

APSA FREE CLE Continuing Education for Members

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Next APSA Board Meeting is in May. Watch your e-mail for updates.

Website Update

APSA's website and Directory undergoes almost weekly changes. Please check your directory listing for accuracy. If you find anything in need of repair, please let us know by email at azserverassoc@gmail.com. Thanks!

What can *WE* do for *YOU*?

APSA is here for *you*, our member process servers. This is an organization dedicated to educating, informing, and advocating for our Arizona process servers. We do our best to provide the resources and information you need to be successful, and look to do more.

On an average day, the APSA telephone line gets calls from members, attorneys, and the public, fielding questions ranging anywhere from the "What if...?" to "I need a process server in (fill in area here)", and "Can you explain...". Lots of these calls come in on my personal cell phone, too.

APSA gets a daily digest of appellate rulings from our Court of Appeals, Supreme Court, and other courts for interesting and pertinent case law to read. We look at pending legislation and rule changes in how they may affect our members.

We look for new and interesting continuing education class material, especially on issues directly concerning process servers.

APSA is here to provide information and resources to our process servers and the public, and answer questions about the service of process, and

issues affecting you, our members. Let us know how we can serve you better.

APSA 2023-2024 Officers & Board Members:

Larry J. Ratcliff, President Direct: (928) 367-0510
John Osborn, Vice President (480) 821-1552
Barry R. Goldman, Secretary/Treasurer/Admin.
Ronald R. Ezell, Immed. Past Pres. (520) 631-3877
Nathan Botsch, Bd. Member (928) 864-5597
Kay Dean, Bd. Member (623) 670-9728
Susie Baldwin, Bd. Member (602) 920-1809

Member & Reader Comments

Nice issue this month Barry! Thanks for the good info on ID theft and where it can be targeted, as well as the definition of "Officer of the court". Very informative.

-- APSA Member, Tucson, AZ

Oh, the wonderful, colorful world of the process server



-Jamie Trevillyan

Service Questions... We Get 'Em

A process server writes, "I had a credit union manager yesterday refuse service of a Writ of Garnishment (Non-Earnings). The teller informed me that the credit union has a policy that all legal service of process is to be made to their statutory agent - CT Corporation System. After I objected, the branch manager confirmed this to be the case. Instead of drop serving - I opted to just note their response and let the attorney on the file direct me as to whether to serve CT Corp or drop serve the branch. After reviewing the statute this morning, it does appear to me that a bank garnishment CAN be served to the statutory agent (or even by certified mail) pursuant to ARS 12-1574(C)."

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Based solely on the information in your email, ARS 12-1577(B) addresses service to the statutory agent via certified mail. Subsection (A) covers personal service at a branch. As you probably are already aware, service of legal process cannot be "refused" by any person. However, as a credit union is an entity which has a statutory agent (most are corporations), service to that entity is addressed also under ARCP Rule 4.1(i), which covers personal service on an entity by service to the statutory agent.

ARCP Rule 4.1(i): *Serving a Corporation, Partnership, or Other Unincorporated Association*. If a domestic or foreign corporation, partnership, or other unincorporated association has the legal capacity to be sued and has not waived service under Rule 4.1(c), it may be served by delivering a copy of the summons and the pleading being served to a partner, an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process and--if the agent is one authorized by statute and the statute so requires--by also mailing a copy of each to the defendant.

Before serving a credit union or other financial institution, I look up the statutory agent and attempt service, there, whenever possible. Service at the branch level can be made, however, if the branch manager states he/she is not authorized to accept on behalf of the financial institution, it may be a different story when serving under ARCP Rule 4.1(i). There is another credit union that I have occasionally served by calling their writ department to make an appointment. I always include a \$25 search fee check, as well.

My suggestion is that if you are personally serving a financial institution, serve the statutory agent whenever possible.

More Computer Scams: Fake Chrome Updates Spread Malware

Posted: April 17, 2023 by Christopher Boyd

Compromised websites are causing big headaches for Chrome users. A campaign running since November 2022 is using hacked sites to push fake web browser updates to potential victims.

