

ARIZONA PROCESS SERVERS ASSOCIATION NEWSLETTER

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APSA

**Special 2012
Conference Edition**

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APSA was originally founded in 1973. It is the
sole state-chartered
association of process
servers recognized by
NAPPS—the National
Association of Professional
Process Servers in Arizona.



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President's Message

Larry Ratcliff, President

Welcome to our second edition of the new newsletter. Barry Goldman has been doing a great job putting the newsletter together although he needs lots of help with the submission of articles. Please send in your short stories of unique situations you have encountered while serving documents as we can always learn from each other as well as the classroom.

Speaking of the classroom, it's that time of year again when we are finalizing all the details for the APSA Conference in Phoenix Arizona for September 21, 22, and 23rd. This year's conference will be packed full of opportunities for continuing education, socializing as well as vendors. There will be new instructors and new classes offered and there should be something for everyone. And don't forget to wear your Hawaiian shirt for Saturday!!!!

This will be my last submission to the newsletter as your President. I have served three years as your president and due to the Bylaws it is time for me to pass on the proverbial torch.

In the last three years I have attempted to improve our yearly conference and training as well as assist with trying to change laws and rules in favor of the Process Service Industry.

As many of you know we attempted once again to change Arizona Revised Statutes to include process servers to the assault statute and to change the trespass laws to protect process servers. This was shot down again by various Senators and State Representatives in the Senate and House who claim Process Servers should not be given any special treatment or exemptions.

Due to this we were able to make new friends with the Constables Association and AZPOST (Arizona Police Officers Standard of Training). AZPOST recently invited me to be part of an online training developed for all of the Certified Law Enforcement Officers in the State of Arizona. This online



Secretary's Corner

Patty Chlebanowski, Secretary

Hello fellow Members!

I just wanted to let you know, this will be my last entry as Secretary in the Newsletter. While Wayne & I are taking a long needed break, we do hope that MEMBERS will step up to the plate and get onto the

BOARD. Wayne & I want to thank all of you for your kind words and praise. We have worked well as a team and hope the next members filling our Classes, Networking and shoes will do the same. Our also to hear what is going on in YOUR ORGANIZATION.

You will hear all about it at the Conference on 9-22-12. We hope you all join us for some Continuing Education and get onto the plate and get onto the

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Patty Chlebanowski

President's Message (cont'd)

training not only included myself as a Private Process Server and the President of APSA but the Constables Association and the Civil Deputies Association.

This training was prepared to educate Law Enforcement Officers throughout the State of our lawful authority and our jobs, hopefully this video will be available for our conference for your review as well, so that we are all on the page.

As a side note, many of the Law Enforcement Officers had no clue of what we do or how we do our jobs. Many of the Law Enforcement Officers I spoke with have a new respect for Process Servers and all of them agreed that they would not want to do our job. Kind of makes you wanna go hummmmm.

It is the hopes of all Process Servers, Constables and Civil Deputies that this will build a better working relationship with our friends on the

streets and help alleviate many future problems and issues.

Please take the time to meet the local Law Enforcement Officers in your area and introduce yourself to them. Let's all try to work together to make all our jobs a little easier and safer.

Finally, as many of you know the conference is a time when we elect new Board members. This year we will need to elect many positions that have been filled by long term dedicated members who have fulfilled their obligations per term limits or have served for many many years and just need a short break. Please show your support to our organization by considering working on the Board of Directors or on a committee to benefit our association.

I truly hope to see all of the membership of APSA at our conference and annual meeting. If you cannot attend the whole conference, please join us Saturday for our annual meeting, lunch and Special Guest Speaker Joe Abate who is our Lobbyist.

See you all in September.

Larry Ratcliff

Editor's Column

"DEAD AIR" *Barry R. Goldman*

I would personally like to thank Larry, Patty, Wayne and the rest of the board for all of the hard work and sacrifice they have made to move this association forward. There have been a lot of changes behind the scenes, and if you wish to get involved in promoting your association, which in turn would provide a stronger voice in our endeavors, your efforts are necessary and welcome.

Have you ever listened to a radio station and no sound came out? You question whether or not you set your tuner to the right station, and then whether or not the station is still in business. This is what happens when there are no more words to say, no more advertisements, and no more articles to publish.

We'd like to have every column filled with news, articles and things of interest to the Process Server and our associate members, but we need your input.

If you have an article or item of interest you'd like to pursue, you are welcome to submit it. Just email editor@apsanews.org and we'll get back to you as soon as possible.

This is your association. Your input and opinion is important.

www.apsanews.org editor@apsanews.org APSA Newsletter

National Due Process Day
Honoring every American's right to a fair trial

Coming September 25, 2012

The **Fifth Amendment** to the Constitution, introduced on **September 25, 1789**, is the hallmark of the American legal system, guaranteeing that no person shall be "deprived of life, liberty or property without due process of law." The 14th Amendment expanded those rights. The National Association of Professional Process Servers honors this essential and sacred element of our way of life with **National Due Process Day** – a public awareness campaign designed to ensure that each and every American's right to a fair trial is forever preserved.

Bill of Rights
Congress of the United States
These are the rights of the people of the United States: No person shall be deprived of life, liberty or property without due process of law.

NAPPS



ATTENTION APSA MEMBERS:
The following positions will be open for election at our Annual Meeting:

President
Vice-President
Secretary **Treasurer**
Board Members (4)

Your Participation and Votes are Needed!

APSA

The Legislative Beat

**DEADLINE TO SUBMIT
YOUR COMMENT IS
SEPTEMBER 21, 2012**

APSA News.com staff

The word, “gridlock” comes to mind when describing the legislative process. Although APSA proposed did not prevail in our efforts to get an assault bill passed, it was a valiant effort by all involved. With this new legislative session, hopefully we can all learn from our experience and get something passed.



