

APSA

ARIZONA PROCESS SERVERS ASSOCIATION

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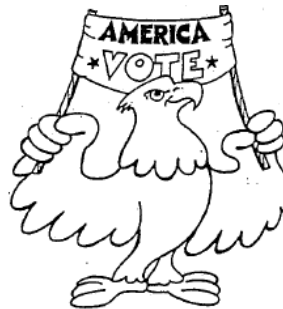
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FALL 2008



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PRESIDENT'S MESSAGE

Hello fellow members, would like to say that it has been an interesting year, I have learned a lot this year my hats off to the rest of the board for all the work that goes into this Association at this time I would also like to say a big kudos to all the instructors for all the classes that the Association has put on it takes a lot of work on the instructors side of the fence.

Thank you,

Randy L. Smith



EDITOR'S CORNER & SECRETARY'S CORNER!!

I am writing this letter to all of the Process Servers out there. The Annual Meeting is right around the corner October 18th & 19th, here in Phoenix; see the flyer in the newsletter. The election of a new board is right around the corner. If there is anyone that is interested in running for a position, please let us know. It would be very nice to have a few new faces to work with this year. Your board has all worked very hard together this year, in both Legislative matters, where we were not successful and Education matters, which we have brought forth 3 new classes this year. I myself would like to THANK the current board members for there solid efforts this year. I would like to thank you for appointing me last year and look forward to continue my efforts this upcoming year.

-Patty Chlebanowski

Hello from your fellow board member, to all the Process Servers.

I would like to thank the membership for the opportunity to be the Treasurer this year. I have attended all the board meetings and have helped the education committee in submitting two new classes for our CLE. I hope to serve as your treasurer in the future.

Thank You,
John H. Carpenter

Dear Fellow Professional Process Servers;

I have been on the board of APSA since October of last year. I have been attempting to represent the thoughts and problems associated with Process Servers who are not in the Maricopa or Pima County metropolitan areas. I have voiced the opinion of rural Arizona Process Servers and have been your voice in the board meetings. Other board members have listened to my ideas and suggestions with an open mind and several of the suggestions have been carried on or incorporated into various areas of the Process Servers Association.

I must admit I have traveled to all the meetings except one. You think I could have made it to meeting in Payson as it was close to my hometown. But as fate would have it I missed the meeting.

I look forward to hearing from all the rural Arizona Process Servers and getting your input on what the Association can do for rural Arizona Process Servers.

Some of the changes you may see already or may see in the near future are:

- We now have a Lobbyist who sends us information as it comes up in the legislature
- A few more classes have been added to the list of approved CE's such as Service on Tribal Lands.
- And we are still trying to get more classes in northern Arizona and other outlying areas.

I look forward to seeing you all at the conference and hearing from rural Arizona Process Servers.

Please feel free to contact me at lrpi@frontiernet.net with any suggestions I may be able to make on behalf of rural Arizona or if you wish to become an instructor in rural Arizona so that more classes can become available to the rural Process Server.

Sincerely,
Larry Ratcliff



L.R. Investigations L.L.C

P.O. Box 1293
Lakeside, Arizona 85929
Phone (928) 367-0510
Fax (928) 367-5328

Calendar of Events

Columbus Day– Monday, October 13, 2008
COURTS CLOSED

Process Servers Court and Clerk’s Exchange Meeting - Phoenix
Wednesday, October 15, 2008 from 12:00 – 1:00 PM
620 West Jackson- 3rd Floor _CTS Training Room #3017

Arizona Process Servers Association ANNUAL MEETING- Phoenix
Saturday, October 18, 2008 at 7:30 am – 4:00 PM
Embassy Suites Phoenix North - 2577 West Greenway Road, Phoenix, AZ 85023
(SEE EDUCATION CONFERENCE SCHEDULE)

Arizona Process Servers Association ANNUAL MEETING- Phoenix
Sunday, October 19, 2008 at 8:00 am – 3:15 PM
Embassy Suites Phoenix North - 2577 West Greenway Road, Phoenix, AZ 85023
(SEE EDUCATION CONFERENCE SCHEDULE)

