



ARIZONA PROCESS SERVERS ASSOCIATION
Certifying & Training Arizona's Professional Process Servers Since 1973



THE ONLY NAPPS CHARTERED STATE ORGANIZATION IN ARIZONA

ARIZONA PROCESS SERVERS ASSOCIATION

NEWSLETTER

Fall, 2015

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President's Message

Larry Ratcliff

October 1, 2015

Dear APSA members & readers:

This edition's President's Message is excerpted here from a prior edition as Larry requested a hiatus until the new year to take care of his family's priorities. Ron Ezell has been requested to take over Larry's duties until then. Our heartfelt condolences and best wishes are extended to Larry and his family on the passing of his mother.

- Ed.

I want to thank you for entrusting me to be President of APSA again.

For those of you who don't know me, I am a Former Arizona Law Enforcement Officer, Former Volunteer Firefighter, and Former EMT. I fly the American flag on my front porch daily and take it down every night.

As a youngster I worked as a cowboy for many of the local ranches until my family purchased E-L Cattle. This is where I learned an honest day's work for an honest day's pay and to take pride in your brand.

I was raised with

respect for God and Country and where your word and handshake meant more than any piece of paper.

As President of APSA I hope to bring these values to our organization and membership. It is my goal this year to promote members of APSA as trustworthy and a person your client wants to do business with.

As members of APSA I encourage you to use the APSA logo on your business cards, website and other items in order to promote our association.

We all want our clients to know that by doing business with a member of APSA they are using a Professional Process Server who has received the best training and is ethical in doing business.

Please let us know what you do so that we can be mentors for others and show our clients and the public that Process Servers are positive members of the community and not the sneaky law breaking quasi-criminal the news people project us as.

Please send us an email (lrpi@frontiernet.net) and/or a copy of your local newspaper showing where



you our members are making a difference in the community.

*Until next time,
Respectfully, Larry*

Inside this edition...

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Changes & Corrections

If you have changes or corrections to your contact information, please let us know.

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.

Getting to Know You...

Our membership elected a new panel of APSA officers and directors at the 2015 conference. Let's get to know them:

John Carpenter is life-long Arizona resident who has been involved in the process service industry off and on since the



1980's. John was born in Tucson and holds a B.A. in English from the University of Arizona and a M.A. in Elementary Education from Northern Arizona University. He taught in the public schools for over ten years and served on the governing board of the Phoenix Elementary School District for 18 years. John served as the Justice of the Peace for the East Phoenix No. 1 Justice Court from 1999 through 2001. John was the treasurer of the Arizona Process Server's Association for several years and also taught and developed classes for process servers. He is currently a bail bondsman and serves process part time.

Eric Sotelo, new member of the board of Directors for APSA: I was elected to the Board at the 2015 Annual Meeting.

Born in Phoenix, Arizona, I have lived in Arizona my whole life and began my career in the legal industry in 2005. I started working for my father, Efrain Sotelo as a runner when he started Integrity Attorney Services; I later became a key part of the company running our courier

department. Later, I began to take on more responsibilities and became the Vice President of Integrity Attorney Services.

I look forward to representing your interests on the Board in 2016 and beyond.

Want Some Change? Follow the Rules...



The Arizona Supreme Court established Rule 28, which governs changes to the rules of court affecting how process servers do their job.

The APSA Board may be considering endorsing some changes. If you would like to be part of this change, let the Board Secretary know your interest. The deadline for filing the request to change the rules is January 10th of each year. But changes must be drafted well in advance.

The Task Force on the Arizona Rules of Civil Procedure was established by Administrative Order No. 2014-116. This Order directs the Task Force to review the Rules of Civil Procedure, and identify possible changes that conform the rules to modern usage, that clarify and simplify language, and that avoid unintended variation from language in corresponding federal rules. The goal of the Task Force is to file a petition with proposed rule changes by January 2016.

Secretary's Corner **Patty Chlebanowski, Secretary**

Hello I am Patty Chlebanowski, I am your current Secretary of APSA. I have been in the Process Serving Industry for let's just say since I was a teenager. I grew up in my father's George Demyans business of Frontier Private Process Service and after 50 years in business, I sold the company and now work part time for Nationwide Legal Services. I have served in many positions on the board as President, Secretary and as a Director for the past 35 years. We now have a full time board and are hoping to create some new ideas and exchange of information to pass on to all our members. If you have suggestions or ideas that you want to see, please let one of

the board members hear from you. I can be reached at 602-476-1737 if you have any needs or questions.



You are wanted!

- Join a committee— Be an active member!
- APSA is here to work for all of us, to be our voice and to better our livelihoods.
- APSA is the only recognized NAPPS affiliate organization in Arizona



Maricopa County Court Clerk / Process Server Quarterly Meeting

The Clerk of the Court hosts a quarterly meeting for process servers and the public. — Ed

No new minutes were made available since the April, 2015 meeting. The next meeting will be held on October 29, 2015 as follows:

**Thursday, October 29th, 2015
12:00 – 1:00 PM
Downtown Justice Center
620 West Jackson – 2nd Floor – Suite #2083
(Justice Court – Training Room)
Phoenix, AZ 85003**

All process servers are invited.



