

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



ARIZONA PROCESS SERVERS ASSOCIATION

NEWSLETTER

VOLUME 16, ISSUE 1

SPRING EDITION, 2014

Tom LaVance
 President, 602-256-9700,
 tom@nationwideasap.com

Barry Goldman
 1st Vice Pres. 877-472-7431,
 service@rapidrps.com

Frank Brinkman
 2nd Vice Pres. 602-424-3026,
 frank@integrityas.com

Jenna Jones
 Secretary, 480-516-7221,
 tempeprocess2@aol.com

Bert Young
 Treasurer, 480-516-7221,
 apsaadmin@cox.net

Larry Ratcliff
 Director, 928-367-0510,
 lrpi@frontiernet.net

Ron Ezell
 Director, 520-623-8436,
 ronezell@earthlink.net

Sabine Hilten
 Director, 602-317-2175,
 admin@lawgrrl.com

Luis Figueroa, Sr.
 Director, 928-343-9071,
 luis@alssinc.com

Arizona Process Servers Assn.
 PO BOX 2233
 Phoenix, AZ 85002
 (602) 424-3026

Edited & Produced by:
 Barry R. Goldman
*Published by the Arizona Process
 Servers Association*

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.

President's Message

Tom LaVance, President

As Spring approaches, I look forward to this time of renewal and reconnecting for our Association. I am reminded that we must reach out to all our members and stress to them the importance of renewing their membership so that our Association remains strong and growing. If you are a long-time member, I would ask that you

In this issue:

- **President's Message**
- **Jailhouse/Prison Service Reminders**
- **Secretary's Corner**
- **Editor's Column**
- **Are You a Debt Collector?**
- **The Brief**
- **Courtroom Mismanagement in the City of Maricopa**
- **Court Clerk's Meeting**
- **Training Corner: Serving in Prisons**
- **Legislative Bills of Interest...**
- **APSA Events Calendar**
- **More...**

consider who you know that may not already be a member and let them know that we need their support as well to ensure our industry remains viable in these changing times.

Spring also marks the renewal of the Legislative Session which brings potential challenges and changes to our industry. While it appears that this session will be a quiet one when it comes to process servers, we are following several bills which have been submitted to see if they get any traction. Many of these bills are renewed attempts at changes we have requested in the past, but most do not appear to have enough support to move forward. We will go into more detail about these bills in this newsletter.

We are also ramping up our efforts to organize this year's Conference which will be held again at the Wild Horse Pass on September 27th & 28th. We received a great deal of positive feedback on last year's Conference at

this facility and we hope that we can encourage even more of you to attend. Based on your feedback, we are attempting to shorten some of the individual classes, provide more options for CE training and improve the quality of food served during the luncheon. If anyone has any additional input that can improve the Conference for us all, please contact me or one of the other Board members and let us know your ideas!

One final friendly reminder, we will be offering the 6 hour ACPS class on April 19th, 2014 from 8:00am to 2:00pm at the Park Central Deli for those of you that need some hours. Please sign up as soon as possible so we can have an accurate head count.



See Tristar's full page ad inside on page 4.

Jailhouse/Prison Service Reminders...(see story inside)

Obey the posted signs for visitors. The staff and guards are letting the process server have access as a courtesy.

Do not assume that just because an inmate or detainee is within jail or prison walls they are any safer or better behaved than on the outside.

Watch your body language and those of the inmates. Be aware of what the guards are doing and be aware of your surroundings. Be aware of any subliminal messages.

Stay clear of inmates in line or traveling unescorted – they should be walking on one side or the other of a yellow painted line most of the time (generally closest to a wall).

Some facilities will have inmates stop and face a wall when approached by an escorted civilian. This is for your safety.

Do not lose eye contact with an inmate who looks at



you – politely acknowledging their presence by a “tip” of the forehead suffices for “I see you, too”.

When there is an incident, watch your back – stay clear of fights and inmate arguments. Obey the commands of staff and guards.

Just because an inmate is female (or male) and being served a minor civil paper does not mean that she or he won't come unglued when approached or served. Don't

give an inmate a reason to think that you are weak, but do not challenge their perceived boundaries – let the guards deal with any displays of inmate charisma. Above all, do not turn your back on an inmate or let one walk behind you. All prisoners – jailhouse detainees and state prison inmates — should walk in front of you or there should be enough clearance so the threat level is minimal.

Stay safe. You will be out of

the facility soon enough. For the detainee or inmate, it may be months, years, or never. Don't give them a reason to make you into a pin cushion or punching bag, or antagonize them any more than they already are — the guards and staff will have to deal with their outbursts long after you are gone.