There have been rumors about changes being proposed to the Arizona Code of Judicial Administration. Finally, those statute, this is the statute that

regulates Process Servers as a profession. The changes proposed by the AOC can be viewed by clicking on : <http://azdnn.dnnmax.com/forumacja/Forum/tabid/111/view/topic/postid/1921/forumid/46/Default.aspx#1921> . The full text of the proposed change is some forty-six pages long, so will not be reprinted here. However, space permitting, the text of the changes will be available on the APSA Newsletter website as a supplement to the Summer, 2012 edition.



Bylaws

APSA Board Announces Proposed Bylaw Amendments

In accordance with our stated Bylaws, Article VIII, the Board of Directors of the Arizona Process Servers Association is proposing amendments to the existing Bylaws (Article V) as follows, to be voted on at the Annual Conference. All voting members should take notice of the existing language and proposed amendments to the Bylaws.

Article V-Election of Officers and Directors:

Section 1

The existing Bylaw now reads:

The officers shall consist of a President, First Vice President, Second Vice President, Secretary & Treasurer. Term of each officer shall be one (1) year.

The terms and offices of, “First Vice President”, “Second Vice President” would be stricken and replaced by a single, “Vice President”. If passed by a majority of the voting members, the proposed changes to the Bylaw would read:

The officers shall consist of a President, Vice President, Secretary & Treasurer. Term of each officer shall be one (1) year.

Section 6

The existing Bylaw now reads:

Officers shall be elected by majority vote of members present at the annual conference. Directors shall be elected in a single ballot with each member casting one vote for each seat to be filled. Nominees receiving the highest plurality of votes will fill all seats in order to total votes received. Majority vote shall not be required. No proxies shall be allowed.

Removal of the language, “No proxies shall be allowed”, and inserting additional language (in blue) would cause the Bylaw to read, if passed:

Officers shall be elected by majority vote of members present at the annual conference. Directors shall be elected in a single ballot with each member casting one vote for each seat to be filled. Nominees receiving the highest plurality of votes will fill all seats in order to total votes received. Majority vote shall not be required. **Proxies are allowed. Proxies must be received by the Secretary a minimum of 15 days prior to annual conference. Proxies received less than 15 days prior to the annual conference shall not be counted.**



Submitted August 8, 2012, Patty Chlebanowski, Secretary

APSA Administrator Position Available

With the retirement of our long-term and valued husband & wife Treasurer/Administrator & Secretary team of Wayne and Patty Chlebanowski, the Administrator position with the Arizona Process Servers Association is available to those who may be interested. Wayne has held two hats for several years as the Treasurer and Administrator. While the Treasurer is an elected volunteer position, the position of Administrator is an annually contracted position. Following is a general outline of the requirements of the position.

Retrieval of mail from the Association Post Office box; processing of mail; Retrieval of Phone messages from APSA Vonage Phone Line; Respond/Redirect to any messages or requests; Monitor the Association Email Inbox; Respond/Redirect any email messages or requests; Maintain Financial Accounting through QuickBooks; Maintain Membership Database through Microsoft Access;

Maintain Emails, Contact Lists and



Membership Announcements through Microsoft Outlook; Control Filing/Storage of all documents and educational class records, indefinitely; Control all education and annual conference registrations, instructor forms and certificates of completion; Yearly reporting to Association Tax Consulting Firm; Distribution of 1099's when applicable; Maintain Association Website; Liaison between web developers and Association

Periodic updates; membership additions or changes, upcoming meetings, or CLE's , etc.; Attend the quarterly Association board meetings and give general reports

Bert Young has put his hat in the ring for the position. Please see the article, *Candidates' Statements* for his statement. Anyone else interested in the position should forward their resume to apsaadmin@cox.net , which will be forwarded to the Board for consideration.



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AT THE APSA
CONFERENCE



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Courthouse Tidbits

From *The Brief* (August 1, 2012):

Maricopa County Clerk of the Court Michael Jeanes advised the Clerk's Office is seeing an increase of non-standard items submitted with paper filings.

The office processes submitted documents through black-and-white scanners designed to image 8 ½ x 11 non-colored paper. Those images become the official record and the Clerk's Office disposes of the originals. Do not include items such as CDs, DVDs, VHS and cassette tapes, photographs not copied to 8 ½ x 11 paper, paperback books or other items that cannot be scanned, do not comply with court rules or that should be submitted as courtroom exhibits. If left with the Clerk's Office, there is no process to scan these items or for getting them to the assigned judicial officer.

Documents, photographs, maps, charts, select pages from books and other items that are not standard sizes should be formatted to an 8 ½ x 11 size on white paper before filing with the Clerk.

Keep the originals as needed for use at hearing or trial or obtain specific direction from your judicial officer to deliver non-standard items directly to their division or if the division determines the items must be handled by the Clerk's Office.

California Courts

San Diego Superior Court Faces Historic Budget Cuts Services Reduced, Hundreds May Be Laid Off, Courtrooms Shuttered



San Diego, CA (2012-06-20): The San Diego Superior Court has announced that due to unprecedented state budget cuts, it will face the most significant reduction of services in its history.

Effective September 3, 2012, ALL CLERKS' BUSINESS OFFICES located at all San Diego Superior Court facilities will be closed to the public on Fridays starting at 12 Noon. These partial closure days are not court holidays, so statutory deadlines will not be extended. However, drop boxes are currently provided outside clerical offices for filing papers or submitting payments, pursuant to California Rules of Court, Rule 2.210.