MEETING NOTICE

**Attention:
PROCESS SERVERS**

October's Quarterly Information Exchange Meeting With the Clerk of the Court and Court Staff has been rescheduled from October 13th to October 29th

Next Meeting:
October 29 2015

Clerk of the Superior Court
Downtown Justice Center
620 West Jackson, 2nd Floor
Rooms 2 Signage will be posted

http://www.clerkofcourt.maricopa.gov/process_srv.asp

Editor's Column

 ***Barry R. Goldman***

Clarity and understanding are in my opinion much more important than agreement. Nothing ticks me off more than lies from people I know and have learned to trust -- lies being told to me, about me, or about other people.

Second to that is gossip. I really hate gossip. Especially when the gossip is about people I know, regardless if it is true and knowing full well that I will have to face this person sometime in the future, whether they are a relative, friend, business associate or client.

Gossip is a non-productive activity that certain individuals and cultures thrive on. When someone says to me (political discussions aside), "Did you hear what so and so did?", my first thought is to ask if the person sharing the information was there and witnessed it or was it something a third party told them. When I hear third hand

hearsay about a competitor or someone I may or may not care for, the answer is generally either something non-committal or akin to a "no" and the subject is eventually changed.

I have found that many people who need to talk about other people's foibles have little to offer in the way of trust, self worth or confidence. They seek to bring other people into their circle of influence by deceptively discussing the affairs of others while looking for some advantage over those they supposedly befriend. That's a pretty insecure and insincere way to garner friends.

Our profession operates on facts -- not rumors and innuendo, and certainly not falsehoods. While the tabloids may come and go with their stories, as process servers, we don't need to operate our businesses that way. For the majority of us, that is true; however, for a small minority who seek to take unfair advantage of their fellows, this applies.

This edition's Training Corner column is devoted to fact and rumor.

Within ACJA §7-204 (H)(2)(j)(15) the Code states, the "...certificate holder is subject to disciplinary action if the presiding judge finds the certificate holder has engaged in...undue influence over a client or customer to the benefit, financial or otherwise, of the certificate holder or a third party".

That definition, in and of itself would include gossip and slander. So, if your business model includes letting loose on your competitors, either directly or indirectly via their clients, their associates, employees or independent contractors, watch out. The next server knocking on your door may have a summons with your name on it.



2015 APSA-AALPI Conference Roundup (Patty Chlebanowski)

A small write up about the conference. I was glad to see so many faces at the APSA Annual Conference this year in Carefree, AZ. The Carefree Conference Resort had great big accommodations and the conference over all went very well. Dana was able to put together several new speakers, which I do believe everyone enjoyed. We had over 60 attendees, had six new members join our Association. We did have

a small hitch with Sunday's classes, though.

If you took the Death Investigations class given by Paul Parker we did not get Certificates out to everyone. If you attended the class as a registered attendee and need a certificate, please email me at please email me at azserversassoc@gmail.com. I will be able to create your certificate for this class and get it to you.

Dana Young taught the other class that took place on Sunday,



Difficult Locates for Servers & PI's. Again, if you need a certificate for this class, please let me know.

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Notarizing Affidavits: The Scoop on Personal Appearance

From the Arizona Secretary of State's Notary website and manual.

A document signer must appear in the notary's presence before any notary act can be performed.

If the document signer is not present then the notary public may refuse the notarization.

If the document signer is present and the document is already signed. See page 20 of the Arizona Notary Public Reference Manual, "Documents with a Signature."

Regardless of whether a document is pre-signed or is signed in the notary's presence, the signer must still produce satisfactory evidence of identity before the notary proceeds with notarizing the document.

Notaries may only perform the notarial acts prescribed in their notarial duties if the signer signs in a language that the notary public understands, and the notarial certificate is worded and completed using only letters characters and a language that is read, written and understood by the notary public.

A notary may perform a notarial act on a document that is a translation of a document that is in a language that the notary does not understand only if the person performing the translation signs an affidavit containing an oath/affirmation that the translation is accurate and complete. [A.R.S. § 41-313(D)]

The notarized translation and affidavit shall be attached to the document and shall contain all of the elements for an attached certificate.



Michael K. Jeanes, Clerk of the Superior Court for Maricopa County

THE



BRIEF

An electronic update for the legal community providing a brief look at news in the Clerk of the Superior Court's Office



The following are excerpts from "The Brief", published by the Maricopa County Clerk of the Superior Court. You can obtain complete copies of "The Brief" through the clerk's website.

Don't you hate forgetting where you left that \$500? (September 2015) The Clerk's office is holding appeals cost bonds that were never addressed in court orders. Until this year, cost bonds were a regular occurrence in civil appeals. As cases made their way between levels of courts, the cost bonds got overlooked when the rest of the case reached final disposition. Without an order directing the Clerk to return the bond to the person or entity that posted it, the bonds must sit and wait. If you or your clients posted an appeal bond in any case, it's worth checking the record to see if funds are still on hold. A motion and proposed order to the court directing the Clerk to disburse the bond will clear our books and get the money back where it came from. Please ensure your draft orders specify the amount of the bond, the name the Clerk should write on the disbursement check, and where to send the money. As a reminder, the rule that required cost bonds on appeal was repealed on 1/1/2015. The Clerk now requires a court order to accept a cost bond on appeal.

Commercial court pilot (September 2015) The commercial court pilot is underway. If your case

qualifies, make sure to include the words "commercial court assignment requested" on the initial complaint's caption and check the box on the civil filing cover sheet. The court manages the cases in the pilot to promote expeditious and efficient resolution of disputes. To review related administrative orders and experimental civil rule of procedure 8.1 defining commercial court cases, see <http://www.superiorcourt.maricopa.gov/SuperiorCourt/CivilDepartment/CommercialCourt/Index.asp>.