Court Testing Date for Process Servers Certification - Maricopa County
Thursday, October 23, 2008 promptly at 9:30 AM **YOU MUST PRE-REGISTER**
620 West Jackson – Suite 3017 (Third Floor)

Veteran’s Day– Tuesday, November 11, 2008
COURTS CLOSED

Court Testing Date for Process Servers Certification – Maricopa County
Thursday November 20, 2008 promptly at 9:30 AM **YOU MUST PRE-REGISTER**
620 W. Jackson #3017 (Third Floor Training Room)

Thanksgiving Day – Thursday, November 27, 2008
COURTS CLOSED

Arizona Process Servers Association Educational Class- Tucson
December 2008 CLASSES AND DATE TO BE ANNOUNCED

Court Testing Date for Process Servers Certification – Maricopa County
Thursday December 18, 2008 promptly at 9:30 AM **YOU MUST PRE-REGISTER**
620 W. Jackson #3017 (Third Floor Training Room)

Christmas Day– Thursday, December 25, 2008
COURTS CLOSED

Maricopa Superior Court Meeting

7/30/08 I attended the Process Servers & Court/Clerk's office information & exchange meeting in Phoenix. Patty Chlebanowski and David Rolf were also in attendance. I have summarized some points of the meeting below.

-Some judges have voiced concerns about process servers sub-serving divorce, custody, and other family court documents to the children/teenagers in the case. Even though they were technically legal serves since the children were of suitable age and resided with the respondent at the address, the judges were concerned about the impact that the documents would have when served directly on the kids. They did not go as far to say we cannot do it, but that servers should exercise discretion when serving family court documents to children directly impacted by the papers, and should try not to serve the children if at all possible.

-Some judges have complained that some process servers are not correctly naming the notices in divorce packets and other family court matters. Correct affidavits should list all notices served, for example creditor notice, health insurance notice, notice to attend parent information class. They should not just say "Notices".

-Some judges have also voiced concerns about affidavits in which process server sub-serve documents, but do not say that the person was of suitable age & discretion. Some judges have rejected some of these affidavits and it has caused delays in court cases since the affidavits were missing this statement. The judges have requested that in all affidavits in which the docs. Were sub served, the phrase "Of suitable age & discretion" along with wording that the person served resides at the address with the respondent/defendant be included in the affidavit.

-The question of what is suitable age also came up at the meeting. Without going into depth on this, it appears that anyone 14+ is generally of suitable age; anyone 13 or less may be questionable.

-The clerk's office advised that they have seen a sharp increase in complaints against process servers in which the defendants claim they were never properly served and that they just found the documents at their front door. The clerk's office said they investigating the complaints.

-Sensitive Data Sheets should not be served. They are required to be filed in certain family court cases, but if they are given to the process server to be served, they should be returned to the client, they are not to be included in the service documents. (In Maricopa County, other counties may have different rules)

-Filing fees for both Justice Court & Superior court cases will increase on 9/26/08. The court will be publishing new pricing soon.

-The night depository box in downtown phoenix will be moving on August 15th to 4th Ave., between Madison & Jefferson.

Jeff Evert

NEWS FROM THE SUPREME COURT

By John M. Carpenter, ACPS, ACPSI

On April 25, 2008, the Arizona Supreme Court made a ruling that could potentially change the way that notices of claim are served on governmental bodies. This ruling should be looked at very carefully when deciding how to serve a notice of claim on a governmental body.

In *James Lee et. al. v. State of Arizona (CV-07-0349 PR)* the Court ruled by a vote of 3-2 that “proof of mailing a notice of claim may create a material issue of fact as to its filing even though the State denies receiving the notice.” Justices Bales (who wrote the majority opinion), Hurwitz, and Ryan voted in the affirmative. Justices McGregor (who wrote the minority opinion) and Berch voted in the negative. Division 1 of the Court of Appeals was reversed as well as the Maricopa County Superior Court and the case was remanded to the Maricopa County Superior Court for further action.

