

# ARIZONA PROCESS SERVERS ASSOCIATION NEWSLETTER

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## President's Message

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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.



### Larry Ratcliff, President

2012 has been a busy year thus far. I have made numerous trips to the Arizona State Capital and the Phoenix Area promoting our association and making new valuable contacts with other organizations.

As you may be aware we have renewed our relationship with the Arizona Association of Private Investigators and made new friends in the Clerk of the Court Association, Arizona Sheriffs Association, Maricopa County Deputies Association, Arizona Association of Chiefs of Police, Arizona Constables Association and Arizona Peace Officers Standard and Training Board (AZ POST).

Although we were unable to see our Assault bill become law, we have made numerous contacts with these associations and hope that in future efforts we can assist each other in our common goal of being seen as a professional association with professional and reliable members.

Several APSA members attended the NAPPS conference in Boston this year. We all made numerous contacts that hopefully will be able to further our endeavor in providing valuable training and assisting us in our legislative process.

As many of you know by now, our annual conference is scheduled for September 21, 22 and 23<sup>rd</sup> at the Crown Plaza Resort in Phoenix, Arizona. This year we ►



## Secretary's Corner

Patti Chlebanowski, Secretary

Dear Members:

I want to thank all of you who have reached out to me with your thoughts and prayers to my family in the passing



of my father. I cherished my father as a child, mentored and had him as a boss for 39 years of my adult life and I will think of my friend, father, boss & mentor every day as I walk into Frontier my Private Process Service and celebrate his 50 years in the passing business.

Due to the circumstances of my situation, I will no longer be handling the newsletter and I have passed my baton to Barry Goldman. I am sure he will write an Editors Corner to introduce himself to you all. I have loved doing the Newsletter. ►

## President's Message (cont'd)

will be inviting all of the above mentioned associations to attend our conference and hope many of them will attend.

This September, we will be having our annual meeting. During this meeting there are several items that need your attention and votes as members. Please plan on attending so that you can have a voice on what is going on and what will happen.

Some of the items that need your attention as members are the elections of officers. As per our bylaws I have served three terms as your Association President and therefore I cannot run for re-election. However, I will be attending board meetings for one year as the past president in order to provide advice and information on past actions.

As well as the President, all other positions on the Board will be open for election. One of these positions is the Secretary which is currently filled by Patty Chlebanowski. Patty has served as Secretary for numerous years and has been a valuable asset to our association. Due to family matters, Patty will be unable to continue to perform the duties of Secretary this year and we will need a

"go getter" to help us in this position although Patty,

herself will never be able to be replaced.

Vice President Jenna Jones is a valuable asset to our association and is very knowledgeable in legislative issues. Although it is possible that her job may provide to be a conflict with the President position I would encourage everyone to convince her to run again for the position of Vice President.

Wayne Chlebanowski is our current Treasurer and Administrator and has performed a tremendous job with little thanks. Wayne will also not be running this year so that he can help his lovely wife Patty with her family matters.

Ron Ezell, Tom LaVance, Efrain Sotelo and Luis Figueroa are your Board Members who have been serving faithfully and all have provided much needed assistance and input into our organization. These people deserve your thanks and appreciation as they have put in many hours of work and travel at no compensation to assist with our Association. I hope that all of them will continue to be a part of association and consider running again for various Board positions.

Although not an official Board

Member, Barry Goldman has been the APSA voice to the Supreme Court and liaison with various other professional associations. His input and assistance in the proposed rule changes is very much appreciated and performed in an upmost professional manor. Barry is also a valuable asset to our association and is currently our new newsletter chairperson and editor. I want to take this opportunity to personally congratulate Barry on the new look of our new newsletter.

As you can see this is your association made of our members and fellow process servers. We are not sponsored by or funded by any others. We are self supporting. We encourage you to get involved and be a part of your association and support the members of the Arizona Process Servers Association.

### 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!**

## Secretary's Corner (cont'd)

I will not be running for the Secretary position this year. I am **ASKING ALL MEMBERS** who can help with a position of the Association to step up to the plate.

I have worked on this board for consecutively about 15 years. I feel this is a great opportunity for me to step down and again pass my baton to another worthy member this fall. Please consider a position on the board.

## Editor's Column

*Barry R. Goldman*

With the blessing of our Secretary, Patty Chlebanowski, I have taken over as Editor of the *APSA Newsletter*.

For some members, the *APSA Newsletter* is the only source of news they may receive about APSA and process serving, in general. While the *APSA Newsletter* isn't intended to be a one stop shopping source for news about process serving, we do intend that it gives our members news and information they can use.

We have a new look and format. We'd like to hear from you about what you want to see. New columns are being planned for

including a column entitled, "Ask the Board", where APSA members can have their questions answered by a Board member.

This edition's guest article is entitled, "Serving at the Business End of a Gun" by APSA member John Osborn. This year was pretty busy for APSA, in working toward getting an assault bill and rule changes passed. We start the "Legislative Beat" column discussing these matters.

So, read on. Questions or comments? [editor@apsanews.org](mailto:editor@apsanews.org)



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# The Legislative Beat

APSANews.com staff

In our initial Legislative Beat column, we bring news of our efforts to get an assault bill and rule changes passes.

With the assistance of our lobbyist, Joe Abate, APSA presented language to amend ARS §13-1204 to include Process Servers in persons for whom an assault committed against them would be a felony.