Fresno County Due to an immediate deficit of \$5.4 million in the 2012-13 fiscal year, the Superior Court of Fresno County has scheduled the closure of courthouses in in Coalinga, Firebaugh, Reedley, Sanger, Selma, Clovis and Kingsburg on or before August 6, 2012.



Foreclosure Server ProVest Settles with State of Florida

ProVest admits to no wrongdoing but will pay a total of \$925,000

TALLAHASSEE, FL (2012-08-03)

Attorney General Pam Bondi today announced that ProVest, LLC, one of Florida's largest service processing firms, has agreed to pay \$462,500 to the Florida Bar Foundation to continue the legal aid program that assists low-income individuals facing foreclosure. The settlement with ProVest resolves allegations regarding improper service of process in foreclosure cases filed in courts throughout Florida. Under this settlement, ProVest must follow certain business practices intended to ensure proper and lawful service of process in mortgage foreclosure cases filed in Florida.

From Kimberly Miller of the Pam Beach Post, she writes that ProVest will also pay the Attorney General's office another \$462,500 to compensate the state for investigative and attorneys' fees.

Sources:
 Florida Attorney General news release:
<http://www.myfloridalegal.com/newsrel.nsf/newsreleases/7866293844C2B75585257A4F004B8C05>
 Palm Beach Post (2012-08-03)
<http://www.palmbeachpost.com/news/business/real-estate/foreclosure-server-settles-with-state/nP9w9/>

PA Man Arrested for 'US Enforcement Officers' ID

CHESTER COUNTY, Pa. — On April 9, a Coatesville man called a 911 operator in Chester County and identified himself as a federal "off-duty enforcement officer." According to a federal arrest affidavit, Eric Marques Devlin-Bell, 21, told the operator he had been driving a dark-blue, Crown Victoria "police cruiser" when he caught up with a motorist in a black Jaguar who had been speeding in excess of 100 mph on Route 202 south in Tredyffrin Township. When the 911 operator inquired if there had been any confrontation with the motorist, Bell said he had showed the driver "my badge" and was being cooperative.

federal custody and has been indicted



on charges of making an arrest while impersonating a law enforcement official and possessing and producing bogus identification documents.

Read the rest of the story from the source: <http://www.policone.com/patrol-issues/articles/5681288-Pa-man-arrested-for-US-Enforcement-Officers-ID/>

Now, Bell is in



WOMAN FACING ATTEMPTED MURDER CHARGES AFTER SHOOTING AT SERVER

COLUMBIA, MD (July 3, 2012): Shirley Anne Bolton, 58, is facing attempted murder and other charges for the June 6th incident in which she fired one round at a Process Server. Information indicates that the Process Server was attempting to serve Ms. Bolton's sister with a subpoena. Bolton fired one round at the Process Server, and reportedly yelled at the server, threatening to shoot and kill him. Bolton's round missed. Her sister called 911. When officers arrived, she still had the firearm in hand.

Source: <http://www.abc2news.com/dpp/news/crime-checker/howard-county-crime-police-woman-shot-at-process-server#ixzz1zf5tDUow>

APSA Newsletter www.apsanews.org editor@apsanews.org

APSA Submits Final Proposed Rule Changes

On July 29, 2012, APSA submitted its final proposed changes to rules for service of process, specifically, ARCP Rules 4.1(d) & 5(c), and RFLP Rules 41(C) and 41(D).

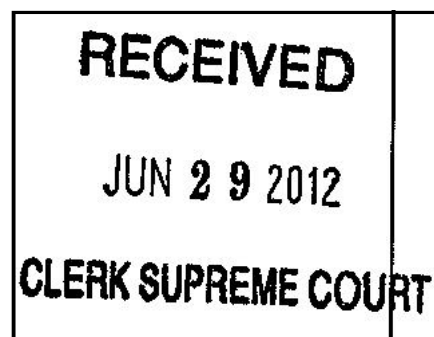
This has been a long process in coming for APSA and Process Servers. Unlike other states, Arizona has established rules for service of process through the Supreme Court. Where other states have codified their service of process rules and procedures in statute, Arizona retains such authority through the Supreme Court.

Under Supreme Court Rule 28, any party seeking a change must submit their proposed changes in writing to the Court no later than January 10th of each year. After submission, a public comment period is opened, in which case written comments received by the Court may

be posted on the Rules Forum. At the end of the public comment period, the Petitioner has a chance to submit a revised Petition, from which the Court will either approve or disapprove the proposed rule changes. Enactment of any rule changes is effective January 1st of the following year, unless otherwise directed by the Court.

APSA's original petition was received by the Court on January 9, 2012. After some public comment, including that from the State Bar (which opposed our measure), APSA submitted an Amended Petition to the Court on June 29th.

We'll have to wait and see how the Court views the proposed changes. For a sample of what was submitted, see the caption, below. The full document can be viewed on the Rules Forum.



APSA Newsletter www.apsanews.org editor@apsanews.org

(1) (Personal Service): Delivering a copy of the summons, pleading and other documents being served to that individual personally. Any order of the court in such pleading which may result in the issuance of a civil arrest warrant, as defined in ARCP Rule 64.1(a) or a finding of contempt must be personally served upon the individual, or, in the alternative, served by an order of the court in accordance with ARCP Rule 4.1(m).

(2) (Substitute Service at a Residence): Leaving a copy of the summons, pleading and other documents being served at that individual's dwelling house or usual place of abode in the presence of a member of the household or a person apparently in charge therein, who stated or appeared that he or she was at least 16 years of age at the time of service, and after due and reasonable inquiry, appeared to be of suitable discretion to accept service of process, who shall be informed of the general nature of the legal process. A copy of the legal process served shall be mailed by certified mail, return receipt requested, postage prepaid thereon to the person served. Service shall be deemed complete three days after mailing.