Civil rules of procedure getting a rewrite (August 2015) An Arizona Supreme Court-appointed task force has been reviewing the rules of civil procedure since December 2014. The task force's final product will likely result in some rewording of every rule for style and, where appropriate, to conform with the recently restyled federal rules. The task force is considering some substantive revisions as well. Public input is available and welcome, and all meetings are open to the public. The task force will work through the summer and fall before proposing a consolidated rule change petition by January 2016. The task force includes plaintiff and defense counsel, legal scholars, judges, Community Legal Services, the Attorney General's office, and a Clerk of Superior Court. For

more information, visit the Arizona Judicial Branch's website at www.azcourts.gov. Click on "Court Admin/AOC," "Committees & Commissions," and "Task Force on the Arizona Rules of Civil Procedure" for meeting information and materials, links to rules, and other resources. The task force plans to reach out proactively to interested groups before submitting a rule change petition. To see rule petitions currently under review, visit the Court Rules Forum online from the Arizona Judicial Branch's website at www.azcourts.gov. Click on "AZ Supreme Court," "Rules," "Rules Forum."

Civil exhibits and appeals move down the street (June 2015) Trial exhibits for all adult case types are now available from one location. Non-criminal case exhibits and staff moved from the Customer Service Center to the fourth floor of the South Court
(continued..)

(APSA would like to thank Mr. Jeanes and his staff for this valuable information we can pass on to our membership and readers. — Ed.)



Hi, I'm Patty Chlebanowski, former long-time Secretary of APSA. Frontier Insurance Agency, Inc. has been in business for 48 years. I have run this business side by side with my Process Serving business since 1989. Our process serving business was sold in 2013, but we kept our insurance agency. Frontier Insurance Agency, Inc. wants to help members and friends of APSA and AALPI to write your Notary Bonds, Court Bonds (Appeal and Cost Bonds), and Probate Bonds (Personal Representative, Conservatorship & Guardianships). We also write MVD (Lost Title Bonds). If you know an attorney who handles Probate matters, please drop my name to them. If you have any needs, please give us a call. Frontier can usually get a bond written in about 24 hours.

PATRICIA CHLEBANOWSKI
Agent

FRONTIER INSURANCE AGENCY, INC.
Surety Bonds

(602) 254-7427
3150 North 24th Street #D104
Phoenix, AZ 85016



Michael K. Jeanes, Clerk of the Superior Court for Maricopa County

THE BRIEF

An electronic update for the legal community providing a brief look at news in the Clerk of the Superior Court's Office

Tower, located at 175 W. Madison in downtown Phoenix. The Clerk's Appeals staff also moved to the South Court Tower. Exhibits in Juvenile cases remain at the location where the case is assigned: either at the Durango Street facility in Phoenix or at the Southeast Juvenile facility in Mesa. For the most efficient way to locate exhibits, schedule an appointment to access them, or to ask questions about appeals, call the Clerk's main number at 602-372-5375 (602-37CLERK) and select "exhibits" or "appeals" from the options. For a list of Clerk locations and services, visit http://www.clerkofcourt.maricopa.gov/clerk_loc.asp.

What's with the ECR, Mac?

(June, 2015) Our friends who use Apple products and web browsers that aren't Microsoft Explorer sometimes ask if the Clerk's office is planning to upgrade the Electronic Court Record Online (ECR Online) to work better with these platforms. As the legal community is fond of saying, it depends. . The Arizona Judicial Branch has been pushing for a statewide portal to file and view electronic records for all courts. The promise of a single portal, combined

with reduced staff and funds in this office, has limited the Clerk's internal enhancements to the ECR Online. The Clerk's office is hopeful that statewide improvements and initiatives are on the horizon. In-house changes could take place if the Clerk's office receives funding or if implementation of a statewide portal falls victim to higher statewide priorities. The ECR Online can work with other systems and browsers, but the Clerk's office only has the resources to support and troubleshoot access through the Explorer browser. The ECR Online was developed in-house by the Clerk's office as a free service for parties, their attorneys, and others who are allowed to remotely access public court records as regulated by court rules. There are more than 10,000 attorneys and more than 24,000 litigants registered in the ECR Online.

Filing fee web page updated

(May 2015) The Clerk's Office has added more detail to its filing fee web page. Long-time practitioners and first-time filers alike often question why fees vary from county to county. The updated fee page lists the total filing fee of the most commonly filed documents and includes links to a comprehensive breakdown of the individual fees included within the total. State statute allows the Arizona Supreme Court to set the base fee for

most filings. The Board of Supervisors in each county can add local fees. Many of the updated listings include citations to the statute or other authority that apply to the filing or fee. The revised filing fee web page has the same URL as before, meaning any prior bookmarks to the page should bring up the newest version. See the new and improved page at <http://www.clerkofcourt.maricopa.gov/fees.asp>.

Internal documents transition to eFiling (May 2015) The Clerk's Office established a project to identify paper documents created internally for filing-in to the court record. The project also found documents the Clerk's Office was printing and scanning for other court departments that have potential for the departments to eFile directly. In its first year, the project transitioned eight document types from paper to a more efficient eFiling process, resulting in 35,038 eFiled documents. By year's end, the office anticipates eFiling more than 50,000 documents, plus any new document types identified for addition to the project. Documents considered for the project are vetted individually to ensure all requirements for eFiling are identified and appropriate. Documents currently under review include exhibit letters, returned mail, and court reporter notifications.