While the bill passed on the Senate, it ultimately did not pass out of committee in the House.

Consequently, although a valiant effort was made by the Board and Mr. Abate, sadly, Process Servers in Arizona still do not have the status of a person listed in ARS §13-1204.

Mr. Abate will be making a presentation on our legislature during the conference.

On another note, APSA has put forth efforts to change some of the rules for service of process through the Supreme Court. Rule 28 of the Supreme Court allows for changes to be proposed once each year. The proposed changes must be submitted by January 10th of each year. At the time of this writing, our proposed rule change (R-12-0008) includes the following:

1. Clarifying that service where a person may be subject to an arrest warrant or charged with contempt must be effected personally;
2. Defining “suitable age” as a person who is or appeared to be at least 15 years old when making substitute service at a residence;
3. Where entry for service of process is denied at a community by the gate guard, substitute service will

be allowed by leaving the process with the guard;

4. Allowing substitute service at a place of business, including a commercial mail receiving agency (private mail drop).

Rule 28 mandates that the Supreme Court allow for public comment. Unfortunately, at the last minute, objections were filed by the State Bar and other persons. Those objections have been answered, and a formal response and amended Petition will be filed by APSA. The Court will take up the rule changes and announce a decision in September.

The rule change Petition can be viewed at: <http://azdnn.dnnmax.com/AZSupremeCourtMain/AZCourtRulesMain/CourtRulesForumMain/CourtRulesForum/tabid/91/forumid/2/postid/1643/view/topic/Default.aspx>

# My First Teaching Experience

Barry R. Goldman

In his inaugural address, President Franklin D. Roosevelt said, “...the only thing we have to fear is fear itself...”. While this quote is inspirational, I have found it to be very true.

Getting up in front of an audience, no matter how large or small can be a daunting task. Needless to say, my first time doing any public speaking since my college days in the 1980’s came the last weekend in March when I taught the ACPS and *Finding People & Assets* courses in Bullhead City.

Standing in front of a group of about a dozen students to do a presentation was a very rewarding experience. There was a variety of students in the class, both with and without experience. One of the students was a local constable who brought his daughter to introduce her to the world of process serving. Rather than present the classes from a book, I used a PowerPoint slide show and engaged the class in discussing the topics. The class discussion was lively, and for the most part remained on topic. My

greatest concern was that everyone understood the subject matter to pass the ACPS exam. To that extent, the majority (8) passed the exam.

The *Finding People & Assets* class is so new that the majority of the material was on the slide show, and almost entirely discussion. I would like to thank all who participated. I can’t say enough about the positive input received. It was a most rewarding experience. I recommend every APSA member take a shot at teaching a class.

## The Issue of this Issue

In this edition, our guest writer, John Osborn ([www.asapserve.com](http://www.asapserve.com)), brings us his experience in serving legal process with a defendant who pulled a firearm. Those of us with firearms and/or law enforcement

experience may have been in the position of dealing with such situations. Writes Shannon Baldrige: “It’s no secret: the world is a dangerous place. That being said, it’s important to be aware of your surroundings, especially when in unfamiliar territory, if you wish to defend yourself...”. We hope that each Process Server understands



<http://guymanningham.com>

his or her surroundings before exiting the vehicle to make the serve. Stay safe, and be well.



## Serving at the Business End of a Gun

*John Osborn, Guest Writer*

I had my first gun pulled on me the other day. I was serving an injunction that arose from a business dispute. The parting words from my client were “stay safe”, as I accepted the documents and went to serve. Upon reflection, the client probably knew what the defendant was capable of, but at the time I took it as a casual goodbye.

After I found the subject’s residence (my GPS couldn’t, but that’s a topic for another day), I scouted the location. It was a one way in/out neighborhood, so after making sure I was parked for a quick exit, I made my approach. As I was walking towards the door, there were two signs letting passers by know the residence was monitored by surveillance cameras. I really expected to get another “no answer” logged onto my worksheet. After

ringing and knocking, I heard a voice saying “Who’s there”. I replied, “Hey Danny, it’s me...”. I had the name of the subject as Daniel Thomas XXXXXX, little did I know he went as Thomas or Tom.

He attempted to prove he wasn’t the subject in question by showing me his driver’s license with the name Thomas XXXXXX. He would not open the front door, so we had our conversation thru a six-inch wide window to the side of the door. When he showed me the license, I laid the documents at the foot of the door and told him he was served. With his other hand he produced a semi-automatic pistol, pointed it at me thru the window and said “I have a 9mm that says otherwise”.

Needless to say, I got out of there, and when I got two blocks away, I called the Phoenix PD.

These guys were real pros. They took up tactical positions on all sides of the house. The sergeant, knowing a weapon was pointed at me, risking his life, rang and knocked like we all do. The subject wouldn’t come out of the house, and the PD didn’t want to go in.

I picked out the defendant from photo line-up the next day, and the officer said they were going to seek a warrant. I’m going to let the system work and if called to testify, will gladly do so. I may have added a couple of more hours to my evening, but hopefully this wacko will learn his lesson.

I’m not sure if I would or could have done anything any different. You just never know how people will react.

(John can be reached at [www.asapsolve.com](http://www.asapsolve.com).—Ed.)

