ Minor Passport Consent Acknowledgment Jurat	1	2	3	4	Acknowledgment Jurat Copy Oath SW 1 2 3 4
☐ Correction Agrmt	Acknowledgment	Jurat 1	2	3	4	☐ Minor Travel Consent Acknowledgment Jurat	1	2	3	4	
☐ Debts/Leins Aff	Acknowledgment	Jurat 1	. 2	3	4						
☐ Deed of Trust	Acknowledgment	Jurat 1	. 2	3	4	☐ Vehicle Duplicate Title Acknowledgment Jurat	1	2	3	4	Acknowledgment Jurat Copy Oath SW 1 2 3 4
☐ Distrib of Proceeds	Acknowledgment	Jurat 1	2	3	4	☐ Vehicle Lein Release Acknowledgment Jurat	1	2	3	4	
☐ E&O Agrmt	Acknowledgment	Jurat 1	2	3	4	☐ Vehicle Odom/Vin Ver Acknowledgment Jurat	1	2	3	4	
☐ Grant Deed	Acknowledgment	Jurat 1	2	3	4	☐ Vehicle Title Transfer Acknowledgment Jurat	1	2	3	4	Acknowledgment Jurat Copy Oath SW 1 2 3 4
Marital Stat Aff	Acknowledgmen	Jurat 1	2	3	4						
☐ Mortgage	Acknowledgment	Jurat 1	2	3	4	☐ Adv Health Care Dir Acknowledgment Jurat	1	2	3	4	
☐ Occupancy/Fin Aff	Acknowledgment	Jurat 1	2	3	4	☐ Assign of Digital Assets Acknowledgment Jurat	1	2	3	4	Acknowledgment Jurat Copy Oath SW 1 2 3 4
Owner's Aff	Acknowledgme	Jurat1	2	3	4	☐ Assign of Personal Prop Acknowledgment Jurat	1	2	3	4	
Payoff Aff	Acknowledgmen	Jurat1	2	3	4	☐ HIPAA Release Acknowledgment Jurat	1	2	3	4	
Quit-Claim Deed	Acknowledgment	Jurat 1	2	3	4	☐ Living Trust Acknowledgment Jurat	1	2	3	4	Acknowledgment Jurat Copy Oath SW 1 2 3 4
☐ Sig/Name Aff	Acknowledgment	Jurat 1	2	3	4	☐ Last Will & Testament Acknowledgment Jurat	1	2	3	4	
☐ Survey Aff	Acknowledgment	Jurat 1	2	3	4	POAAcknowledgment Jurat	1	2	3	4	
☐ Warranty Deed	Acknowledgment	Jurat 1	. 2	3	4	Trust Certification Acknowledgment Jurat	_ 1	2	3	4	Acknowledgment Jurat Copy Oath SW 1 2 3 4

Signing Address	1	Others in Attendance	J	Client / Signing Service	K	FEE	L	
123 Main street				Best Signing Service				
Cíty, State 12345		None		Lender / Loan Number			\$125	
				Best Lender #123456	789			

Notes <b>M</b>	1
Addition	al details about the signing can be entered here.

					Q	
1	ADDRESS N 123 Main street City, State Zij	PHONE ( 123-456-7890 EMAIL NA	O	Signature John A. Signer	P INITIAL IF OATH/AFF TAKEN  JAS	RIGHT THUMB PRINT R
2	ADDRESS 123 Main street City, State Zij	PHONE 123-456-7890 EMAIL NA		Signature Teddy B. Signer	Initial if Oath/aff Taken <i>TBS</i>	RIGHT THUMB PRINT
3	ADDRESS 222 Oak Avenue City, State Zij	PHONE 123-456-0001 EMAIL myemail@service.com	n	Signature Mary T. Witness	Initial if Oath/aff Taken MTW	RIGHT THUMP PRINT
4	ADDRESS	PHONE		Signature	INITIAL IF OATH/AFF TAKEN	RIGHT THUMB PRINT

	DATE /	NAME	IDENTITY VERIFIED	WILLINGNESS & COMPETENCE	FORMAT
1	10/01/2021	Signer Witness	D.L. Passport Credible Witness	Expressed willingness	☐ Paper
1	TIME	Frank John Doe	KBA + ID Veridendon	Mentally alert	☐ Electronic
	10:05 Am	Frank John Doe	1 Other MO Exp 01/01/2023	1ndicated understanding	DRON
	DATE	Name	IDENTITY VERIFIED	WILLINGNESS & COMPETENCE	FORMAT
2	10/01/2021	Signer Witness	D.L. Passport Credible Witness	Expressed willingness	☐ Paper
4	TIME	Sara Mary Doe	KEA + ID Wichcolon		☐ Electronic
	10.05 Am	Sara Mary Doe	1 Other MO EN 02/02/2022	. ☐ Indicated understanding	RON
	DATE	Name	IDENTITY VERIFIED	WILLINGNESS & COMPETENCE	FORMAT
3		☐ Signer ☐ Witness	□ D.L. □ Passport □ Credible Witness	☐ Expressed willingness	☐ Paper
0	TIME	Control of the Contro	1 1 2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	☐ Mentally alert	☐ Electronic
	1000000		☐ Other	☐ Indicated understanding	RON
	DATE	Name	IDENTITY VERIFIED	WILLINGNESS & COMPETENCE	FORMAT
4		☐ Signer ☐ Witness	□ D.L. □ Passport □ Gredible Witness	☐ Expressed willingness	☐ Paper
Ť	TIME			☐ Mentally alert	☐ Electronic
			Other	☐ Indicated understanding	RON

DOCUMENT(S) SI	GNED		SIGN	ER		I/	SIGN	IR.	(A) Author when at Release of
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☐ Compliance Agrmt	Acknowledgment June	1	$^2$	3 4	☐ Survey Aff	Acknowledgment June 1	2	3 4	Acknowledgeness Surat Copy Outh SW 2 3 4
Correction Agrmt	Acknowledgment June	1	2	3 4	☐ Warranty Deed	Acknowledgment June1	2	3 4	Authorize her to tat as
Indem Debt,Leins Aff	Acknowledgment June	1	2	3 4					D Next Friend
☐ Deed of Trust	Acknowledgment June	1	2	3 4	☐ Vehicle Duplicate Title	Acknowledgment June 1	2	3 4	Cknowledgment Jurat Copy Outh SW 1 0 3 4
☐ Distrib of Proceeds	Acknowledgment June		2	3 4	☐ Vehicle Lein Release	Acknowledgment June 1	2	3 4	Petition for the Determination
■ E&O Agrms	Acknowledgment June	1	2	3 4	☐ Vehicle Odom/Vin Ver	Acknowledgment June 1	2	3 4	DExistance + Non- Wishince favent . She
☐ Financial Aff	Acknowledgment Junit	1	2	3 4	☐ Vehicle Title Transfer	Actooyledgment Junit	2	3 4	Acknowledgeness April Copy Outh SW (DQ) 3 4
Grant Deed	Acknowledgment June	1	2	3 4					
☐ Marital Stat Aff	Acknewledgment Junit	1	2	3 4	Adv Health Care Dir	Actorskelgment June 1	2	3 4	
☐ Mortgage	Acknowledgment Juni	1	2	3 4	☐ Assign of Digital Assets	Actorolognest June 1	2	3 4	Acknowledgment Juna Copy Outh SW 1 2 3 4
☐ Mortgagor's Aff	Acknowledgment June	1	2	3 4	☐ Assign of Personal Prop	Acknowledgment June 1	2	3 4	
Occupancy Afl	Acknowledgment June	1	2	3 4	☐ HIPAA Release	Acknowledgment June 1	2	3 4	
Occupancy & Fin Aff	Acknowledgment Junit	1	2	3 4	☐ Living Trust	_Acknowledgment June 1	2	3 4	Acknowledgment Junt Copy Oath SW 1 2 3 4
Owner's Aff	Acknowledgment June	1	2	3 4		Actorologuest June 1			
☐ Payoff Aff	Acknowledgment Junit	1	2	3 4	PON fan wal Anth	Monkdang Juni	0	3 4	
Quit-Claim Deed	Acknowledgment Junit	1	2	3 4	☐ Trust Certification	Acknowledgment Junit 1			Acknowledgment Junit Copy Outh SW 1 2 3 4

SIGNING ADDRESS

RON Platform Name

OTHERS IN ATTENDANCE

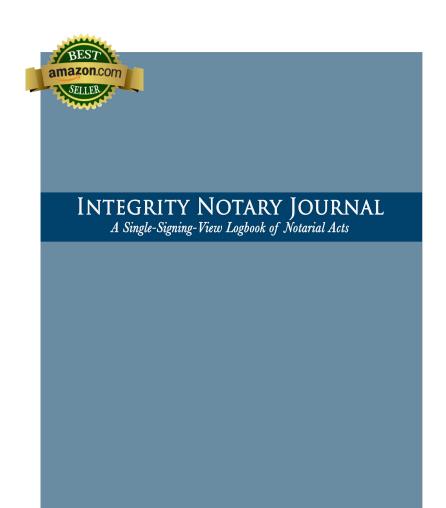
None

CLIENT / SIGNING SERVICE

Jake's Law LENDER / LOAN NUMBER # 40-Noting # 40-Addition

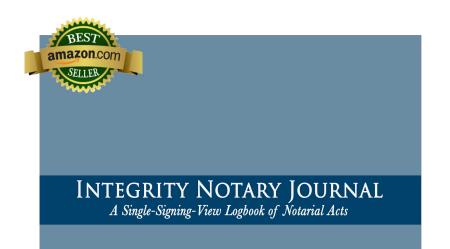
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Ses s Us	t all if the signed does. Frank and Some 12- signed.

1	ADDRESS 123 Park Are Big Town, USA 12745	PHONE 999 - 999 - 9999	SIGNATURE	INITIAL IF CATH/AFF TAKEN  RIGHT THUMB PRINT TAKEN
	Big Town, USA 12745	Frak @ enal. com		
2	127 Park Ave.	PHONE P18. 888-8888	SIGNATURE	INITIAL IF OATH/AFF TAKEN
_	127 Park Ave. Big Town, USA 12745	Sara@emal.com		
3	ADDRESS	PHONE	SIGNATURE	INITIAL IF RIGHT THUMB PRINT OATH/AFF
3	_	EMAIL		
	ADDRESS	PHONE	SIGNATURE	INITIAL IF RIGHT THUMB PRINT OATH/AFF
4		EMAIL		TAKIN





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### Q&A

### Appendix

#### Who is Clyde Heppner

I am a full-time mobile and online notary public, and a certified loan signing agent in Missouri. I am a graduate of both Carol Ray's Notary2Pro training and Bill Soroka's "Sign and Thrive" Loan Signing Course. In 2020, I published the Integrity Notary Journal.

I came to this career after being the Coordinator of Research for the Kansas City, Missouri Public Schools during its court order desegregation. I left the district for a position with Sprint (now known as T-Mobile) where I worked for 18 years as an executive.

I am a graduate of the University of Minnesota, Morris, and hold an advanced degree from the University of Nebraska, Lincoln. My training is in Experimental Psychology and Applied Statistics. I spent time as an adjunct faculty member and sat on business advisory boards. In all of my roles, I learned how to make connections with people and solve problems.



Like other notaries public, I attempt to follow a standard of care for journaling, but I was unable to find a journal that would accommodate the process I wanted. So, I set out to design a journal that would mirror my work flow. From different design layouts, reviews with notary public experts and loan signing trainers, and a beta trial with notaries public, the Integrity Notary Journal™ emerged. The journal quickly became an Amazon Best Seller and enjoys the support of many notary signing agents today.