(3) (Substitute Service at a Planned Community): If the dwelling house or usual place of abode lies within a planned community or other such location where access

or entry to such planned community or other such location must be granted or is controlled by a guard this section shall apply. If after having identified himself or herself to the guard as a Process Server, Constable or Deputy Sheriff having lawful business in serving legal process upon a person reasonably believed to be residing or located in such planned community or other such location, and entry to such planned community or other such location is denied, service of a copy of the summons, pleading and other documents being served may be performed by leaving a copy of the legal process with the guard, who shall be informed of the general nature of the legal process, and thereafter mailing a copy of the legal process by certified mail, return receipt requested, postage prepaid thereon to the person served at the individual's dwelling house or usual place of abode. Service of legal process in this manner is deemed complete three days after the mailing.

(2) (Substitute Service at a Business): Leaving a copy of the summons, pleading and other documents being served

at that individual's usual place of business, or at a commercial mail receiving agency, in the presence of a person apparently in charge therein, who shall be informed of the general nature of the legal process and thereafter mailing a copy of the legal process by first-class mail, postage prepaid thereon to the person served at the location where service was made. Service of legal process in this manner is deemed complete three days after the mailing.
(4) This Rule shall not affect any alternate means of service which may be ordered by the court under Rule 4.1(m).

Donna Sparaco
Small Business and Group Benefits Specialist
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LegalShieldFORALL@gmail.com

News You Can Use

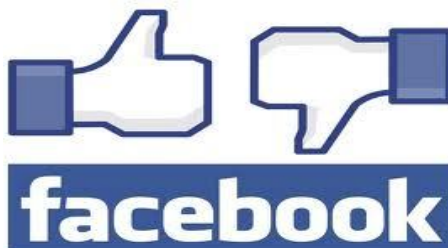
Electronic Service of Process: Judge Rejects 'Unorthodox' Plea to Permit Service by Facebook

(Mark Hamblett, New York Law Journal
06-12-2012)

A federal judge has rejected using Facebook as an alternative method of serving process on a party in a lawsuit who has been hard to find.

The Court told Chase Bank it could not use the social media website to track down and serve a woman with a history of providing fake or out-of-date addresses and who allegedly obtained a credit card in her mother's name and then made numerous purchases.

Instead, the court authorized service in *Fortunato v. Chase Bank USA*, (11 Civ. 6608, Southern District of New York), to the defendant by publication in four local newspapers to cover four areas where the defendant had listed addresses and a fifth area listed on her Facebook page as her current location.



Chase Bank secured a default judgment in New York Supreme Court in 2009 against the Defendant's mother for \$1,243 in unpaid credit card bills and recovered the money by garnishing her wages. The Defendant's mother then brought claims against the bank for violation of the Fair Credit Reporting Act, abuse of process and conversion, claiming that another person fraudulently opened up an account using her name. In November 2011, the Court gave

Chase leave to implead Nicole Fortunato (Defendant) for contribution, indemnification, breach of contract, account stated, fraud and unjust enrichment.

The bank hired an investigator who was unable to locate the Defendant, then asked the judge to authorize service of process by e-mail, Facebook message, publication and delivery to the Defendant. The Court was satisfied that service by normal means was impracticable, but could not agree that service by private Facebook message, e-mail to the address listed on her Facebook profile and a third alternative, delivery of the summons and complaint to the Defendant's estranged mother were reasonably calculated to notify the Defendant.

Source: <http://www.newyorklawjournal.com/PubArticleFriendlyNY.jsp?id=1202559018925>

Failure to Properly Serve Defendants Jeopardizes \$40M Federal Lawsuit

A \$40-million federal lawsuit against Suffolk County (NY) and its police department in connection with the 2008 killing of Ecuadorean immigrant Marcelo Lucero may be in jeopardy because government officials were never officially notified of the legal action, according to court filings.

A process server hired by the Lucero estate's attorney delivered the summons and complaint to the wrong place, according to a U.S. magistrate judge's review.

County officials claimed in a February court filing that the Lucero attorneys never properly served notice of the lawsuit. That claim led to a review by Judge Gary R. Brown, who concluded in a May 16 report that the Lucero estate "has entirely failed" to meet the legal notification requirement.

Source: <http://www.newsday.com/long-island/suffolk/lucero-lawsuit-against-suffolk-in-jeopardy-1.3776244>



Third Branch News — www.uscourts.gov Congress Reviews Proposed Rules Amendments

The House Judiciary Committee has released its official prints of the federal rules package transmitted to Congress by the Supreme Court—House Documents 112-103 and 112-104. The amendments are under review in both the House and the Senate.

As part of the Rules Enabling Act process, the Court in April

approved and transmitted to Congress amendments to the Federal Rules of Bankruptcy Procedure and Criminal Procedure. If Congress does not enact legislation to reject, modify, or defer the proposed amendments, they will take effect as a matter of law on December 1, 2012.

There are proposed amendments to Bankruptcy Rules 1007, 2015, 3001, 7054, and 7056, and to Criminal Rules 5

and 15, as well as a new Criminal Rule 37. The House Documents contain excerpts from the reports of the Judicial Conference Committee on Rules of Practice and Procedure and the advisory rules committees. A quick overview of the proposed changes is also available on the Judiciary's website at:

<http://www.uscourts.gov/RulesAndPolicies/FederalRulemaking/PendingRules.aspx>



Candidates' Statements

Dear Members:

My name is Bert Young and I would be honored to serve as your association administrator. I have enjoyed learning about the process serving business since I relocated to the Valley from Northern California.

I look forward to working with the Board and you, the members, to serve your needs. Wayne has done a great job and thanks to he and Patty I am confident the transition will be seamless.