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 APSA CONVENTION  
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**APSA**

## George Joseph Demyan



### Demyan, George Joseph

96, of Phoenix, passed away on April 17, 2012. He was born on November 24, 1915 in Bridgeport, Connecticut to Joseph Demyan and Mary Sepelak. He has lived in Arizona for 56 years. Before retiring he worked as a machinist, submariner, and was the owner operator of Frontier Private Process Service. George served in the [US Navy](#) during [WWII](#). He was a member of American Legion Post #4 in Phoenix and the Lions Club. He played on a AAA baseball team, watched the Phoenix Suns, and built 2 beautiful homes by hand. George is preceded in death by his daughter Cindy Demyan. He is survived by his loving wife of 69 years Irene, daughters; Dawn Peace (Tom) and Patty Chlebanowski (Wayne), grandchildren; Sarah Lucas, Georgette Evers (Jason), Troy Abercrombie, great grandchildren; Roger Abercrombie and Lana Abercrombie, and granddogs Otis and Tanner.

Donations can be made to [Hospice of the Valley](#), 1510 E. Flower St. Phx, AZ 85014.



## Process Servers Quarterly Meeting Results for April 10, 2012

The Maricopa County Clerk of the Court, Michael Jeanes, hosts a quarterly meeting for Process Servers, his staff, and interested persons. This past meeting, held at the Downtown Justice Center, located at 620 W. Jackson St., Phoenix produced the following results, as reported by the Clerk of the Court:

### Process Server ID Cards

Maricopa County has the equipment to make the cards, but the equipment is not functional at this time. The actual date will be up on the website. If up for renewal, individual will receive a new card. If not up for renewal, it will cost \$26, and cost is set by statutes. Pima and Maricopa are the only counties with the equipment at this time. Wording on the card will clarify that the holder is permitted to serve throughout the state of AZ. (Update: As of May 15th, the new digital ID cards are available statewide. See related item.—Ed.)

The Civil file counter has been moved, and now shares space with Family Court. Realization that space is restricted, but counter staff are being cross-trained, so all clerks will eventually be able to accept either case type. This is also preparation for opening of new counter service area.

### Justice Court Information

A question about the installation of outside filing boxes was raised and answered by John Reynolds of the Justice Courts. Mr. Reynolds reported that outside filing boxes are available only at the Northeast Justice Courts because it was part of the construction plan. He reported that there is "Hope for future filing drop boxes." However, he also reported the number of case filings continues to drop. The 26th District Court will be renamed Country Meadows, and Estrella Mountain will be White Tank Justice Court. Both changes are scheduled to occur Jan. 1, 2013. E-Filing continues at Northeast, and North Mesa is next in line for pilot program. It will

hopefully expand more quickly after this.

### Confidentiality of Server Data

A question was raised about the confidentiality of Process Server applications/renewal information, and the Clerk reported the information is NOT sent or sold to marketers.

### Changes to ACJA §7-204

Nancy Swetnam announced that her office is proposing some changes to the statute regulating Process Servers. (See story and interview on next page.)

The next *Court & Clerk's Exchange Meeting* will be held on Tuesday, July 10, 2012 at the

### Florida Man Holds Process Server at Gunpoint

A man holding a process server at gunpoint told deputies at the time of his arrest that he was doing so on the advice of his attorney.

The link story can be found here, from TCPalm.com: <http://www.tcpalm.com/news/2012/may/10/hobe-sound-man-accused-of-holding-process-server/>

## CHANGES TO ACJA §7-204 PROPOSED BY SUPREME COURT PERSONNEL

Nancy Swetnam, Director of the Licensing & Certification Division of the Administrative Office of the Courts reports that an amendment is under way to place all instruction and guidelines for licensing, compliance and discipline of servers under one rule. The amendment would take wording from ARCP Rule 4 regarding certification and place the language in in ACJA §7-204. Also, under the proposed amendment, provisional certification would no longer allowed, requiring the Process Server to have been issued permanent certification to serve legal process. Changes are also being made to prevent the avoidance of continuing education and a change to the Code of Conduct will reflect that a server cannot bear any semblance in appearance or belief to being a police officer.

In a telephone interview on May 14th, Swetnam said that the Code of Conduct was "...meant to provide direction to process servers". She further stated that the proposed changes, in particular that a server "... cannot bear any semblance in appearance or belief to being a police officer" are meant to mirror ARS §32-2451, which states:

Impersonation of a public officer: display of identification

A. No licensee, associate, registrant or employee of a licensee may wear a uniform, use a title, insignia, badge or identification card or make any statement that would lead a person to believe that he is connected in any way with the federal government, a state government or any political subdivision of a state government unless he is authorized by proper authorities to do so. No badge of any type may be used, shown or offered as identification in conjunction with the identification card or independently.

B. A licensee or registrant, on claiming to be a private



investigator, shall display the identification card issued by the department to such persons as may have reasonable cause to verify the validity of the license or registration. The licensee or registrant shall display the identification card for a reasonable period of time for the requester to verify the information on the identification card.

Swetnam further stated "As a process server, you cannot lead a person to believe that you are a police officer. It's all about presenting the correct impression that what your status is."

Other changes to ACJA §7-204, according to Swetnam are being written to reflect the "best practices" identified in ACJA §7-201. The other changes proposed are dropping the age of certification to 18 years, with a high school diploma or GED required of the applicant, removing the residency requirement, specifically to allow out of state border residents (i.e.: those in Laughlin, NV) to become Arizona Certified Process Servers, and removing the provisional certification allowance.

The failure of some Process Servers to maintain their continuing education is a problem, according to Swetnam. She said that steps are being taken to write rule changes that would disallow Process Servers who fail to maintain their annual continuing education from letting their

*APSA News Staff*

certification expire and then retaking the examination as a new applicant. She also said that certain provisions are being added to prevent Process Servers from conducting any advertising while serving legal process, such as what are in the Florida regulations pertaining to service.

On the subject of complaints against Process Servers, Swetnam said that complaints are not a competency issue, but an honesty issue. She said that a provision in the ACJA §7-204 contemplated would add a candor requirement. She said that certain complaints filtered are due to a failure to disclose material facts, in particular a failure to make a proper reporting of service, as reported to her by the limited jurisdiction courts. Under §7-204, Swetnam said that although courts are to provide information to her office on discipline, the challenge is that discipline occurs locally, and that any efforts to analyze disciplinary records must be obtained by local court information. She said that she has looked through complaints but not discerned enough of a pattern in them.

Swetnam said she wants feedback on changes to the code of conduct from the association. Pertaining to her procedures and authority, "We have very clear direction", she said. "These are proposals. Once it's up for public comment, that's the time for additional comment, review, and discussion." In explaining the process to institute rules changes, "I have never done one that was done without amendments as it moves through the process. It is meant to be a collaborative process. This is the opportunity to be raising issues."

All of the changes will be up on the Supreme Court website for public comment.

*(Source: Court & Clerk's Exchange Meeting Minutes, April 10, 2012; telephone interview w/ Nancy Swetnam)*

# News You Can Use

APSANews.com staff

## PIMA COUNTY TESTING

Alan A. Walker, Pima County Private Process Server Program Administrator has informed APSANews.com that certification testing for Pima County is administered at the Pima County Superior Court Building, 110 W. Congress Street, Room 131-A.

"The test is administered in the Civil Department of the Clerk of Superior Court at 110 W. Congress Street, Room 131-A of the Pima County Superior Court Building (NW corner of Congress Street and Church Avenue. Applicants must pre-register by calling 520-724-3282 no

later than 5:00 PM on the business day before the examination date. On the day of the examination, applicants must check in at the filing counter in Room 131 NO LATER than 8:30 AM. The examination is given immediately upon completion of check in. There are several public parking garages within walking distance of the Superior Court and limited on street parking available. Process Servers should allow extra travel time for traffic congestion due to construction on I-10 and in the downtown area due to the Modern Streetcar Construction."

(May 11, 2012)

## Coming to a Justice Court Near You!



The Maryvale Justice Court has instituted a "No Cell Phones" policy. Rules in other courts restrict the use or possession of cell phones in the courtroom, however, the Maryvale Justice Court has banned cell phones from the entire facility. Security tells your editor that when the other Justices of the Peace pick up on this policy, they are expected to follow suit.

Be prepared to leave the phone in the car, APSA members.

## Digital ID Cards Available

Per Nancy Swetnam, digital process server ID cards are available in all counties as of May 15th. Currently, Maricopa and Pima counties are set up and appointments are available. In Maricopa County, "Effective May 1, 2012, the Maricopa County Clerk of Court will be providing the newly designed, digital process server's identification card.

"New process servers will be issued this card upon approval by the Presiding Judge. Existing process servers whose cards have not yet expired may receive the new card upon providing the \$26 replacement fee or they may continue to use their current card until it expires. Issuance of the new I.D. cards is by

appointment only. Please contact the Process Server Coordinator at 602-506-1909 to schedule your appointment."

Process Servers in other counties should contact their Clerk of the Court. Thanks to Clerk Michael Jeanes and Deputy Clerk Mary Young in Maricopa County for providing the sample images, below.



## Parents Forced to Evict Adult Children

A growing number of parents are evicting their children after they move back home, according to a story on Denver's 9News.com.

Per 9NEWS Legal Analyst Scott Robinson, "No matter how harsh it sounds, you can't just call the police. You have to file an eviction..."

Evictions in Arizona are covered by the Arizona Residential Landlord and Tenant Act. No information was available for family evictions in Arizona at the time of this writing.

(Source: <http://www.9news.com/news/article/267106/339/My-house-my-rules-Not-any-more>)

## NAPPS Elects 2012-2013 Board Members

The 2012 NAPPS convention in Boston concluded with association networking and legislation as the pillars of importance for the convention, NAPPS members elected the Board of Directors for the 2012-2013 calendar year, including

Larry Yellon (Pres.), (2nd term) Bob Musser & Eric Vennes (1st & 2nd V. Pres.), Lance Randall (Secy.), Ron Ezell (Treas.), and directors Andrew Estin, Steve Glenn, Jillina Kwiatkowski and Ruth Reynolds. APSANews.com sends congratulations & best wishes, all.



## OPINION

APSA News Editorial Staff

### **Opinion: Looks Like a Cop, Smells Like a Process Server**

On its face, by the minutes posted from the Clerk of the Court meeting on April 10th, the newest proposal by the Licensing and Certification Division of the AOC would have Process Servers who have a "semblance in appearance or belief to being a police officer" violating the Code of Conduct.

While we have not examined the wording of the proposed language (as it has not been released), an extensive interview was conducted with Nancy Swetnam about the proposed language.