The Plaintiff Lee’s car crashed through a highway guardrail, seriously injuring Lee and killing three passengers in the car. Lee and the representatives of the passengers filed a complaint against the State alleging negligent design, construction, and maintenance of the roadway and guardrail. The State moved to dismiss the complaint, claiming it never a notice of claim as required by A.R.S. § 12-821.01(A).

In response, the Plaintiff submitted a “proof of service” signed under penalty of perjury by a staff member of his attorney’s firm, attesting that the notice had been sent to the attorney general via regular United States mail more than a week before its statutory deadline for its receipt. The Superior Court of Maricopa County (Judge Kenneth Fields) granted the States’ motion and dismissed Lee’s claim.

Division 1 of the Court of Appeals affirmed the judgment, reasoning that the statute required Lee to show that the notice of claim actually arrived at the office of the attorney general without relying on the common law rule that a letter promptly mailed is presumed to reach its destination. Because Lee had no evidence of delivery other than the fact of mailing, the court concluded that the “plaintiffs did not raise a material question of fact regarding whether the State actually received their notice.”

The Supreme Court accepted jurisdiction and ruled that the proof of mailing by Lee was evidence that the State received notice of Lee’s claim and that the trial court improperly dismissed Lee’s lawsuit by applying the “mail delivery rule,” which has two components – a presumption and a rule regarding the sufficiency of evidence. Under the mail delivery rule, there is a presumption that a “letter properly stamped, addressed, and deposited in the United States mail will reach the addressee.” (*State v. Mays and Rosenthal v. Walker*). And if mail will reach the addressee.” (*State v. Mays and Rosenthal v. Walker*). And if the addressee denies receipt, the presumption of delivery disappears. The

majority (Bales, Hurwitz, and Ryan) reversed the judgment of the Superior Court, vacated the opinion of the Court of Appeals, and remanded the case back to the Superior Court for proceedings not inconsistent with their opinion.

The dissenters, Chief Justice McGregor and Vice Chief Justice Berch disagreed, stating that the notice of claim should have been personally (*A.R.S. § 12-821.01*) and thus the trial court acted properly when dismissing the lawsuit. They believe that the “mailbox rule” does not apply to determine whether a document was “filed,” which usually applies when documents are mailed within the time permitted for filing, but are received after the deadline for filing has passed. They cited many cases to back their dissent.

The entire thirty-one (31) page opinion can be found at www.supreme.state.az.us/opin/pdf2008/CV070293PR.pdf

ARIZONA PROCESS SERVERS ASSOCIATION
2008 ANNUAL CONFERENCE
October 18th and October 19th



Embassy Suites Phoenix North

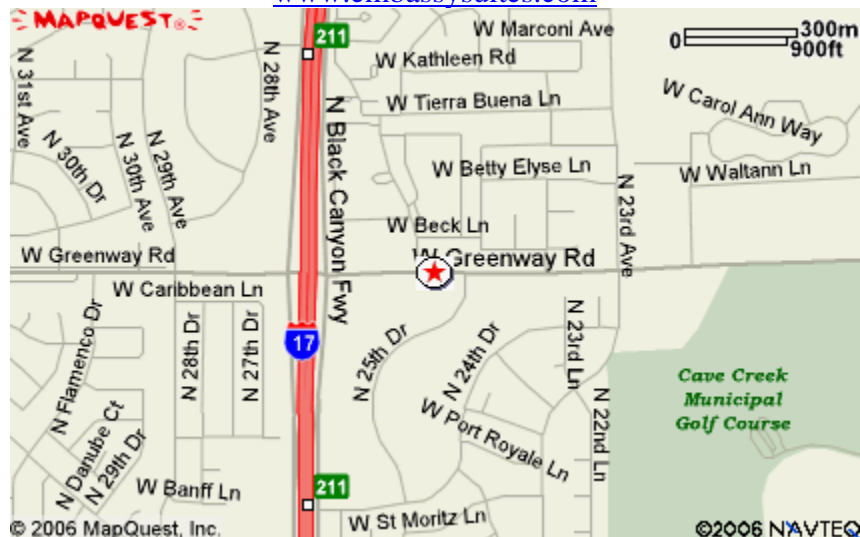
2577 W. Greenway Rd.