I am anxious to get started with my new duties and please do not hesitate to contact me by email or phone if there is something I can do to assist you.

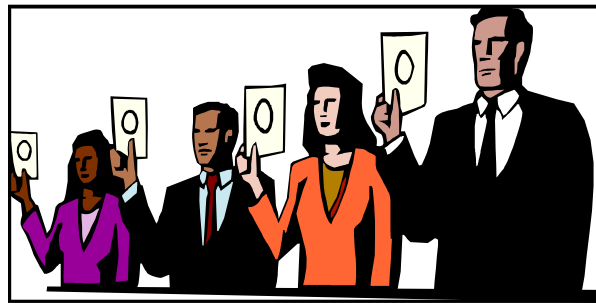
Thanks again for this opportunity,

Sincerely,
Bert Young

Editor's Note: Although the Administrator position has been historically held by the Treasurer, Bert has not thrown his hat into the ring to run for Treasurer, as well. The Treasurer's office is still open for nomination.

vote to be the Secretary of APSA. As Secretary, I would like to continue in my duties and responsibilities as a dedicated Board member to APSA and providing my time and service to the membership. I pledge to support our association's mission and continued success. Patty has done a great job throughout the years and I will carry forward her accomplishments.

APSA is an organization built upon old fashioned hard work, integrity, and honesty. The APSA Board reflects those values and has committed itself to moving forward with a number of changes and improvements to keep up with the quickly changing world we live in,



let people know who we were. The legislative changes didn't happen this year. Changes at the Legislature do not happen overnight but that is common and APSA will continue to pursue those changes. Resources are a big part of that and we ask you to support APSA with your donations towards the legislative fund. Mr. Abate is going to speak about how the entire legislative process works at the Annual meeting. I urge you to attend to gain a better perspective of how it all happens.

I am sorry I will not be able to attend this year's Annual meeting, I have a prior family commitment. Again, thank you for allowing me to serve as your Vice President and I ask for your vote to allow me to serve as your Secretary.

Sincerely yours,
Jenna Jones
ACPS

For those that don't know me, my name is Ron Ezell. I'm the founder and director of the Arizona operations for EZ Messenger. I'm a two (2) time founding member of APSA and a founding member of NAPPS. In both Associations I have served as a two (2) term President and every other position on the Board of Directors. I have chaired many committees in both Associations along with instructing many of our APSA classes.

I currently serve as a Director of APSA and if nominated and elected I would be happy and honored to continue to serve as Director.

Sincerely,
Ron Ezell

Editor's Note: I spoke with Ron and he will be attending his son, Jason's wedding to his fiancé, Ying Ying Lu. Jason is a computer guru, with considerable experience. Ying Ying is an operations manager for a home health care agency. Look for a profile of Ron in a future edition of the APSA Newsletter.

Dear Members:

Thank you for allowing me to serve as your Vice President of APSA. It has been an honor and a pleasure! I have enjoyed meeting a number of you and working with you to address a variety of concerns and issues, all for the better of our profession.

Under President Ratcliff's outstanding leadership, APSA was able to move forward and build upon its long established, solid foundation for future growth and success. This was accomplished through developing relationships with other key, professional organizations and at the legislature. It is imperative that APSA continue to build upon these accomplishments to carry our profession into the future.

I am seeking your support and

without compromising our core values. You have probably seen the newly revised newsletter. A special thanks to Barry Goldman! Other changes take more time but with perseverance and a steady approach we can succeed!

In order to move forward we must support APSA. Next year, APSA will celebrate 40 years of service to the process servers of Arizona. A true milestone of success! I encourage you to get involved, if you have time to volunteer for a committee or the Board contact a board member or send an email to the website administrator. This is your organization!

I have heard comments regarding the disappointment over why we still don't have some of the legislation we need. APSA made great strides this year. A special thanks to Larry and our lobbyist Mr. Abate. They worked very hard to make those changes happen and to

APSA

APSA Board Meeting News—July 14, 2012

While your editor was not present at the most recent board meeting, he was fortunate enough to have obtained some notes and observations from Patty Clebanowski, who attended, along with Wayne, Ron, Jenna and others. The official minutes will be posted at the next Board meeting for approval.

The July meeting was held at the residence of Larry and Candace Ratcliff at their home in Pinetop, AZ. (Just in time to beat the heat for that weekend!)

If members haven't heard, the

new website is up and running. Check it out at : (www.arizonaprocessservers.org).

Details about this year's Conference schedule were worked out, as well as the vendor contracts, and final touches on the hotel.

New identification card makers were discussed for Navajo and Apache counties. They expressed an interest in assistance from APSA to obtain the machines.

Jenna informed the board that although Joe Abate's contract has expired, he would like to continue



working with us. (Needless to say, we are happy to hear that. — Ed.)

After the meeting, Larry and Wayne hosted a steak dinner for all. The next board meeting will be scheduled after the new board is sworn into office.

Guest Article: My New Career as a Government Employee

by Scott Decker, PI

In April of this year I did something I haven't done in over a decade. I got a job. I've been a process server license since 1992 licensed private investigator license since 1993. I have been working in those fields ever since as a self-employed business owner for the majority of that time. This latest recession just sapped my enthusiasm to go out and beat the streets for new sources of revenue while my wife and I watched painfully as our retirement savings evaporate in order to keep the business afloat and the paychecks from bouncing. One day a couple years ago around tax time my wife asked me, "Why do you work so hard just so other people can get paid?" And for the first time in ten years, I didn't have an answer.

But what else am I going to do? By now and at my age, being a process server and investigator defines me. I am suited for no other vocation. Then it struck me. I've been doing work for the Federal Defender, etc. as a contract vendor for years. They use me and others like me when one of their own employees can't do the job. I decided that a government job with a set schedule, benefits, vacation, and a pension sounded great.