While we do not condone a Process Server dressing up in a uniform, possessing or displaying a badge, or taking other steps to impersonate a peace officer, the information released on the proposed language appears to impose a duty on the Process Server to make sure that the person being served had the presence of mind not to interpret his or her appearance as anything but a Process Server.

In all fairness, Ms. Swetnam stated, "As a process server, you cannot lead a person to believe that you are a police officer. It's all about presenting the correct impression that what your status is." However, that impression is often times subjective.

As the "bearers of bad news", we cannot simply knock on someone's door and expect them to be "nice". We must retain control of the situation and never let the person being served be in a position of doing harm to us. Sometimes maintaining control will mandate a certain "officer presence" when making contact with a defendant. Many times this "officer presence" is the result of the Process Server's general appearance, former training, demeanor or approach to

the person being served.

Accordingly, the Process Server should not be made at fault for what is in another's mind.

While Ms. Swetnam cites the provisions in ARS §32-2451, there is already an existing statute on the books (ARS §13-2411(A)) which states, "A person commits impersonating a peace officer if the person, without lawful authority, pretends to be a peace officer and engages in any conduct with the intent to induce another to submit to the person's pretended authority or to rely on the person's pretended acts."

While we appreciate the efforts of the AOC to utilize a "best practices" approach in establishing rules and regulations, we believe the issue is already covered by existing statute. The AOC would do well to review existing ARS §13-2411(A), and ACJA §§H.1.a.(1) and H.1.a.(8), wherein Process Servers are already prohibited from any "Wilful violation of or wilful noncompliance with a court order, any court rule, Arizona law, or this code section", and "...making a statement that would lead a person to believe the certificate holder is an employee of the federal government, state government or any political subdivision of state government unless authorized by proper authorities to do so".

The APSANews.com editorial staff objects to any language that would impose upon the Process Server the onus of responsibility in making sure that the person being served had no "belief" that the Process Server was a peace officer, especially when such a "belief" may only surface later when the defendant is attempting to challenge a valid service and an unwarranted complaint against the Process Server is filed.

Existing statutes are in

place. Let's work together to educate the Process Server on the existing rules, regulations and statutes and leave the field work to persons with practical field experience.

*(Disclaimer: This opinion is that of the editor, and does not represent the official opinion APSA.)*

### **Mississippi Mayor Found Guilty of Assault on Process Server**

Mendenhall, MS. (WAPT.com) Mendenhall Mayor Steve Womack has been found guilty of misdemeanor assault on Process Server Donald Rankin. Judge Marvin Jones ordered Womack to pay a fine of \$485.

Rankin was also charged in connection with the incident, but he was found not guilty of trespassing, court officials said.

*(Source: napps.org)*

### **Unhappy California Looks at More Court Funding Cuts**

Sacramento, CA — State judicial leaders warned Monday that the proposed cuts for the California courts may jeopardize public access to the justice system.

During the last three years, the state's huge court system has been cut by \$650 million. The new proposed budget would shrink the system by another \$544 million, freezing construction to replace dilapidated courthouses.



California Chief Justice Tani G. Cantil-Sakauye said, "The proposed cuts to the judicial branch are both devastating and disheartening," quoted in the Los Angeles Times. "They will seriously compromise the public's access to their courts and our ability to provide equal access to justice throughout the state."

*(Source: <http://latimesblogs.latimes.com/lanow/2012/05/california-budget-cuts-courts.html>)*

**APSA**



**1. Duties to Clients, General Public, Legal Entities**

All work shall be performed in a professional and ethical manner. Nothing shall be done which would impugn the position or name of this Association or its members or the process serving industry. Everything possible shall be done to protect the rights, interest and confidentiality of clients, entities being served and the legal profession as a whole.

**2. Licenses, Permits, Bonds, Other Requirements**

Each member agrees to comply with and keep current during the tenure of his membership all necessary business licenses, bonds, permits and any other requirements mandated by the city, county, and/or state in which the member conducts business.

**3. Exchange Work**

Each member agrees to handle work sent to him by another member in a professional and ethical manner. It is unethical for a member to contact another member's client unless specifically directed to do so. A member should never quote his rates to another member's client.

**4. Proofs of Service, Not Found Returns, Other Reports**

All documents shall be returned timely upon completing the work order. Each member shall comply with all instructions given by the forwarding agency. If a proof of service is provided by the sending party, it is mandatory that the serving party use that proof and fill it out in the manner requested.

**5. Financial Responsibility**

Each member agrees to promptly pay for services rendered by another member unless other specific arrangements have been made. A member, who is not an owner of the firm for which they work, is responsible for the ethical conduct of the firm for which they work.

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

**Member ID Cards & Other APSA Board Meeting News**

APSANews was present at the APSA Board of Directors meeting held on May 19, 2012, during which several issues were discussed.

President Larry Ratcliff was present by telephone, with Patty and Wayne Chlebanowski, Ron Ezell, Efrain Sotelo, Tom LaVance, Luis Figueroa in attendance. Absent due to other obligations was Vice President Jenna Jones.

Discussion was held about APSA recruiting efforts, the revisions currently being made to the website, our legislative and rule change efforts, and other issues.

President Larry Ratcliff presented his report, and spoke about the NAPPS conference and c o n t a c t s made there.



It was noted that there were several APSA members in attendance at NAPPS.

Mr. Ratcliff also briefed the Board regarding a training video project to be made over this summer in conjunction with AZ POST. The training video will detail the relationship between peace officers and Process Servers, especially APSA members. It is hoped that upon completion, AZ POST will mandate that all Arizona peace officers watch the training video as part of their continuing education requirements.