Researcher Rintaro Koike says this campaign has now expanded to also target those who speak Korean, Spanish, and Japanese. Additionally, Bleeping Computer notes that some of the affected sites include news, stores, and adult portals. The attackers are likely to be primarily targeting sites based on vulnerability rather than content served. As a result, it's difficult to predict where these bogus updates will appear next.

Read more here: <https://www.malwarebytes.com/blog/news/2023/04/fake-chrome-updates-spread-malware>

The Saga of People Who Appear in Court Then Deny They Were Properly Served Continues...

As most members know, I read the appeals court rulings sent to me daily. In the case of ROBERT CORONADO, Petitioner/Appellant, v. HOLLY CORONADO, Respondent/Appellee. (No. 1 CA-CV 22-0291 FC), the father showed up for a hearing, then filed an appeal claiming he was not properly served. The Court of Appeals ruled the Superior Court did not err by finding that father waived service by appearing in court. In its dicta, the Court of Appeals said:

“A party may accept service. A party may also voluntarily appear without being served.” Rule 40(f). A voluntary appearance occurs when “[a] party on whom service is required . . . , in person or by an attorney, enter[s] an appearance in open court. The appearance must be noted by the clerk on the docket and entered in the minutes.” Rule

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40(f)(2)(A). “[A]pppearance under subparts (f)(1) or (f)(2) [governing acceptance of service and voluntary appearance, respectively] have the same force and effect as if a summons had been issued and served.” Rule 40(f)(3).

Father argues that he did not receive service of Mother’s Petition to Permit Relocation, preventing him from filing a response within twenty days. But Father appeared voluntarily at the hearing after he received an email from his former attorney informing him of the hearing. Regardless of whether Father received the proper summons, he waived the issue of service by voluntarily appearing at the hearing. At the hearing, the clerk noted in the transcript the “in-person presence of Robert Coronado.” The superior court did not err by proceeding with the hearing.

Be safe and best wishes. The saga will continue...
-- BRG

Annual Report to NAPPS

Members, each year, NAPPS requires each state-chartered association to send an annual report in time for the annual conference. The following is APSA’s annual report covering 2022-2023.

Following from 2022, APSA, just like all other state associations, has continued to see the aftereffects of the pandemic and economic downturn. In Arizona, the process servers who are reported on the roster of the Supreme Court are a little over 400 statewide. That number is down from some 1,100 before the pandemic. Consequently, our membership, while remaining constant, has remained below our desired goal.

In 2023, APSA looks forward to bringing back in-person continuing education events, including our annual conference. However, caution is urged in spending our members’ money on event locations. With limited economic resources (we are not the government), APSA must remain vigilant and continue to be conservative in its fiduciary dues when it comes to spending our members’ dues. We must do so wisely.

In the past, this association has lost money at every conference and our mandate is not to do that any longer. Consequently, our association is looking for smaller and leaner venues to host our educational events.

APSA has continued to offer free continuing education events for our paid members, which we started in 2021. So long as the member attends the quarterly board of directors meeting, he or she will be eligible to attend a free continuing education event afterward for at least one hour credit. The Supreme Court will not allow our members to attend the board meetings and get continuing education credit for attending the board meeting itself, so we are hosting educational events after the board meeting is over. We are continuing to do so on a virtual platform.

APSA continues to remain a watchful observer as our legislature. So far, no bills in 2022-2023 have been proposed that would negatively affect process servers in Arizona. Our current legislative session is due to close at the end of April.

In our last report, we stated that APSA remained actively interested in the following issues:

- Making assault on a process server in Arizona a felony.
- Giving process servers in Arizona a trespass exemption.
- Allowing plaintiffs obtaining restraining (protective) orders (Orders of Protection;

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Injunctions Against Harassment) more leeway in utilizing a process server.