Now, it's not easy to get a government job. They're pretty coveted.

I started working as a volunteer investigator for the Maricopa County Legal Defender's office. I donated about eight hours a week for about six months doing whatever odd investigative work they had that the other staff investigators didn't have time for. It was mostly criminal records check kind of stuff. The Prosecutor would be a hard nose with their clients and tell them they weren't going to go easy on them because they have a record as long as their arm. The Defender's clients most often deny that those charges are theirs or that the case was dismissed. And the Defender Attorney was obligated to check it out and they would call their investigators (and they would pass those to me). My in box was always full of these jobs.

Then one day, one of the investigators came to see me and he told me that the Public Defender was going to be hiring a process server and he thought I should apply. I did and I went to work in April of this year for the Maricopa County Public Defender.

My employment with the Public Defender's office was short lived. Almost immediately after being hired, the process service unit was moved from the Public Defender's office to the Office of Public Defense Services.

So there I am a process server in an office of bean counters. I am told the process service unit was moved to eliminate conflict problems that kept

creeping up. The Public Defender cannot have access to any file information possessed by the Legal Defender or Legal Advocate and vice versa. There is only one attorney in OPDS and that's the Director. We have no cases, so there are no conflicts.

We serve mostly criminal legal process. I haven't seen a civil summons in five months and I doubt I will again. Work as a government process server is not as hard as that of a private process server. Our schedule is Monday through Friday, 8:00 to 5:00 and we seldom deviate from that norm. I'm given to understand that personal service is not quite the requisite that it is in the private sector, especially in civil matters. I get a chuckle out of the fact that if the dispute is between two private parties, the state is quite stringent about the rules, but as soon as they are a party in the action, now there is room to wiggle.

Subpoenas are faxed, sub-served at places of employment and even posted to the front door if no one answers. You might think that these are not enforceable, but I've learned to be cautious with this thinking. In May a judge sent the sheriff deputy's out to arrest a man who didn't appear after the subpoena he was served was left with his wife at his place of abode. You know, if a judge thinks the service is good enough, it is.

2012-2013 Ad Rates & Policies

ADVERTISING RATES

All Payments for advertising must be paid in advance. Please submit camera ready copy.

Business Card..... \$50.00

Size: 2.0 x 3.5 (Red border example)

1/4 Page.....\$100.00

4.75 x 3.75 (Blue border example)

1/2 Page.....\$250.00

Size: 4.75 h x 7.5 w, or 9.5 h x 3.75 w

Full Page.....\$375.00

Advertorials/Banners.....\$25/col. in. 3 in. min.

Guest Article Submissions

The policy on guest article submission is as follows:

1. Publication of the article will be at the sole discretion of the Editor.
2. The article may be edited for content, length, spelling, and appropriate language.
3. A business card size advertisement of the Guest Writer may be placed in the edition in which the guest article is published, or at the discretion of the Editor, may be published in a later edition.
4. No advertising charge shall be made in conjunction with the publication of a guest article.

Advertising Submission Policy:

1. The APSA Newsletter is published in March, June, September and December of each year.
2. All advertising must be paid for in advance. Payment should be made to the Arizona Process Servers Association. A 15% discount is available for advertisers who pay for a full year in advance.
3. Advertising rates are quoted for full-color camera-ready copy in electronic submission in an approved format.
4. Advertiser is responsible for preparing & submitting ad copy. Copy must be submitted no later than the last day of the month preceding publication
5. Acceptance, placement and publication of advertising is subject to the sole approval and discretion of the Editor.
6. Inappropriate advertising content will not be accepted. Editor reserves the right to decline any advertisement.
7. In the event that an item of advertising is rejected, a refund shall be made to the advertiser.
8. Advertisement size quoted is approximate. Actual size may vary depending on page availability.
9. Advertorials may be written by APSANews.com staff or outside writer at cost to advertiser. Publication of advertorials is charged by the column inch.
10. Advertorials must be clearly marked in the header, "Advertisement". All advertisements may be bordered to distinguish their content.

www.apsanews.org editor@apsanews.org APSA Newsletter

2012 APSA Conference Sponsorships

4 Diamond Sponsor:\$1500.00

Receives full page ad on back of conference handbook. Signage, name recognition and introduction at Conference. Opportunity to introduce speaker at the Conference, Booth inside main hall for the duration of the Conference, 2 attendees at all Conference functions. 1/2 page ad in Newsletter for one year.

3 Diamond Sponsor:\$750.00

(Saturday Night Happy Hour Sponsor) Receives Signage, name recognition and introduction at Conference. Opportunity for 2 attendees to host and interact with members at the Happy Hour on Saturday night. Booth space inside main hall for the duration of the Conference. 1/4 page ad in the Newsletter for one year.

2 Diamond Sponsor:\$600.00

(Friday Night mixer Sponsor) Opportunity to host and attend the Friday night mixer event at the Crown Plaza Hotel. Booth space inside main hall during the duration of the Conference.

Diamond Sponsor:\$500.00

(two available- Lunch sponsorships) Recognition as sponsor for lunch either Saturday or Sunday. Booth space inside main hall during the duration of the Conference, 1/4 page ad in the Newsletter for one year.

Exhibitor Booth only:..... \$250.00

(4 available) 4x8ft space located within the main hall of the event with 2 attendees. Sponsorship recognition.