APSA Bylaws Change:

At our most recent conference, the membership approved changes to our Bylaws, as follows:

Article V – ELECTION of OFFICERS and DIRECTORS

Section 1. The officers shall consist of a President, Vice-president, Secretary and Treasurer. Term of each officer

shall be one (1) year from January 1st to December 31st of each year. The election of officers and directors shall be made at the annual conference, at which time the incoming officers and directors shall be sworn and take office on January 1st of the following year.

The changes are effective with the newly elected officers and directors.

APSA would like to thank the following for their contributions to this year's conference: AALPI; AMIS; PDJ Investigations; GPS Intelligence LLC; HUB International; Discovery Detective Academy; ServeManager (Serve Now & PInow.com); Tristar; PI Direct Link; Trackops and many unnamed others who volunteered their time and efforts for this year's conference.

Food for thought...(WWBD): A pro per client finds your website and calls on a (very) late Friday night saying they need a server right away for a rush serve. After quoting an after hours rush fee, the pro per promises to call you back in 10 minutes, while you arrange for a server. The pro per doesn't call back until early the following morning again saying they need the server right away. You promise to get one there ASAP but make no guarantee of the time of arrival or attempt. You do not guarantee successful service per the terms and conditions posted on your website. You charge the rate quoted and it is paid electronically. The server is also paid commensurately in advance. The server has attempted several times, but is unsuccessful as the subject has moved that same day before contact could be made. The client now wants a refund of the service fees. What would you do?

APSA

Statute Changes of Note

Most of us are familiar with ARS 11-445(I), governing process servers. That statute gave us statutory authority to serve papers and declared that we are officers of the court. However, in its most recent session, the state legislature moved that language from Chapter 11 (counties) to Chapter 12 (courts) of the ARS. The new applicable statute reads as follows:

12-3301. Private process servers; background investigation; fees

A. Private process servers who are duly appointed or certified pursuant to rules established by the supreme court may serve all process, writs, orders, pleadings or papers that are required or permitted by law to be served before, during or independently of a court action, including all such as are required or permitted to be served by a sheriff or constable pursuant to section 11-445, except writs or orders requiring the service officer to sell, deliver or take into the officer's custody persons or property, or as may otherwise be limited by supreme court rule. A private process server is an officer of the court.

B. As a condition of certification, the supreme court shall require each private process server applicant to furnish a full set of fingerprints to enable a criminal background investigation to be conducted to determine the suitability of the applicant. The completed applicant fingerprint card shall be submitted with the fee prescribed in section 41-1750 to the department of public safety. The applicant shall bear the cost of obtaining the applicant's criminal history record information. The cost may not exceed the actual cost of obtaining the applicant's

criminal history record information. Applicant criminal history records checks shall be conducted pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange the submitted applicant fingerprint card information with the federal bureau of investigation for a federal criminal records check.

C. A private process server may charge such fees for services as may be agreed on between the process server and the party engaging the process server.

Another change to the ARS concerns traffic tickets and alternate means of service. Changes to ARS 28-1593 removed subsection "C":

28-1593. Service of uniform traffic ticket and complaint

A. A traffic complaint may be served by delivering a copy of the uniform traffic ticket and complaint to the person charged with the violation or by any means authorized by the ARIZONA rules of civil procedure. At the discretion of the issuing authority, a complaint for a violation issued after an investigation in conjunction with a traffic accident may be sent by certified mail, return receipt requested and delivered to addressee only, to the address provided by the person charged with the violation. Service of the complaint is complete on filing the receipt in the court having jurisdiction of the violation.

B. The original complaint shall be filed in a court having jurisdiction of the violation within ten court days of the time the complaint was issued. A peace officer, or duly authorized agent or someone paid to act on behalf of a traffic enforcement agency, may issue the traffic

complaint.

While ARS 28-1602 is amended as follows:

28-1602. Photo enforcement violation; service of process; no duty to identify photo or respond; definitions

A. Notwithstanding any other law, if a person receives a notice of violation in the mail for a violation of chapter 3, article 3 or 6 of this title or of a city or town ordinance for excessive speed or failure to obey a traffic control device that is obtained using a photo enforcement system, the person does not have to do either of the following:

1. Identify who is in the photo.
2. Respond to the notice of violation.

B. The notice of violation that is described in subsection A of this section must state the following:

1. The notice is not a court issued document and the recipient is under no obligation to identify the person or respond to the notice.
2. Failure to respond to the notice may result in official service that may result in an additional fee being levied.

C. IN ADDITION TO ANY OTHER MEANS AUTHORIZED BY THE ARIZONA RULES OF CIVIL PROCEDURE, ALTERNATIVE OR SUBSTITUTE SERVICE OF PROCESS MUST BE SENT BY CERTIFIED MAIL WITH AN ADDITIONAL COPY BY REGULAR MAIL AND A NOTICE MUST BE POSTED ON THE FRONT DOOR OF THE



Statute Changes of Note (cont'd)

BUSINESS OR RESIDENCE AND, IF PRESENT AND ACCESSIBLE, A RESIDENCE'S GARAGE DOOR. SERVICE OF THE COMPLAINT IS COMPLETE ON FILING THE MAILING RECEIPT AND PROOF OF POSTING IN THE COURT HAVING JURISDICTION OF THE VIOLATION.