Phoenix, AZ 85023

Ph: (602) 375-1777 Fax: (602) 375-4012

King Room Rate \$135.00 (MENTION APSA!!)

www.embassysuites.com



**RECEIVE ALL 10 HOURS REQUIRED EDUCATION
AT ONE TIME - AT ONE STOP**

**ARIZONA PROCESS SERVERS ASSOCIATION
2008 EDUCATIONAL CONFERENCE AGENDA**

Saturday, October 18, 2008

7:30 AM - 8:00 AM	Registration for Morning Classes, Annual Meeting & Luncheon
8:15 AM - 10:30 AM	Service of Process on Indian Reservation
8:15 AM - 10:30 AM	Finding People & Assets (1 st Half)
8:00 AM - 11:15 AM	A.C.P.S. Full Course (1 st Half)
11:30 AM - 1:00 PM	LUNCH & ANNUAL MEETING
1:00 PM - 4:00 PM	A.C.P.S Full Course (2 nd Half)
1:00 PM - 3:15 PM	Finding People & Assets (2 nd Half)
1:00 PM - 3:15 PM	Map Reading

Sunday, October 19, 2008

8:00 AM - 8:30 AM	Registration for All Morning Classes
8:30 AM - 10:45 AM	Skills for the Proper Identification of Spanish-speaking Subjects & Special Communication Tools for contacting Spanish-speaking Households (1 st Half) Instructor Judith Costello from Northern Arizona University
8:30 AM - 10:45 AM	Condensed Renewal
11:45 AM - 12:45 PM	LUNCH BREAK
1:00 PM - 3:15 PM	Arizona Case Law for Process Server
1:00 PM - 3:15 PM	Skills for the Proper Identification of Spanish-speaking etc. (2 nd Half)

ARIZONA PROCESS SERVERS ASSOCIATION

2008 Educational Conference Registration Form
October 18th & 19th, 2008 @ Embassy Suites Hotels
2577 West Greenway Road, Phoenix, Az 85023

Name: _____ Company: _____

(Print it as you want it to appear on your continuing education certificates)

Address: _____ City: _____ State: _____ Zip: _____

Work #: _____ Cell #: _____ Fax#: _____

By making this application to the Arizona Process Servers Association, I understand that all materials provided in the courses are copyrighted. There are no refunds. I understand that these courses are not a substitute for registration and appointment with the Court under RCP (4), e, but are a symbol of my professional level within the legal community, and will count toward continuing education credit as required under the rules of the Arizona Supreme Court.

PLEASE NOTE: Per the Supreme court, only the ACPS course may be taken more than once in a three year renewal period. All other courses cannot be duplicated during this time frame.

PLEASE MARK THE CLASSES YOU WISH TO ATTEND, FILLING IN THE CORRESPONDING FEES:

(Early Registration Fee paid, prior to 9-15 will receive lunch included.**)**

Saturday, October 18, 2008 Seminars:

7:30 am- 8:00 am	Registration-Applicable for all Registrations-Non Refundable	\$ 25.00
8:15 am-10:30 am	Service of Process on Indian Reservation 2 Hrs	\$ _____
	(Member \$30.00 Non-Member \$60.00)	
8:15 am-10:30 am	Finding People and Assets 1 st Half 4 Hrs	\$ _____
	Must Attend Both Sessions (Member Price \$60.00 Non-Member Price \$120.00)	
8:00 am- 11:15am	A.C.P.S. Full Course 1 st Half 6 Hrs	\$ _____
	Must Attend Both Sessions (Member Price \$90.00 Non-Member \$180.00)	
11:30 am- 1:00 pm	LUNCH & ANNUAL MEETING	
1:00 pm-4:00 pm	A.C.P.S Full Course 2 nd Half	\$ <u>ABOVE</u>
	(Member \$30.00 Non-Members \$60.00)	
1:00 pm- 3:15 pm	Finding People and Assets 2 nd Half	\$ <u>ABOVE</u>
1:00 pm- 3:15pm	Map Reading 2 Hrs	\$ _____
	(Member \$30.00 Non-Member \$60.00)	