ARIZONA PROCESS SERVERS ASSOCIATION

P.O. Box 2233, Phoenix, AZ 85002
(602) 476-1737

www.arizonaprocessservers.org



2012-2013 Membership Application/Renewal

Arizona Certified Process Server (Attach copy of your Arizona Process Server ID)

Associate/Out of state Process Server

Member ID Card Requested? Y N (Digital or passport photo required)

Please list your information exactly as you want it to appear in the directory:

NEW RENEWAL
Member since: _____

Annual Dues: \$50

NAME:		
FIRM:		
ADDRESS:		
CITY, STATE, ZIP:		
TELEPHONE(S):	OFFICE:	FAX:
EMAIL ADDRESS(ES)	PERSONAL:	BUSINESS:
WEBSITE ADDRESS:		
COUNTIES/AREAS SERVICED:		
LIST IN THE ROSTER UNDER CITY OF:		
ADDITIONAL CITIES TO BE LISTED (\$15 EACH)		

<u>Services you provide (YES or NO):</u>	<u>YES</u>	<u>NO</u>
Process Server (Arizona or other state):		
ACPS Certified?		
Legal Messenger Service		
Skip Tracing		
Record Searches		
Full Investigative Services		
<i>If an Arizona Private Investigator, complete the following:</i>		
License #:	Expiration:	

Annual Dues: \$50.00
Voluntary Legislative Fund Donation: \$ _____
Total Enclosed: \$ _____

MEMBER I.D. CARDS:

The Member Identification Card is a member benefit issued by APSA and is not intended to replace your Process Server identification card as required by statute. Your APSA Member Identification Card should be displayed at all APSA functions. By applying for or renewing membership, the applicant understands and agrees that the Member Identification Card is not intended to be, nor shall be used in violation of any statute or regulation.

I hereby apply for membership (or membership renewal) in the Arizona Process Servers Association. I agree to abide by its bylaws and maintain the highest ethical standards in carrying out the duties of my profession. I authorize the Arizona Process Servers Association to investigate the statements made on this application and my qualifications for membership. I have no felony convictions and my certification (if applicable) as an Arizona Process Server is current. Membership is not transferrable. I DECLARE UNDER PENALTY OF PERJURY THAT THE STATEMENTS MADE IN THIS APPLICATION ARE TRUE AND CORRECT.



Date: _____ Signature: _____

Please make check payable to APSA mail it with this completed form to the APSA address, above.

Training Corner—To Enter or Not?



“piggyback” into the premises, while others will ask for

Trespass

Following an interesting thread on the ServeNow.com discussion board, we thought a (short) discussion of trespass would be timely.

One of the things a newcomer to Arizona might notice is the seriousness of property rights and borders taken by its residents. As a property owner, after conducting research into the issue, and, of course dealing with the issue as a Process Server, it is apparent that the approaches property owners take to the issues of trespass are as varied as there are makes and models of cars.

Typically, a Process Server entering private property doesn't find it fenced and posted (ARS 13-1503(A)(1)). But what if it is merely fenced? Does the Process Server have “...lawful authority...” to enter and remain? (ARS 13-1504(A) (2)).

Several years ago, these questions were asked and answered in the Maricopa County Superior Court under the Star ruling (*Arizona v. Star*, LC 87-00135 (1987)). However, that ruling, however applicable within Maricopa County, in which the court found that,



“In the course of his official duties and to the extent required to serve process, a process server... has authority delegated directly by the Court...to enter private property to the extent necessary to serve court documents. This right is not changed by posting or signing property, fencing, having a guard, or issuing a verbal command to leave property. Were it otherwise, an obstructive private property owner could force court proceedings to grind to a halt merely by refusing access to a process server so as to insulate himself from court proceedings...”

is not necessarily followed within many parts of Maricopa County nor other

counties of Arizona. Property owners certainly have no inclination to be made aware of the ruling, and when made aware, there usually no incentive nor reason for them to abide by the ruling. The ruling is adverse to their interests. Law enforcement are for the most part unaware of the ruling, and, when made aware (certain agencies in particular), typically will disregard the ruling in favor of known statute.

So, what should a Process Server do? ARCP Rule 4.1(m) sets forth a procedure for making service where doing so would be “impracticable” under normal circumstances. The circumstances of finding impracticability are determined in rather liberal terms, according to practical experience. However, one thing is certain. The

Process Server must have attempted service, and, for whatever reason, be unable to complete the service within a normal framework of due diligence. In certain circumstances, where the defendant is actively avoiding service (ie: not answering the door after it is found that he/she is home and aware that efforts are being made to serve process), repeated attempts may be required to prove due diligence. In other

circumstances, only one attempt may be necessary for the court to order an alternate means of service under ARCP Rule 4.1(m) or similar rule. (For an example of the latter, see *Norlund, et al v. Usher, et al*, Maricopa County Superior Court, CV2010-023803.)

Keeping the foregoing in mind, a review of the ServeNow.com postings related to the issue of Gated Communities is quite relevant. Mr. Griggs, a Process Server in South Carolina asked, “For those who are in states where you have no legislation regarding gated communities/gated apartment complexes, etc., what do you do when the manager refuses you access to the complex?”. The answers were as varied as one might expect. Many servers will

the assistance of law enforcement to unlock the unmanned gate. Still others, having been refused entry by the security guard, will take the guard's name down to present to counsel for a subpoena to inquire about the interference with service of process the guard presented. Another suggested solution is to keep a list of gate codes for certain communities.

The writer would never encourage a misuse of information, and certainly not a call to law enforcement to assist with anything but exceptional circumstances. Bearing this in mind, though a policy must be developed for the individual server which is consistent with statute and law, and bears prudent business decision making. Whatever policy you, as the Process Server, or your employer develop, you are encouraged to keep safety and practicality in mind at all times when it comes to accessing private property.

Assault

While we did not prevail upon our legislature to add Process Servers to the list of persons included in the Aggravated Assault statute, we expect that such efforts will continue. Our discussion of assault will be carried forward into our next Training Corner column.

