

Exhibit No. _____

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Mr. Chairman and members of the Committee, my name is Debra Kelly. I am here in opposition to House Bill 306.

Bill No. _____

HB 306

I have been a Montana Notary Public since 1999 and was chosen as Montana's 2009 Notary of the Year. I am the Deposit Products Manager and Compliance Officer at Sky Federal Credit Union where I have worked for 14 years. I train and oversee 22 notaries who are employed at Sky and I take my responsibilities seriously. I also spent 8 years working in the Gallatin County Clerk of Court's office, so the legal world is not completely unfamiliar to me.

I have always kept my journal and I record every act, every time. My journal stands alone to protect me as a Notary, to protect my employer, the signer, and the preparer of the document. I consider maintaining my Notary journal a necessary part of my duties as a Notary - no different than a law office keeping records of their billable hours, an auto dealership keeping track of its sales, or this committee recording a hearing. It's just part of how we do business.

When I train my notaries I ask them if they are logging their notarizations and if what they've recorded could stand up in court. Raise your right hand, swear to tell the truth, then look the attorney in the eye and tell him that John Smith personally appeared before you on January 13, 1993 and presented his Montana Driver's license as ID when you performed your notarization. Without our journals I doubt any one of us could do that. When I visited with a couple of my notaries and told them about this bill, the first thing out of both of their mouths was "If they want to take away the requirement for the journal, then they better take away our liability - our *personal* liability."

I am confused by the fact that The State Bar of Montana supports this bill as it's not uncommon to perform a notarization on a document prepared by an attorney. It's my understanding that a proper notarization cannot necessarily make a document legal, but that an improper notarization can deem a document useless for its intended purpose. By not journalizing a notarial act, it could be more difficult to prove the validity of that notarization in the future. Without my journal, my notarization may not hold up in court. I've done 100s of notarizations and to ask me to remember one specific person on one specific date would be next to impossible - for me or anyone else.

Let's say I notarize a signature on a will today and journalize that transaction. The signer passes away in 2036 and the will is submitted for probate at that time. I've long since retired and am dusting off my golf clubs. Following regulation, I recorded my journals with the Park County Clerk & Recorder's office when I gave up my Notary commission at retirement. Consequently, I'm able to look that attorney in the eye and say with confidence that indeed, as recorded right there in my journal back in March, 2011, that Jane Doe did appear before me and provided proper identification before I affixed my seal to the notarization on the will. What to do with my journals after I'm no longer a Montana Notary is another important part of Section 1-5-416 of the Montana Code.

A recent National Notary magazine article said it well when writing about the large percentage of notarizations done improperly, outside the presence of the signer. "It's no wonder the majority of challenged notarizations involve a situation in which the Notary did not require personal appearance. The pressure to skip personal appearance can come from many places. Your employer may ask – or even expect – you to notarize the signature of a client who is too busy to come in. A long-time neighbor may ask you to notarize the signature of his absent wife. Complying with any of these requests is illegal and opens the door to all types of fraud. The primary function of a notarization is to authenticate the legitimacy of a signature. That's impossible unless the signer appears before you."

The requirement of our journal and clarification of its content provide the necessary guidelines to protect the integrity of the office of Notary Public. It protects all parties involved against fraud. And by recording every transaction, I am less likely to be asked to do something illegal – like perform a notarization outside of the presence of the signer. Sloppy notarizing does nothing to maintain the reputation of Montana notaries.

I've heard that some people in support of this bill feel that carrying insurance protects those notaries who don't maintain their journals. Relying on insurance to correct our mistakes could be a slippery slope leading to improper, sloppy, or questionable notarial acts. I don't carry Errors & Omissions insurance because I don't think I need it. If I do it right every time, I shouldn't need insurance. I have always kept a journal and have recorded every act, as I've said before. It only takes a few minutes and it's that easy. In my personal life it's sometimes a hassle to record *every* debit card transaction, *every* time, but I do because it protects me from overdraft fees and embarrassment. It's no different with my journal. Take a minute now, do it right, save face later.

In conclusion, I will continue to log every notarization I perform whether I'm required to or not, as will every notary under my supervision. I feel that the regulations to maintain my journal, to guide me in its contents, and to let me know what I should do with it when I'm no longer a Montana Notary are important rules that should be kept in place. And, if you ever need the services of a notary in the future, I hope that it is one who asks for your ID, has you sign their journal, and properly maintains that journal should you need them to testify on your behalf.

Thank you for your time.

03-16-2011