Quite a bit of time was spent discussing the upcoming conference in September. There are several course offerings to be presented, including one by our lobbyist, Joe Abate, on grass roots lobbying.

Per member request, the Board approved the issuance of a Member Identification Card for APSA members (both Process Server and Associate members). The details are still to be worked out, but the new ID card is expected to be unveiled at the conference in September.

The new APSA Member ID cards will provide members with a common method of identification at APSA functions, and, once more officers have seen the APSA-AZ POST training video, should credibly identify the member when coming into contact with law enforcement. These are not intended to replace the state ID cards.





**BYLAWS  
of the  
ARIZONA PROCESS SERVERS ASSOCIATION**

Article I - NAME:

This Association shall be known as the Arizona Process Servers Association, hereinafter referred to as APSA.

Article II - PURPOSE

To promote and upgrade the process serving industry through the following objectives:

- Section 1 Promoting any legislation and rule changes which will help the industry.
- Section 2 Combating legislation, which may harm the industry.
- Section 3 Creating and maintaining a moral and ethical standard for the industry.
- Section 4 Improving relations between the industry and the legal community - attorneys, judges, clerks and officers of the court - and the general public, statewide and nationally

Article III - MEMBERSHIP

- Section 1 Membership in the Association shall be open to all persons who have been directly or indirectly affiliated with the profession of process serving. Membership is approved on an individual basis and is not transferable.
- Section 2 All applications for membership must be completed in full on a form approved and provided by the Association. Each application must be accompanied by one year's annual dues plus a non-refundable application fee as prescribed by the Board of Directors.
- Section 3 Classes of membership and requirements for membership shall be defined by the Board
- Section 4 Membership shall not be granted to any person who has been convicted of a felony unless such conviction was officially pardoned or the record of same has been expunged, or their civil rights restored. In addition, membership shall not be granted to any applicant who has had their license, permit or right to serve process revoked by any issuing authority



- unless said revocation has been pardoned or expunged, or had their civil rights restored
- Section 5. No person shall be denied membership because of their race, color, sex, or ethnic origin
- Section 6. Membership may be suspended or terminated by the Board for violations of these Bylaws, Policy Manual and/or the Code of Ethics.
- Section 7. Termination of membership shall be effective thirty (30) days past the due date for annual dues.

#### Article IV - DUES

- Section 1. The annual dues shall be determined by majority vote of the Board of Directors and shall remain in effect until changed
- Section 2. The fiscal year covering the payment of dues shall be Jan 1 to Dec 31 each year

#### Article V - ELECTION of OFFICERS and DIRECTORS

- Section 1. The officers shall consist of a President, First Vice-President, Second Vice-President, Secretary and Treasurer. Term of each officer shall be one (1) year.
- Section 2. No member shall be eligible to be an officer until they have been a member for two years
- Section 3. No member shall be eligible to be a director until they have been a member for one year.
- Section 4. The immediate past president shall serve one year on the Board of Directors
- Section 5. Three (3) directors shall be elected unless the current president is re-elected, in which event four (4) directors shall be elected.
- Section 6. 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 of total votes received. Majority vote shall not be required. No proxies shall be allowed
- Section 7. No member shall hold the office of President for more than three (3) consecutive terms.



Section 8. A vacancy in any office or directorship shall be filled by the Board of Directors

Article VI - DUTIES of OFFICERS

Section 1 The administration and management of the association shall be controlled by the Board of Directors consisting of the officers and directors. They shall have the authority to do any and all things necessary for the administration of APSA. Decisions shall be reached by majority vote of the Board of Directors members present. No proxy voting shall be allowed.

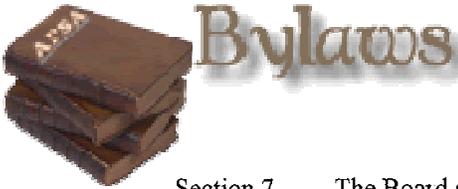
Section 2. The President shall preside at all meetings, shall make all appointments that are deemed necessary to run the association, and shall submit at the annual conference an annual report describing programs and Board actions.

Section 3. The Vice-President shall perform the duties of the office of president whenever the President is unable to do so.

Section 4 The Secretary shall cause to be recorded the minutes of all Board meetings and the annual conference.

Section 5. The Treasurer shall be responsible for carrying out all fiscal policies and procedures adopted by the Board; shall be responsible for preparation of financial statements and presentation of these to the Board at each meeting; and shall submit a written annual report to the annual conference.

Section 6 A petition, signed by signatures representing fifteen (15) percent of the total votes eligible to vote at that time in the Association requesting the holding of an election for the purpose of recalling a member of the Board or any officer, may be filed at any time with the Secretary. If recall is for the Secretary, the petition shall be filed with the President. After verification of signatures, the President shall certify the petition and immediately direct a ballot be mailed to each member. The ballot shall read as follows:  
 shall --name of director -- be recalled?  
 yes \_\_\_\_\_ no \_\_\_\_\_  
 A "yes" vote shall be counted as for the recall and a "no" vote shall be counted as against the recall. Only members in good standing shall be entitled to vote at such elections. Such a recall shall require two-thirds affirmative vote of executed ballots received by the Secretary or President within fifteen (15) days. If the recall is successful the Board may fill the vacancy at its next meeting.