Secretary's Corner Jenna Jones ACPs, Secretary

Welcome to 2014!

Dear members,

It is hard to believe



Spring is here and almost over. March and April have always been two of my most favorite months! Warm enough to get out and enjoy the beautiful weather, see a Spring Training game and take in our state's wildflowers!

We are all busier and busier, or at least it seems that way. Most of the time, I seem to forget to stop and “smell the flowers.” We may take for granted that those beautiful wildflowers come back year after year. It reminds me of our great Association. We have been here for 40 years and we'll be back next year. That doesn't happen by accident. Thankfully, throughout the years there have been blessed with many individuals who want to make a difference, who have dedicated a

great deal of time and energy to make sure we have an association.

As a Board, we often hear comments such as, what benefit do I get from being a member? You may have been a member of APSA for a long or short period of time but I hope that you realize that the organization does a lot to assist our members, whether it be providing training, a resource for information or contacts, or following legislation that is being pursued down at the legislature. I am so thankful to have a group of individuals that volunteer to serve on the Board who devote their time and energy to assisting our profession and individual process servers. The current board represents process servers from all over our state, Yuma, Show Low, Tucson, Phoenix, and all spots in between.

If you haven't been involved, why

not? Do you have an idea that you could share? Do you have time to volunteer on a committee? Do you have skills that could benefit other process servers? As a member organization, we need you! We need your feedback, good or bad, and we want to hear your ideas. I urge you to come to a board meeting or send your comments to the administrator or a board member.

Don't forget to mark your calendars. We are tentatively scheduling this year's annual meeting at the Wild Horse Pass and Casino for September 27 and 28, 2014. We will again partner with the Arizona Association of Licensed Private Investigators and plan to make this year's event bigger and better. If you would like to be involved, please contact the administrator, Bert Young at apsaadmin@cox.net. We need your help to make this another success!



Maricopa County Court Clerk/Process Server Quarterly Meeting By Frank Brinkman, ACPS

The Clerk of the Court hosts a quarterly meeting for process servers and the public. Frank Brinkman attends the meeting on behalf of APSA. — ed

Maricopa County Court and Clerk's Office Information and Exchange Meeting

As the New Year has begun so have the quarterly meetings with the Clerk of the Maricopa County Superior Court. The first meeting of the year occurred on January 14, 2014 and there were a few items addressed in the meeting that everyone in our field will want to keep in mind. I will address the majority of the subjects that were included in the meeting. The first item that may or may not concern our members, depending on what services you offer your clients, was an update on the E-Access system developed by the Supreme Court.

This is the statewide electronic case management system that will be implemented soon. The test system has been built for searching and viewing court cases and there will be a demonstration at the next meeting in April. A new Court rule, Rule 123, has been implemented which allows for greater access to court files and expands what the general public may access electronically. The courts are also forming a standardization committee to try and standardize case numbers and document codes across the State for ease of use with the new system.

The next item that was brought up is an issue that the clerks office has been having problems with concerning affidavits/certificates of service. They have asked that all servers make sure when one subject such as an attorney accepts on behalf of another party, that the



relationship is clearly stated and the named party is included in the text of the affidavit/certificate. If the affidavit/certificate only has the name of the party accepting service on behalf of another, that party will be added to the case unless it is clearly stated in the affidavit that they are accepting on behalf of another party. The clerks office also asked that when we prepare an amended affidavit/certificate of service that we state the reason for the amendment ie correcting parties name, correcting address, etc. (Continued on page 9)

Editor's Column

 **Barry R. Goldman**

So, another issue of the APSA Newsletter is finally upon us. You didn't see one last quarter because the content wasn't available. So, rather than apologize, I will inform you that I'm not apologizing. Heck, I'm not even going to extend an, "I'm sorry", or anything of the sort. I'm not going to ask for your forgiveness, either. Because asking for forgiveness would mean that I have something to apologize about. But if you wish to express your sympathy and can empathize with me busting my butt, I would feel better about it. There, doesn't that make me feel better?

Your APSA Newsletter is a quarterly publication. At a prior Board meeting, the B o a r d discussed

making adjustments to the publication. But, since the Board elected to keep it quarterly, your editor had no objection. The only requirement was that articles and other things which might be published are timely submitted. (OK, there were other requirements, too, but we won't get into that.) Your editor advised the Board that if the persons who were responsible to get their submissions in on time did not, in place of their column, they would see a portrait of Alfred E. Neuman from Mad Magazine. Who's that, you say? He's the fictional "What, me worry?" kid that we all grew up and loved. OK, at least I did. Maybe you did, too. I actually resembled him when I was in the third grade, minus the stupid look, red hair and nerdy clothes. I had freckles and a big split between my front teeth. (Grown a few inches and lost my hair along the way, too.) Mad Magazine was smaller than the textbooks and could be slipped into the pages so kids would read it instead of the

s c h o o l b o o k s . (Thought your editor was a total nerd, huh?) It worked until the teacher or librarian was behind us and we got caught. Then it was off to the principal's office for some corporal something or other with a paddle. (Hey, when you grew up in the '60's, there was no "political correctness" and a hand slap was literally getting your palm red (not read).)