D. IF A LAW ENFORCEMENT AGENCY ISSUES A CITATION AS A RESULT OF A PHOTO ENFORCEMENT SYSTEM AND SERVES THE CITATION IN A MANNER OTHER THAN WHAT IS PRESCRIBED BY SECTION 28-1593, SUBSECTION A, THE AGENCY SHALL INFORM THE PERSON THAT THERE IS NO OBLIGATION TO IDENTIFY THE DRIVER OR RESPOND TO THE CITATION. FAILURE TO RESPOND TO THE CITATION WILL RESULT IN THE PROBABILITY THAT THE PERSON WILL BE FORMALLY SERVED PURSUANT TO STATE LAW AND THE ARIZONA RULES OF CIVIL PROCEDURE WHICH WILL LIKELY RESULT IN THE PERSON BEING REQUIRED TO PAY THE COST OF THE SERVICE.

E. For the purposes of this section:

1. "Notice of violation" means a notice issued by a photo enforcement company or municipality that is not a uniform traffic ticket or complaint.

2. "Photo enforcement system" has the same meaning prescribed in section 28-601.



Casa Grande, AZ:

Process Server Shoots Dog in Self Defense

On May 8, 2015 at about 2200 hrs., a process server reported that he was attacked by an out of control aggressive pit bull and shot the dog after the owners neglected to restrain the animal while the dog attempted to bite him.

The server reported that the incident occurred while he was speaking to the occupants at the front door of the house. Residents were speaking easily with the server when the attack occurred. The dog apparently got out of backyard through an open gate and sneaked up on the server. The backyard gate was posted no trespassing but the front yard where server entered and accessed was open and not marked. Residents were speaking to server at ease and did not trespass server off property.

While the dog attacked the

server in presence of its owners, they failed to restrain the animal after several pleas from the server.

Server reported that he called out to dog owners to restrain animal several times but the dog's owners failed to do so and instead watched as their dog attacked the server. After the dog backed server into a corner, the dog ripped the server's notebook from his hand and approached server apparently targeting his leg to bite him. Server reported that he shot the dog as it had backed him into a corner. Up until this time, server had fended off dog with his portfolio notebook which dog was biting.

Server called 9-1-1 and Pinal County Sheriff's Office responded. Investigation indicates this to be matter of justified self defense per the Sheriff. No charges were filed.

HOW NOT TO GREET A DOG
 Most people do this stuff and it stresses dogs out so they BITE!
 I don't care how cute you (or your kid) think Boogie is. Please show him some respect.

- 1** **DON'T** Lean over the dog & stick your hand in his face. (Thoughts: Sniff, doggie, Sniff! WTF)
- 2** **DON'T** Lean over the dog & stick your hand on top of his head. (Thoughts: AW! PAT PAT cute doggie, I am a very polite dog...)
- 3** **DON'T** Grab or Hug him. (Thoughts: PUPPY!, AAARGH)
- 4** **DON'T** Stare him in the eye (This is an adversarial gesture). (Thoughts: OOH! LOOK AT HIS EYES!!, YIKES, POTENTIALLY DANGEROUS HUMAN)
- 5** **DON'T** Squeal or shout in his face. (Thoughts: AAAAH!! YOU ARE SOOOO ADORABLE!!!, OH NO)
- 6** **DON'T** Grab his head and kiss it (This is an invasion of space). (Thoughts: KISS!, THERE IS ONLY ONE THING LEFT TO DO)

Doing this to a dog who doesn't know you is like a perfect stranger giving you a great big hug and kiss in an elevator. Wouldn't that creep you out? And wouldn't you have the right to defend yourself?

THE CORRECT WAY:

- * No Eye contact
- * Let the dog approach you in his own time
- * Keep either your SIDE or BACK towards the dog (non-threatening posture)
- * Pet or stroke him on the SIDE of his face or body. Or on his back.

www.doggiedrawings.net lili

Training Corner: Ethics, Shortcuts & Rumors



Barry R. Goldman

©2015 Barry R. Goldman



As process servers, we are officers of the court. Consequently, we have a greater responsibility than those who do not have "...an obligation to promote justice and effective operation of the judicial system...". The courts and public take our word that service of process has been completed in the manner set forth in law and by rules of court. It also means that our services come with the obligation to act in a professional and responsible manner.

That is a trust the courts and the public place in the hands of the process server. APSA members have proven time and again that the trust given has been earned.

Most process servers and owners of attorney services are trustworthy operators within the applicable statutes, rules and standards set forth for our profession. But when that trust is broken by a small minority, even an out of state server, it affects all of us, regardless whether an act occurred out of negligence, irresponsibility or malfeasance.

Let's talk about some issues that you may have heard rumors about. Firstly, **evictions**. Traditionally, the eviction business in Arizona and elsewhere has been a low margin, high volume business -- both for attorneys representing landlords, as well as process servers who serve on behalf of those attorneys. Some of the landlord attorney offices have come to be known as "eviction mills", grinding out hundreds and sometime thousands of eviction cases each week. The attorney services and servers who provide services for these attorneys have developed a niche market within the legal system. Bravo for them. Occasionally, non-eviction specific servers may get assignments to serve eviction papers for their clients, either the pro per landlord or attorney representing the landlord.