Section 7. The Board shall adopt procedures for arbitration and grievance. All members are bound by the arbitration and grievance procedures as adopted by the Board.

#### Article VII - MEETINGS

Section 1. An annual conference shall be held. Officers' reports, committee reports and any new or old business as the membership sees fit will be discussed at the meeting.

Section 2. Board meetings shall be called by the President. A board meeting must be called within thirty (30) days if requested by three (3) members of the Board, or if petitioned for by a majority of the members. The membership may be notified of all regular Board meetings.

Section 3. Meetings of the Board may be held by mail or telecommunications.

Section 4. Members shall be admitted to all meetings and conferences except executive sessions. Non-members may be admitted to all meetings and conferences unless disapproved by a majority of the members present. Only meetings involving the personal affairs of any individual may be held in executive session.

Section 5. The latest edition of Robert's Rules of Order shall govern the conduct of all meetings.

#### Article VIII - BYLAW AMENDMENTS

Section 1. Proposed bylaw amendments must be submitted to the Secretary sixty (60) days prior to the date of annual conference and published to the membership not less than thirty (30) days prior to the annual conference.

Section 2. The bylaws may be amended or revised by an affirmative two-thirds vote of the membership present at the annual conference.

Section 3. Bylaw amendments or revisions may be acted upon only at the time published in the conference agenda unless a majority of the membership present at that time agrees to a later time for further action on them.

Section 4. The bylaws may also be amended or revised by unanimous vote of the Board of Directors.

## 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](http://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—Assault (Part 1)

Assault is a term used in Arizona which is use both for the actual unwanted touching and for the intent or belief of harm to another. Defined under ARS §13-1203 (et seq.) the Assault statute is as follows:

- “13-1203. Assault; classification
- A. A person commits assault by:
1. Intentionally, knowingly or recklessly causing any physical injury to another person; or
  2. Intentionally placing another person in reasonable apprehension of imminent physical injury; or
  3. Knowingly touching another person with the intent to injure, insult or provoke such person.

B. Assault committed intentionally or knowingly pursuant to subsection A, paragraph 1 is a class 1 misdemeanor. Assault committed recklessly pursuant to subsection A, paragraph 1 or assault pursuant to subsection A, paragraph 2 is a class 2 misdemeanor. Assault committed pursuant to subsection A, paragraph 3 is a class 3 misdemeanor.”

### How can the Process Server avoid an assault?

Aside from the actual engagement of fisticuffs, the Process Server may unintentionally commit the crime of assault by touching the person served with the papers, throwing the papers at the person served, or provoking the person served to believe that the Process Server was going to cause them harm. For this reason, the Process Server should never force the papers being served on a person, but instead, if the documents are not willingly taken in hand by the person served, place them “in proximity” to the person served.

Many times, a Process Server will drop the papers at the foot of the person served (a “drop serve”). Sometimes, the papers may have to be placed under the windshield wiper of the motor vehicle in which the person served is seated.

For many Process Servers, the likelihood of being the victim of

an assault is more common than being the aggressor. Having a plan already thought out in the event of an incident is crucial to successfully avoiding further injury. Understanding the statutes that cover assault, including aggravated assault, as well as trespassing can come in handy when dealing with the public, defendants to be served, law enforcement and the courts.



Taking the ACPs Certification Course from APSA is one way to educate the Process Server about such issues to get the serve safely done.

### Tell Us What You Think...

A Process Server is supposed to be a “disinterested party” with regard to the matter of the papers served. Some are accepting papers on contingency. We'd like to know what you think about the issue and how contingency assignments affect you.

### 18 USC 1501 - Assault on Process Server

Whoever knowingly and willfully obstructs, resists, or opposes any officer of the United States, or other person duly authorized, in serving, or attempting to serve or execute, any legal or judicial writ or process of any court of the United States, or United States magistrate judge; or Whoever assaults, beats, or wounds any officer or other person duly authorized, knowing him to be such officer, or other person so duly authorized, in serving or executing any such writ, rule, order, process, warrant, or other legal or judicial writ or process— Shall, except as otherwise provided by law, be fined under this title or imprisoned not more than one year, or both.

## 14 Suits Filed Against ABC Legal Services, Inc.

Between June 2011 and April 2012, 14 separate suits were filed in San Francisco federal court by Consumer Law Center, Inc. (Fred Schwinn, Esq.) against ABC Legal



Services, Inc. (Seattle, WA) and other defendants for violation of the Fair Debt Collection Practices Act, claiming the firm's process servers lied about serving court papers in debt collection cases.

Some of the allegations in the suits argue that due to their nature, protections afforded the process server defendants under the FDCPA should be stripped away.

When contacted by APSANews.com, the local office of ABC Legal Services, Inc. had “no comment”. More information on these lawsuits can be found through the U.S. Courts PACER system and other sources.

Original source: <http://www.sacbee.com/2012/05/23/4513126/bay-area-residents-sue-process.html>

“Starbucks represents something beyond a cup of coffee.” — Howard Schultz

“A business absolutely devoted to service will have one worry about profits. They will be embarrassingly large.” — Henry Ford

### How does your customer service rate?

## Process Server Punched Out

(Fox Point, WI—May 22, 2012)

A Fox Point man took matters into his own hands and physically assaulted a process server when he attempted to serve the man some documents.