So if you have something you would like to share with the readers, let's make sure that Alfred isn't a portrait in your column. In 2014, the deadline for submissions will be hard deadlines. Publication dates are scheduled to be March 31, May 1, August 1, and November 1. All submissions must be received by the editor no later than 15 days prior to the scheduled publication date. No worries. :)



Are You a Debt Collector? — by Barry R. Goldman

Under the FDCPA, a debt collector is someone who regularly collects debts owed to others. This includes collection agencies, lawyers who collect debts on a regular basis and companies

that buy delinquent debts and then try to collect them.

While a process server specifically is not a debt collector, those who engage in the practice of the delivery of

notices and demand letters are, by extension, considered debt collectors. This is due to the agency relationship between the debt collector (attorney, collection agency, etc.) and their contractor (the process server). So, while the FDCPA grants an exemption to process servers who serve legal

notices (legal process), there is no exemption to process servers who are delivering non-legal process, demand letters and the like. (More will be discussed, later.) Many attorneys will also have a mistaken impression of their role as a debt collector. The attorney who acts on behalf of his or her client in occasionally representing their interests in their client's collections capacity is significantly different, however, from the attorney who has an in-house collection agency, as is the attorney who regularly, and as a part of his or her normal and usual business practice (i.e.: a "significant" amount of time) acts on behalf of his or her client in collecting debts.

(Continued)

SERVICE OF PROCESS. PHOTOCOPY. COURT FILING. MESSENGER. INVESTIGATIONS...
YES. TRISTAR SOFTWARE DOES THAT.



TRISTAR

SOFTWARE



WWW.TRISTARSOFTWARE.COM
805.227.1213



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

THE



BRIEF

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



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

Filing confidential documents (Feb. 2014)

Rule 7 of the Arizona Rules of Probate Procedure provides specific instructions for filing confidential documents in Probate matters. The rule defines confidential documents as: the probate information form, medical reports and records, budgets, inventories and appraisements, accountings, credit reports, any other document order by the court to be filed or maintained as confidential.

These documents are to be filed in an envelope as specified in Probate Rule 7 and in Maricopa County Superior Court Administrative Order 2012-172. The Clerk's Office receives a high volume of non-confidential documents that are filed in confidential envelopes. This causes delays in processing,

increases the risk of miscategorizing records, and results in problems for Court Administration, fiduciaries, and the public who need to access the public record.

Note that many documents may contain confidential information, such as social security numbers and financial account numbers, but are not confidential documents as defined in Rule 7. These documents should not be filed in envelopes marked as confidential. If needed to comply with Rule 7(D), confidential information within documents should be redacted before filing.

DO be sure that only documents on the bullet list above are filed in envelopes

DO include the case number, document title, filing party, and the phrase "Confidential Document" on the envelope

DO use a separate envelope for each filing

DO include any schedules or

financial documents supporting the accounting as part of the accounting, not filed separately

DON'T include attorney or fiduciary fee statements as part of the accounting - these should be filed separately and are NOT confidential documents

DON'T use confidential envelopes to file non-confidential documents, such as Representative Payee Reports, or bank account statements. When received this way, the documents have to be removed from the envelope and processed as non-confidential documents.

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

Are You a Debt Collector? (cont'd.)

Process servers have a limited exemption under the FDCPA. The "process server exemption" commonly referred to in the FDCPA may be found in 15 USC §1692a(6)(D), which states that the term, "debt collector" does not include "...any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt".