But, are the papers served in the evictions cases being served correctly? Most of the time, they are. After all, the courts wouldn't grant eviction judgments without proper service. Or would they?

Let's take a look.

ARS §33-1377, which addresses special detainers (as opposed to forcible detainers), sets forth certain specific requirements upon the courts as well as the serving party (the constable, sheriff or process server). These include a three to seven day (3 to 7-day) window that the court clerk must set the case for, as well as certain benchmarks in the method of service of process.

Where personal service is unattainable and there is enough time to cure before the hearing, "...within one day of issuance of the summons a copy of the summons is (to be) conspicuously posted on the main entrance of the tenant's residence and on the same day the summons is (to be) sent by certified mail, return receipt requested, to the tenant's last known address."

There is no exception here -- certified mailing requires a "return receipt" (the little green card) to be attached to the documents mailed to the defendant. The certified mailing must be done at least on the day following issuance of the summons, if the summons gives a seven day return date. Service of the summons during any period other than the sixth or seventh day prior to the hearing date requires personal or substitute service only.

Any mailing of a special detainer summons must be timely and properly done. Mailing the papers to the defendant by certified return receipt is mandated in law - again, mandated. Sure, it costs a few bucks more, but if you are pricing your services correctly, there should be ample room for profit. No need to cut corners and sacrifice your good name and relationship with your client.

If the paper is served less than six days before the hearing date, it must be personally served. It cannot be posted and mailed, and "...shall be served at least two days before the...day assigned for trial." The special detainer cannot be served on the hearing date; however, in

calculating the days of service, RPEA Rule 5(e) states, "The date of service shall not be counted when computing time for service of the summons and complaint. The date of the initial appearance shall be counted for that purpose." In other words, the window for which service must be completed closes two full days prior to the hearing. Personal service must be achieved at least two days before the trial, and if service is done by posting and mailing at least six days prior to the trial.

(For those who have taken the APSA class on evictions, there is a chart available. Copies may be obtained by contacting the writer.)

When a defendant is improperly served, the ethical and legal boundaries are breached. Under ARS 33-1377, a court finding for a defendant shall give a judgment "...against the plaintiff for costs, and if it appears that the plaintiff has acquired possession of the premises since commencement of the action, a writ of restitution shall issue in favor of the defendant." The court, finding that service was improperly completed may also file a complaint *in sua sponte* with the Presiding Judge of the Superior Court against the process server. The defendant, whose civil rights may have been violated, may similarly have one or more causes of action against the process server, attorney representing the plaintiff, and the plaintiff to seek damages against the parties.

RPEA Rules 4(b) and (c) specify: (b) "Every action taken in an eviction proceeding and every motion or other pleading filed shall be taken or filed in good faith by the party or attorney responsible for filing it..."; and (c), "The court may impose sanctions against a party or attorney found to have violated these duties after notice and opportunity to be heard". ACJA § 7-204 (H)(a)(2) states, in part, "A certificate holder is

Training Corner (cont'd)

subject to disciplinary action if the presiding judge finds the certificate holder has engaged in one or more of the following: a. Failed to perform any duty or discharge any obligation in the course of the certificate holder's obligation in the course of the certificate holder's responsibilities as required by law, court rules, or this code section...". Failure to make proper service comes directly under this rule.

Let's look now at the situation where multiple defendants must be served.

The client should provide sufficient copies of the documents to be served. While the RPEA does not specifically address the issue, ARCP Rule 4(b) states, in part: "The party procuring service is responsible for service of a summons and the pleading being served within the time allowed under Rule 4(i) of these Rules and shall furnish the person effecting service with the necessary copies of the pleading to be served." As the RPEA reflects, specifically ARCP Rule 4.1 for service of process, we take it that each defendant should have a copy of the summons and other documents served.

ARCP Rule 4.1(d) requires that service of process be done "...by delivering a copy of the summons and of the pleading to that individual personally...". ARCP Rule 4(a) states, "...A summons, or a copy of the summons if addressed to multiple persons, shall be issued for each person to be served." RPEA Rule 5(f) refers to personal service be made in accordance with ARCP Rule 4.1(d), and in the case of a special detainer, indicates the language in ARS 33-1377. Accordingly, each defendant in not only other civil cases, but especially in evictions cases must have an individual service copy -- whether it be by posting and mailing or by personal delivery. Posting one copy of the documents and likewise doing a mailing to all parties is not acceptable. Each person should have their own copy of the summons, complaint and other papers needed to serve.

Many pro per clients and some

attorney clients don't give enough copies of the papers to serve. The defendant served shouldn't be shortchanged. It won't fly with the court. Access to a photocopier or scanner and printer to make copies is common practice.

The documents needing to be served in a special detainer case not only include the summons and complaint, but a copy of the five-day (or other) notice, and the Residential Eviction Information Sheet. Some court clerks are lax in providing the information sheet, and many pro per's are negligent in retaining the document and passing it on to their server. The form is available on the Maricopa County Justice Court website, and is universal throughout the state for use in eviction cases. The form is also described in the rules of procedure for eviction actions on the Supreme Court website.



Ignorance is bliss, but sometime, somewhere, some JP, defense attorney or pro per with an axe to grind will look at service papers in detail and may find that certain operators haven't been entirely candid about how they serve papers. Remember the term candor -- that's the basis for being an officer of the court. Don't set yourself up to be the one the court makes an example out of.

How cheap is cheap, and are you shortchanging yourself? As an association, APSA cannot set forth any numbers that a server should charge. However, if you are pricing your business model out correctly, you should be able to make a profit on most, if not all of your serves.

Figure out your real cost of doing business -- how much money do you need for your and others' salaries? What about the rent or lease on your premises (if you operate from home, this figures into your business premises overhead). How much is your insurance -- car insurance, business

liability, health, life and disability? How many miles do you drive per day? What are your fixed and variable vehicle costs (car payment, oil changes, new tires, and exceptional repairs -- i.e.: new alternator, battery, air conditioning, etc.)? How much is your cell phone package -- does that include the hotspot and prepaid phones you might use in the field to operate a laptop or do some skiptracing? A good accountant who understands the process serving or package delivery business should be able to assist you with planning your business. After all, Federal Express made an empire in competing with the US Postal Service (hint: one shows a profit and the other doesn't). Learning the hard way that there are "hidden" costs of doing business (i.e.: auto, life, health insurance, copies unaccounted for, meals, etc.) can be expensive and have a negative impact on the bottom line.

Are you pricing yourself to get business, remain competitive and make a profit or are you scared of raising your prices for fear of competition? If your overhead is not accounted for and you are not accurately pricing your services, you could be in for an unwelcome surprise. You might have the lowest price for service, but will you be in business longer than six months? How do you plan on staying in business while competing with others? This extends not only to the service of process business, but to all other business types. (See more on the SCORE page.)

Rumors. Rumors will kill a business in the same fashion that it will make it succeed. Rumors aren't a productive part of business -- they are a distraction. Eventually, the rumors and gossip spread about the personal issues of other people many times come back to haunt the gossiper. Potential clients don't need to hear about the personal life of their vendor from a third party. It may be the truth, but gossiping eventually brings harm - both to the person gossiping and the subject. Rumors have a way of growing uncontrollably and can have a negative impact on all parties involved, bringing

APSA

Training Corner (cont'd)

unintended consequences. Competition should be given credit where it is due. Differentiate yourself from the competition. A prospect wants to hear about how your business can help them, not about how your competitor may have done them harm (they already know it).

Controlling one's growth is a key factor in staying in business. Small businesses become larger businesses, not just by being faster, smarter, or better than the other guys, but by all that and more. Pricing yourself to stay in business for the long term takes discipline and hard work -- controlling and growing also means watching expenses. Several larger firms have grown from smaller operations, and one-man (woman) firms have taken the lead in capitalizing on certain niche markets. Discover yours and be successful.

"When well-being comes from engaging our strengths and virtues, our lives are imbued with authenticity" (Martin Seligman).

*Above all, **be honest** -- that is what candor is all about.*

Getting to Know You... (cont'd)

Ronald R. Ezell, APSA's new Vice-President

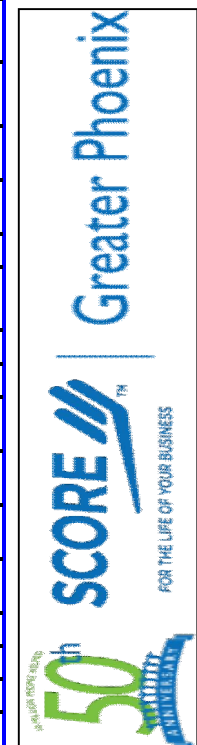
A native Tucsonan, Ron attended the University of Arizona. He founded EZ Messenger in 1973. Ron is a founding member of both the National Association of Private Process Servers (NAPPS) and the Arizona Process Servers Association (APSA).

In 2005 Ron received the Bert Rosenthal Memorial Award, the highest award bestowed by the California Association of Legal Support Professionals (CALSPRO). In 2008 he also received The Donald C. "Mac" MacDonald Award, the highest national award given by NAPPS. This accolade was created "In appreciation for the uncompromising dedicated service, exceptional visionary insight and focused unwavering leadership for the betterment of the National Association of Professional Process Servers".

Ron is a past two-term President of NAPPS, and is the current NAPPS Treasurer. He also served as the legislative chair for APSA and was on the Arizona Supreme Court committee for statewide licensing and standards for Process Servers. Ron has served APSA as a two-term President and also continues to serve on the continuing education committee. Ron currently is a director and instructor for the APSA Certified Process Server program. He maintains his professional licenses as an: Arizona Private Investigator, Arizona Certified Process Server, Nevada Process Server and Arizona Notary Public. Ron's newest venture is First Legal Arizona of which he is the President, located in Tucson.

See **SCORE's website** greaterphoenix.score.org for more details about SCORE and their upcoming seminars.