- We continue to be concerned, here. This is an ongoing and complicated issue, much having to do with the way the statutes for protective orders have been written and are administered on the local level. APSA has done its best to educate our members and those of the public who inquire about the service of these orders. While APSA had previously considered legislative action, in strong consideration of the financial interests of the sheriff, constable or city police have in the matter through federal funding of the service of protective orders (Violence Against Women Act), APSA will, for the time, seek to better educate those affected, including process servers.
- Making process server disciplinary records a matter of public record.
 - APSA has started to seed the process of making process server disciplinary records public through our Supreme Court.
- Changing our administrative code (ACJA §7-204) to allow for certain situations in the renewal process.
 - APSA has proposed administrative law changes to our Supreme Court in process server renewals and continuing education policies. At last report, these proposed changes were being reviewed and vetted by the Court's administrative staff attorneys.
- Regarding continuing education (Arizona process servers are required to take 10 hours of CE each year), ACJA §7-204 currently does not restrict those who present, author, or otherwise sponsor a continuing education course or event to be a current or retired process server, or have experience in the field.
 - The wheels of government grind slowly, so at this time, our association is holding on proposing any changes to the administrative code affecting continuing education providers.
- Previously, APSA notified the Arizona Corporation Commission (ACC) that it continued to improperly accept service of process directed to LLC's/PLLC's even though it has no statutory authority to do so. Sometime later, in direct response to our notice, the ACC posted a notice on their front door they are no longer accepting service on LLC's/PLLC's.
 - By the ACC declining to accept service, this action will prevent improper service on these entities, resulting in a defendant having already been adjudged liable successfully getting their judgment voided. To the process server, improper service opens him/herself to a civil liability claim of abuse of process and disciplinary issues related to unprofessional conduct.
- APSA previously notified the court clerks about conflict issues in serving eviction cases, such as setting trial dates shorter than those mandated by statute. It appears (from the lack of complaints by our members) that most clerks are complying with the statute.

APSA continues to educate and protect the interests of process servers in Arizona.

A fairly new issue has cropped up with our constables (one of the three persons authorized to serve process in Arizona). It seems that at least one out of state-based attorney service (not an APSA nor NAPPS member) and collections agency law firm is bypassing utilizing process servers for economic reasons. These organizations can well afford to pay for a private process server. The constable is a taxpayer-supported

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elected official (whose fees are under the market norm), allowed to serve papers emanating from the justice court, and given to him/her by a “competent authority” (i.e.: the plaintiff/defendant or other litigant in the case, their attorney, or the justice of the peace). APSA will work with the constables to counter this infringement on the economic interests of the public, private process servers in general, and our members, in particular.

Additionally, APSA recently found another attorney service operating from out of state sending Arizona papers back to process servers in Arizona. Our trademarked logo was found on their website. The owner of the attorney service, who was difficult to track down behind his answering service, multiple virtual mail drops, privatized domain listing, and toll-free blind numbers, was finally contacted. The Better Business Bureau has an “F” rating for this firm. He claimed his firm “is” an APSA member, however it is not. The former associate membership for another person (former employee) with that firm expired some years ago. After some discussion, that owner and his company were sent a cease-and-desist letter from APSA. Another state-chartered association was sent notification of this infringement, as their logo was also found on this operator’s website.

APSA members have not only faced competition from unscrupulous out of state attorney services, but the same within our own state. What we are finding is the owners/operators of these attorney services are not process servers in Arizona, and while our process servers must qualify to do business in the state, these paper brokers do not. Consequently, our board and administrator have been discussing and drafting appropriate measures to insure that unscrupulous operators are kept out of Arizona.

You are welcome to contact me directly at (623) 640-0602 should you wish to discuss this or any other matter.

Very truly yours,

For Larry J. Ratcliff, President
BARRY R. GOLDMAN
APSA Administrator

Besides Continuing Education, APSA has your back! We do a lot behind the scenes. There are a lot of things that you don't necessarily see APSA doing unless it directly affects you.

Welcome New APSA Members!

Mike Cobb
MAD TM LLC. dba Mad Process Serving
4006 Morning Crest Way
Kingman, AZ 86409
928-727-9728
mrcobb@frontiernet.net
Member Since: 2023/04/17
Member Type: 2023 Regular Member
Service Areas: Mohave County
Service Types: Service of Legal Process, Record Searches/Legal Document Research, Legal Document Copy/Scanning Service