In looking at the language of the exemption, please note that it is specific to cite the terms, "serving or attempting to serve legal process" and "judicial enforcement of any debt". This is significant for very good reason. For the debt collector, vicarious liability may not extend to a

regulated entity if the vendor (i.e.: process server) is not subject to the FDCPA. In *Worch v. Wolpoff & Abramson, LLP*, 477 F. Supp. 2d 1015,1018-19 (E.D. Mo. 2007), the court found the process server who "pounded on the door repeatedly and aggressively" to serve a defendant was not subject to the FDCPA and thus the collection agency was found not vicariously liable. In *Federal Home Loan Mortgage Corp. v. Lamar*, 2006 WL 2422903, **8-9 (N.D. Ohio Aug. 22, 2006), the collection agency which hired the process server to serve its legal process was not vicariously liable under the FDCPA for an alleged erratic car chase involving the process server while serving a debtor defendant. (It should be noted that the Lamar case summary addresses the issue of liability under the FDCPA, but not personal injury or other issues

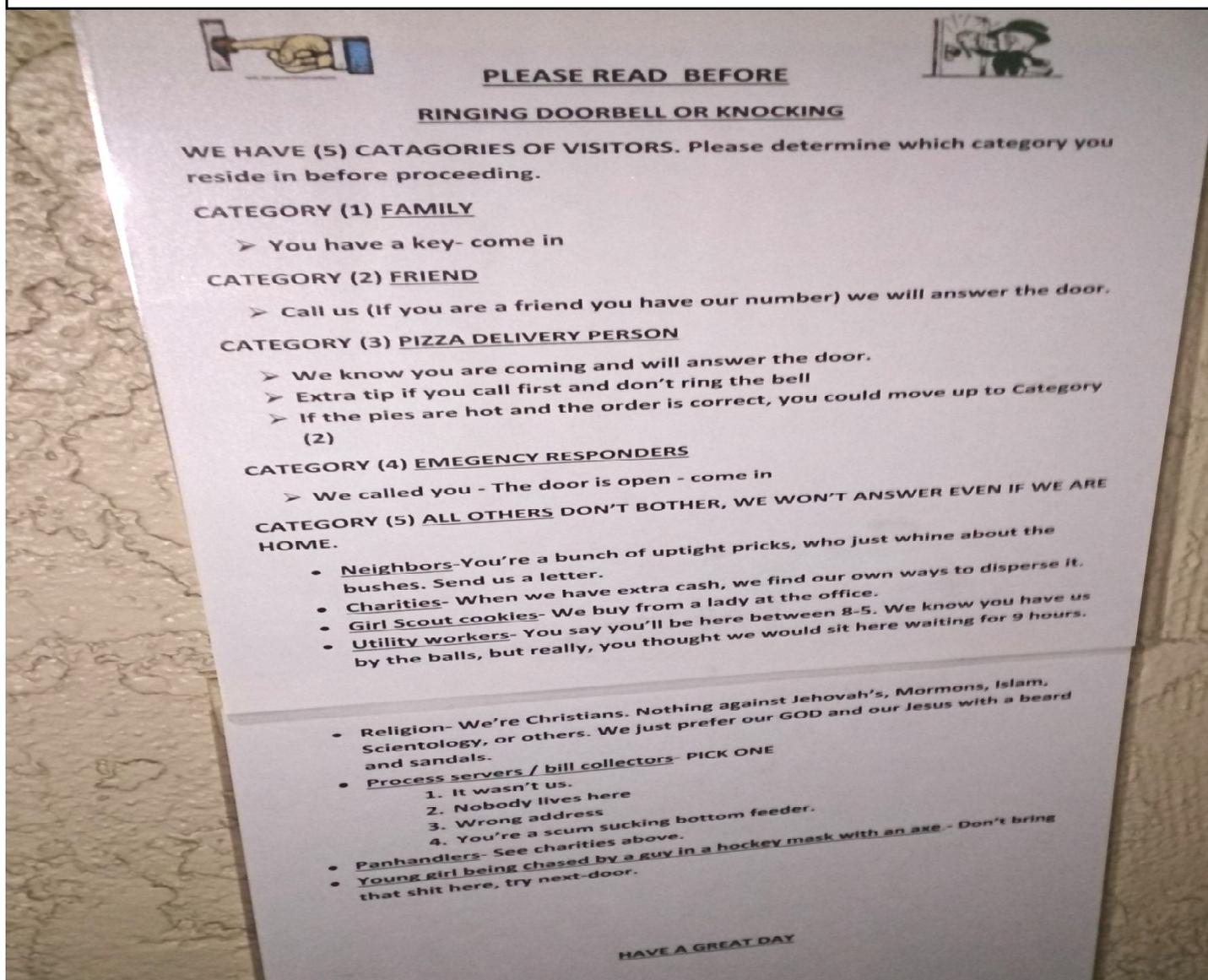
under state law.)

A debt collector is generally held liable for its employees' FDCPA violations, using principles of respondeat superior, if the violations occurred within the course and scope of their employment. While the process server may be an outside vendor, during the delivery of non-legal process documents, the process server exemption is not in place. For the debt collector, consideration should be made for a process server acting outside the scope of serving legal process.