Sunday, October 19, 2008 Seminars:

8:00 am-8:30 am	Registration	
8:30 am-10:45 am	Skills for the Proper Identification of Spanish-speaking Subjects & Special Communication Tools for contacting Spanish-speaking Households 1 st Half 4 Hrs	\$ _____
	Must Attend Both Sessions (Member \$60.00 Non-Member \$120.00)	
8:30 am-10:45 am	Condensed Renewal 2 Hrs	\$ _____
	(Member Price \$30.00 Non-Member Price \$60.00)	
11:45am-12:45 pm	LUNCH	
1:00 pm-3:15pm	Arizona Case Law for Process Servers 2 Hrs	\$ _____
	(Member Price \$30.00 Non-Member Price \$60.00)	
1:00pm-3:15pm	Skills for the Proper Identification of Spanish-speaking Subjects 2 nd Half	\$ <u>ABOVE</u>

TOTAL AMOUNT ENCLOSED \$ _____

DEADLINE REGISTRATION: OCTOBER 1, 2008

NO REFUNDS AFTER DEADLINE

Please Include a \$25.00 Late fee if mailing later than October 1, 2008. If not included, it will be collected at class registration.

Make Checks payable to: **ARIZONA PROCESS SERVERS ASSOCIATION (APSA)**
Mail Registration to: **P.O. BOX 2233, PHOENIX, AZ 85002**

SIGNED: _____ DATE: _____

SOME IMPORTANT WEBSITES

Stay up to date with all legislative changes, including those that may affect process serving rules and regulations at the following website:

www.azleg.state.az.us

Process service related information that would be of interest for APSA members is available on our list serve. To join the list serve, send an email, with your name in the subject line to:

AZPSA-subscribe@yahogroups.com

**An auto-respond email will come back to you giving instructions on how to join.
This list will only be open to current members of APSA.**

Process Servers and Court Exchange Meeting dates, minutes and agendas can be viewed at:

www.clerkofcourt.maricopa.gov

Click on “Process Servers” under “Services”

**Supreme Court Process Server Program
can be viewed at:**

<http://www.supreme.state.az.us/cld/pps.htm>

A wealth of information including continuing education information

2009 DUES are due January 1, 2009
ARIZONA PROCESS SERVERS ASSOCIATION
Membership Application/Renewal Form

(Please list your address and telephone exactly as you want it to appear in the directory.)

Name: _____

Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Fax Number: _____

E-Mail Address: _____

Web Site Address: _____

Counties/Areas served: _____

ACPS Certified __ Yes __ No Member of APSA since _____

List me in the roster under the city of: _____

If you want to be listed under additional cities in the directory attach another application form and include \$15.00 for each additional city.

Please answer YES or NO to the following services you may provide in addition to the service of process:

- | | | |
|------------------------------|-----------------------------|-----------------------------|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Legal Messenger Service |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Skip Tracing |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Record Searches |
| <input type="checkbox"/> Yes | <input type="checkbox"/> No | Full Investigative Services |

P.I. License No.: _____ Expiration date: _____

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 state that I have no felony convictions and my license is current. **Please attach a copy of your license, front and back.**

I am applying as an out of state member _____.

Signature _____ Date: _____

Please enclose a check for \$50.00 made out to APSA, and mail to:
P.O. Box 2233, Phoenix, AZ 85002

**APSA
P.O. BOX 2233
PHOENIX, AZ 85002**

To: