

Your notary needs to take new training



Proper public notice affidavits important

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Preparing your affidavit of publication is probably equally as important as the running of the legal notices in your newspaper. While getting the content of the legal notice correct is important, the courts and the lawyers who ask you to run the notices want that affidavit properly prepared and available to document the publication of the notice they were required by law to run.

Many of you have a notary in-house to sign those affidavits. Those notaries should have been advised in August that some of the statutes regarding notaries have been changed this year.

Probably the most important change to the statutes is the requirement that prior to submitting an application for a notary commission (or prior to a renewal application), the applicant must complete computer-based notary training or other approved training.

The Missouri Secretary of State's office has made this simple by creating a training program that is available on-line on the Secretary of State's web page at sos.mo.gov/Default.asp. Completing that on-line training will satisfy the new statutory requirement.

Many of you have affidavits of publication that you have used for many years. It is probably a good time to take a look at that affidavit and ensure it meets the current statutory requirements.

Several years ago, the state began requiring that all documents that had to be recorded needed a three-inch margin at the top of the first page. Since sometimes these affidavits must be recorded in the Recorder of Deeds office, I would encourage you to make sure that the form you are using provides for this three-inch top margin, because if you don't, the person recording the affidavit has to pay an extra \$25 fee to the Recorder of Deeds.

This is a simple change that your customers will appreciate.

What does your affidavit need to say? The statutes provide no specific language.

I believe something similar to the following is sufficient:

"I, (Name), being duly sworn according to law, state that I am the Publisher of the (name of paper), a (daily, weekly, semiweekly) newspaper of general circulation in the County of (Name), State of Missouri, which newspaper has been admitted to the Post Office as periodical class matter in the City of (name), Missouri; which newspaper has been published regularly and consecutively for a period of three years and has a list of bona fide subscribers, voluntarily engaged as such who have paid or agreed to pay a stated price for a subscription for a definite period of time, that this newspaper has complied with the provisions of Section 493.050, R.S.Mo., 2002, as amended, and Section 59.310, R.S.Mo., 2002, as amended.

The affixed notice appeared in said newspaper in the following consecutive issues:

1st insertion: _____; 2nd insertion: _____; 3rd insertion: _____; 4th insertion: _____."

Obviously, it needs to include the language showing it is a sworn statement before a notary. If you need help with your form, don't hesitate to contact me and I'll be glad to assist you.

Finally, I would remind you that the notary public must keep a minute book, a "true and perfect record of his or her official acts in a permanently bound journal..." There is an exception for notarizations of documents connected with judicial proceedings and for other documents that are "publicly filed" within 90 days after execution.

It seems to me that many of the affidavits of publication prepared by the newspaper's notary will fall into one of these two classifications. Many will be probate notices, which become part of the probate court's records. Often they are affidavits of publication of service on parties in litigation where the address of the party is not available. Those affidavits are also part of the court record.

Affidavits of publication of name change would fall into this category. But, for example, affidavits of publication of notice of foreclosures would not because they are not part of a court file and generally are not recorded in the Recorder of Deeds office.

Affidavits of publication of the notice of termination of a corporation or affidavits of publication of the notice of filing claims for a trust also would not fall within these categories. For those affidavits, the notary will have to ensure that a record is made in the notary's journal.

That record must have the date of the notarization, the type of notarization, the type of document, the name and address of the signer, the identification used by the signer, the notary fee and the signature of the signer contained in the permanent journal. Preparing these affidavits of publication and having the proper documents to support the affidavits are important parts of the legal notice operation of the paper.

Public notices are a key function of the local newspaper. Providing access to this important information not only allows citizens to be informed about government activities but also ensures that the public has information it needs about actions pending in courts that might impact their personal interests.

Remind your readers regularly about the important role public notices play in their communities, and that newspapers are the best place for such notices to guarantee access by everyone to this information.

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