Date	Time	Course
Oct. 8	10am	Online: Grow Your Business with a SWOT Analysis
	1-4pm	Cyber Security Protection For You and Your Business
	1-4pm	Simple Steps for Developing a Business Plan
Oct. 15	10am	Online: 5 Simple and Affordable Social Media Tactics for Your Small Business
	1-4pm	The Integration of Financial Planning with Business Management for the Entrepreneur
Oct. 21	1-3:30p	Understanding Social Media Marketing
Oct. 22	10am	Online: 7 Mistakes to Avoid When Setting Up Your Business
	1-4pm	QuickBooks Basic (Desktop)
Oct. 29	1-4pm	The Buyer/Seller Dance - How to Control Your Sales Process and Sell More
Nov. 5	1-3:30p	Developing and Managing Effective Teams
Nov. 7	10a-1p	ABCs of Starting a New Business
Nov. 10	6p-9p	Making Your Non-Profit Work
Nov. 12	1-4p	Are Your Customers Killing Your Business?
Nov. 18	1-3:30p	The Right Way to Use LinkedIn to Promote Your Business
Nov. 19	1-4p	QuickBooks Intermediate (Desktop)
Dec. 3	1-3p	Lies, Scams and Myths About Credit Card Processing
Dec. 3	1-4p	Simple Steps for Developing a Business Plan
Dec. 5	10a-1p	ABCs of Starting a New Business
Dec. 9	1-3:30p	Content Marketing, WordPress & Blogging: How To Get On The First Page of Google
Dec. 10	1-4p	A Cinematic Approach to Describing the Customer Experience



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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.
5. Guest article submissions become the sole
 property of APSA.

Tell Us What You Think...

We've received comments from
 members and non-members alike,
 thanking APSA for the Newsletter
 and educational opportunities. We'd
 like to thank our readers for sharing
 and making this publication better.
 Thank you, dear reader! From the
 bottom of our
 hearts.



ARIZONA PROCESS SERVERS ASSOCIATION

P.O. Box 2233, Phoenix, AZ 85002

(602) 476-1737

www.arizonaprocessservers.org



Membership Application/Renewal for year: _____

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:	

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.

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

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.

Court Closures**APSA Events Calendar****Holiday Court Closures**

Courts are closed on:

New Year's Day, Martin Luther King Jr./Civil Rights Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, Christmas Day

Court & Clerk's Exchange Meeting

Downtown Justice Center
620 West Jackson Suite #2083
(Justice Court – Training Room)
Phoenix, AZ
Oct. 29, 2015 12n-1pm

Tucson ACPS Class

Dec. 12, 2015, See APSA website.

APSA Board Meetings

See website for details. Next Board meeting is tentatively scheduled for October 24, 2015 at the residence of Patty Chlebanowski, Please call Patty for address and directions. All APSA members are welcome. All meetings begin at 9:00 AM.

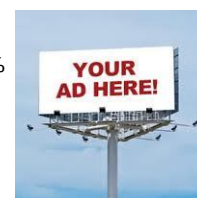
PRIVATE PROCESS SERVER TESTING BY COUNTY (UPDATED FALL, 2015)

County	Contact person	Telephone	Testing dates/times/detail
Apache	Deena Mattice	928-337-7551	By appointment
Coconino	Jeff Mangus	928-679-7600	By appointment at 928-679-7646
Cochise	Martha Rivera	520-432-8581	Call for details
Gila	Vickie Aguilar	928-402-8559	By appointment only
Graham	Rebecca Ornelas	928-428-3100	Call for details
Greenlee	Pam Pollock	928-865-4242	Call for appointment
La Paz	Jackie Kummerle	928-669-6131	Call for details
Maricopa	Sharlette Wright	602-506-1909	See county clerk's website for testing dates
Mohave	Mim Quesenberry	928-753-0713x416	Call for details
Navajo	Marc Russell	928-524-4177	Call for details
Pima	Alan Walker	520-724-3282	Call for details—Check in at 8:30 a.m.
Pinal	Kira Jimenez	520-866-5307	By appointment
Santa Cruz	Karla Zuniga	520-375-7700	Call for details
Yavapai	Shaunna Kelbaugh	928-777-3030	Tuesdays and Thursdays at 8:30 a.m. and 3:00 p.m. by appointment
Yuma	Michelle Lackey	928-817-4241	Scheduled as needed

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.

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.



The Last Word: LUIS FIGUEROA, APSA Treasurer

I am once again proud to announce and glad to be your Arizona Process Server's Association Treasurer. I have been with this Association for many years now as a member and now as an officer. I am proud of it. I am looking forward to another good year. I hope that every year gets better than the last.

I would like to remind you that this Association is here for us. We all need to watch out for each other in changes of laws/rules affecting our service of process profession. We need to watch out for each other and

take care of each other.

I would like to encourage everyone to attend our meetings. This would be a great way to get involved with your association and have an input on some ideas you might have that would help us as process servers.

Take care and be careful out there.



- Luis

Getting to Know You...

(cont'd)

Tracy Candelaria is a Private Investigator and Process Server. Tracy came to AZ in 1971. She met and married Criss and they now reside in the White Mountains of Arizona. She became active in the community and served on the local school board. She has a degree from Mohave Community College in Criminal Justice.

She is a graduate of the Arizona Law Enforcement Training Academy in Tucson, Arizona. She has worked as a dispatcher, corrections officer, and Police Officer for the City of Kingman, Arizona.

She a member of the Arizona School Board Association Legislative Committee, Foster Care Review Board and State Foster Care Review Board. Tracy served four years as Constable of St. Johns Precinct in Apache County and currently on the Concho Fire Board.

Following her service as Constable, she has worked as a private investigator licensed by the Department of Public Safety. She is also an Arizona certified process server and notary public.

You are wanted!

- **APSA members work together to make improvements to our profession.**
- **Use your knowledge and experience to help others.**
- **Get involved!**
- **Call or email APSA today to get involved!**

2015 AALPI & APSA GRAND CANYON CONFERENCE

Special thanks to:



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APSA

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