However, our guest writer for this issue, our own APSA member Scott Decker will be teaching defensive tactics (Defensive Tactics, Judo and Kickboxing) classes at Phoenix College this fall. You can see the classes by searching at: <http://classes.sis.maricopa.edu>.

Man accused of threatening to kill process server

Fort Myers, FL (2012-08-08): **Lee County Sheriff's deputies arrested 61-year-old David Gould after he allegedly threatened a process server with a gun.**

The victim arrived at the residence on the 13000 block of Caribbean Blvd. to serve papers when she was supposedly greeted by Gould who told her to leave, or he was going to call the law. The victim returned to her vehicle and copied down the number on the license plate of the vehicle that was parked in the driveway. When she looked up, Gould was standing before her, pointing a rifle-like gun at her.

He then put his finger on the trigger and said to the victim, "Pull out or die." As the victim was putting her vehicle in reverse, Gould is accused of screaming at her that she was "gonna die."

When deputies arrived on the scene to investigate, Gould emerged from his residence and yelled, "I'll let you in my house." Deputies immediately recognized Gould as the suspect the victim had described. A safety sweep was conducted of his home and a loaded firearm was located near the front door.

The victim positively identified Gould as the individual who pulled a gun on her. Gould is facing charges of aggravated assault with a deadly weapon.

Source: <http://www.winknews.com/Lights-Sirens/2012-08-08/Man-accused-of-threatening-to-kill-process-server>

Remembering the Fallen: Constable Bryan Bachmann

August 13, 2012, College Station, TX (www.odmp.org):



Constable Brian Bachmann was shot and killed while serving an eviction notice at a home on the 200 block of Fidelity Street in College Station at approximately 12:15 p.m. on August 13th.

After shooting Constable Bachmann, the subject in the home began shooting out of the home, killing one civilian and wounding another. A police officer from the College Station Police Department was also shot and wounded, and two others were injured, after responding to the initial officer down call. The responding units were engaged in a prolonged shootout in which the subject was also shot and killed.

Constable Bachmann had served as the elected constable of Brazos County Precinct 1 for 20 months and had served in law enforcement for a total of 20 years. He had previously served with the Hempstead Police Department and Brazos County Sheriff's Office. He is survived by his wife and children.

Source: <http://www.odmp.org/officer/21355-constable-brian-bachmann#ixzz242NkJepX>

APSA Events

August 21-23, 2012

Arizona Constables Assoc. Training
Radisson Woodlands Hotel
Flagstaff, AZ

September 21-23, 2012

APSA Annual Conference &
Educational Event
Crowne Plaza Phoenix
2532 W. Peoria Ave., Phoenix, AZ

Tuesday, October 10, 2012

Court & Clerk's Exchange Meeting
Downtown Justice Center
620 West Jackson Suite #2083
(Justice Court – Training Room)
Phoenix, AZ
12:00 pm—1:00 pm

Pinal County Superior Court After-Hours Drop Box

Located to the left of the main entrance of the Florence (main) courthouse, has a time-stamp clock in the top slot. Papers to be filed are deposited in the bottom slot after clocking them in through the top slot.

Documents stamped in and deposited are entered as of the date on the stamp.



Process Server Certification Testing

Maricopa County
(Thursdays at 9:30 a.m.)

Downtown Courthouse
620 West Jackson Suite 3017
Phoenix, AZ

Sept. 20, 2012 Oct. 18, 2012

APSA Nov. 15,

2012 Dec. 13, 2012

Pima County

110 W. Congress, Rm 131A
Tucson, AZ

September 14th and 28th

October 15th and 30th

November 15th and 30th

December 14th and 28th

All Process Server testing starts promptly. Late admission is not allowed. All testing requires pre-registration through the court clerk's office. Please make arrangements well in advance of the test date.

APSA 2012 Annual Conference Agenda

APSA's 2012 Conference and Educational Event will be held from Friday, September 21st to Sunday, September 23rd at the *Crowne Plaza Hotel, 2532 West Peoria Avenue, Phoenix, AZ 85029*. On Friday, from 5 to 8 pm, there will be a Meet & Greet Happy Hour/Dinner (non-hosted function). Classes will begin on Saturday morning, with registration and continental breakfast opening up at 7:30 a.m.

All members are encouraged to attend the annual meeting, to be held during the lunch break from 11:15 am to 1 pm.

The ACPS Course will begin at 8 am, and continue until 4:30 pm, with a lunch break from 11:15 am to 1:15 pm.

Basic Spanish for the Process Server will start at 9 am and continue to 3:30 pm likewise with the same lunch break.

Our lunchtime guest speaker, Joe Abate, will be holding a class on the Legislative Process from 3:30 pm to 5:30 pm.

A hosted happy hour will be open from 5 to 7 pm (hors d'oeuvres, cash bar).

On Sunday, registration and continental breakfast again opens up at 7:30 am.

The ACPS (Condensed Renewal) Course will be held from 8 to 11:15 am.

An Ethics course, taught by attorney Chris Candelaria (husband of APSA member and Conference Coordinator Tracy Candelaria) will be held from 9 to 11:15 am.

Lunch will be from 11:15 am to 12:15 pm.

From 12:15 to 2:15 pm, Mr. Candelaria will teach a Constitutional Law class.

Our President, Larry Ratcliff, working with AZPOST, will present a 1 hour class on Working with Law Enforcement on Sunday from 12:15 to 1:15 pm.



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The APSA Newsletter is published quarterly in March, June, September and December. Deadlines for submission for all items are the last day of the month preceding publication. If you have an item of interest or would like to post on our Events Calendar, please send them to: editor@apsanews.org.