A Fox Point resident refused to accept the papers that were coming his way so he grabbed the process server by the neck, repeatedly punched him in the face and kicked him in the groin. Full story at:

<http://foxpoint.patch.com/articles/process-server-punched-out-in-fox-point>



# APSA Events Calendar

## June 23-24, 2012

*APSA Continuing Education Class*  
Continental Country Club, 2380 N  
Oakmont Dr., Flagstaff

### June 23rd: A.C.P.S. (6 CU Hrs)

8:30 am - 4pm (1 hr. lunch)

Sign in: 8:30 am - 9:00 am

Class begins: 9 am

Lunch: 12 - 1

Class ends: 4pm

**June 24th:** Observations in the  
Field course (2 CU Hrs); Dog Bite  
Prevention course (2 CU Hrs.)

8:15 am - 1pm

**Fees:** \$30/hr for non-members and  
\$15/hour for current members. For  
details and a registration form please  
visit [www.arizonaprocessservers.org](http://www.arizonaprocessservers.org)  
Advanced registration is encouraged,  
walk-ins are welcome.

## Wednesday, July 4, 2012

*Courts closed: Independence Day*

## Tuesday, July 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

## Saturday, July 14, 2012

*APSA Board of Directors Meeting*

Flagstaff—Location TBA

## 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

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](mailto:editor@apsanews.org).

## Pima County Telephone Number Change

Please note that the telephone number for the office of the Pima County Clerk of Superior Court has changed.

All Process Server related calls should be made to 520-724-3282, effective Wednesday, April 25, 2012, per Alan A. Walker, Private Process Server Program Administrator.

APSA Newsletter [www.apsanews.org](http://www.apsanews.org) [editor@apsanews.org](mailto:editor@apsanews.org)

## Process Server Certification Testing Dates & Locations

### Maricopa County

(Thursdays at 9:30 a.m.)

Downtown Courthouse

620 West Jackson Suite 3017

Phoenix, AZ

June 21, 2012

July 19, 2012    Aug. 16, 2012

Sept. 20, 2012    Oct. 18, 2012

Nov. 15, 2012    Dec. 13, 2012

### Pima County

110 W. Congress, Rm 131A

Tucson, AZ

June 15<sup>th</sup> and 29<sup>th</sup>

July 13<sup>th</sup> and 30<sup>th</sup>

August 15<sup>th</sup> and 30<sup>th</sup>

September 14<sup>th</sup> and 28<sup>th</sup>

October 15<sup>th</sup> and 30<sup>th</sup>

November 15<sup>th</sup> and 30<sup>th</sup>

December 14<sup>th</sup> and 28<sup>th</sup>

*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.*

## Would You Like an Advertorial?

Advertisement

This is a sample of an Advertorial in a one-inch column format. It takes the advertising content and puts it into article form.

The publication of the Advertorial is sold by the column inch. The Advertorial is custom

written by the author for each client. Each Advertorial should be unique.

Most Advertorial writing is charged by the writer at a per-word fee. This Advertorial has 116 words. There is also usually a minimum writing fee charged by the writer. For

this three-column, 1 inch Advertorial, the publication charge would be \$75 per issue, not including the writer's charge. If you are interested in having an Advertorial written or published, please contact your editor at: [editor@apsanews.com](mailto:editor@apsanews.com). Thanks!



# 2012 APSA Conference

APSA News Staff



Whether or not you are an APSA member, we want you! Our upcoming Conference for 2012 promises to be the best, yet! The 12th Annual APSA Conference & Educational Event is scheduled for September 25-26 at the Crowne Plaza Hotel in Phoenix. For those planning on staying in the area, APSA has a block of rooms reserved at a discount.

Vice President Jenna Jones, assisted by conference coordinator Tracy Candelaria have many new and interesting educational and networking opportunities planned.

In working toward broadening our conference attendance and boosting our membership base, APSA has changed the fee policy for

this year's conference. In the past, if an attendee was *not* an APSA member, the tuition for each class was higher than for APSA members. This year, the APSA Board of Directors has set the cost for tuition for each CE unit to be the same, whether or not the attendee is an APSA member.

We are expecting members of the Arizona Constables Association, the Arizona Civil Deputies, and members of the Arizona Association of Licensed Private Investigators to be in attendance.

Joe Abate, our lobbyist will be presenting a class at the conference

this year on, "How a Bill becomes Law." This should be an informative class for all members to see what hurdles need to be overcome in working with the legislators to get changes to existing laws or new laws passed. A portion of that class will be dedicated to how the rules may be changed through the Supreme Court.

In response to members' requests, the Board has authorized the issuance of digitally produced Member ID Cards. Each attending member will be able to have their photo placed on their APSA identification card. Those unable to attend can call the APSA office.

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

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 www.asapserve.com

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- Divorce ~ Family Law ~
- Child Custody
- Family & Spousal Support
- Evictions
- Judgment Enforcement

Arizona Process Servers Association  
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# APSA

Serving Arizona Process Servers Since 1973

[www.arizonaprocessservers.org](http://www.arizonaprocessservers.org)

Opinions expressed in the APSA Newsletter are not necessarily those of the Board, individual Board members or officers, nor each member. The APSA Newsletter is published to promote a source of news and information for APSA members, affiliates and interested persons and organizations. Contact APSA for further information about membership and advertising. Editorial opinions are that of the editor, and do not represent the official opinion of APSA.