So, to answer the question, "Are you a debt collector?", if you are a process server delivering notices that are not legal process, the answer is "Yes". (Recommended reading: <http://fdcpadefense.blogspot.com/>, August 19, 2013)

(source: [Delivering Non-Legal Process Documents and the FDCPA](http://www.cleprofessionals.com), available at www.cleprofessionals.com)

Nothing Like Being Welcomed! (Photo courtesy of John Osborn of ASAPServe.com)



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

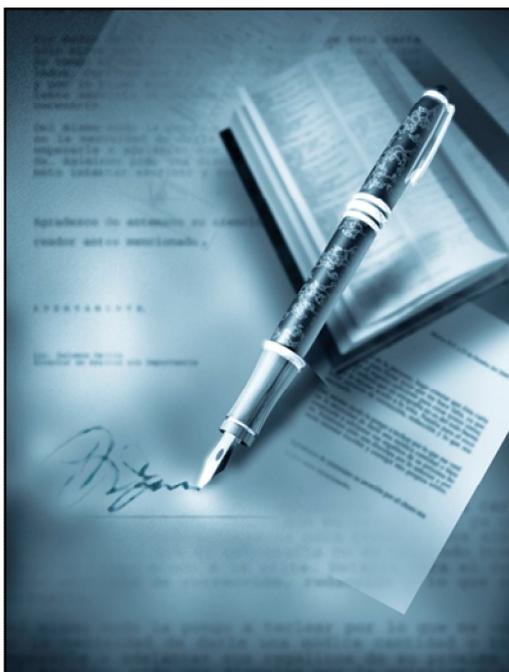
APSA

Upcoming Continuing Education Event

6-Hour ACPS Class



Process Servers are needed in litigation support to accomplish an assortment of tasks such as filing court papers, serving legal documents and document retrieval.



Set the date...

April 19, 2014

8:00 a.m. to 2:00 p.m. at the Park Central Deli, 3110 N. Central Ave., Phoenix, AZ. Bring your appetite, too!

The Process Server's principal job is to deliver or "serve" legal process to a person involved in a court case as per the laws of the state where (a) service is done, and (b) per the state exercising jurisdiction.

Learn the details needed to be a successful Process Server in Arizona. The ACPS course sponsored by the Arizona Process Servers Association is a six-hour comprehensive course and is the only course which may be repeated for continuing legal education credit each year.



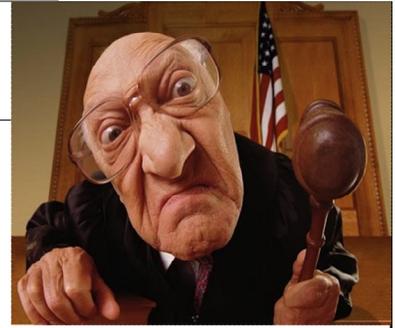
APSA WOULD LIKE TO THANK:

Park Central Deli

3110 N. Central Avenue
Phoenix, AZ
(At Park Central Mall)
602-277-4783 |
Fax 602-264-6151

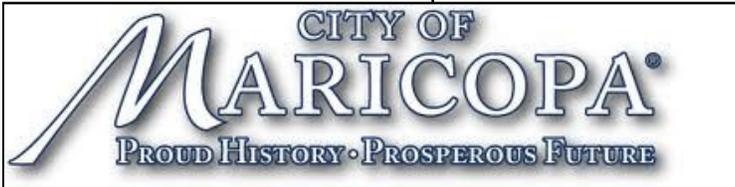


Courtroom News and Opinion: Courthouse Mismanagement Costs the Residents of the City of Maricopa



If you haven't been made aware, the Maricopa City Court has had some controversy in the last few months. Recently, the City of Maricopa ordered an audit, which found that up to approximately \$155,000 is missing or was sitting in

Court regarding the cases he hears, include the responsibility to manage and direct the activities of the staff of the court. He is the chief executive officer of the courthouse and ultimately responsible for all activities within those walls. Because this



the unsecured area of the offices at the courthouse. In Maricopa, as in some other smaller communities of Arizona, the City Court is dually shared with the Justice of the Peace Court at the same courthouse. According to CBS 5 News, "...checks and money orders totaling \$65,600 were found in opened and unopened mail on top of a desk, \$34,300 in cash was just sitting in an unlocked desk drawer and \$12,600 in cash and checks was found throughout other parts of the office."

As the audit was conducted by the City of Maricopa, it was necessarily limited to the City Court functions within that courthouse.

The mismanagement of the City Court is not only a slap in the face of Maricopa residents, but also a travesty upon local justice. The City Charter holds that the appointed City Judge be chosen and have at least five years experience in the courts of Arizona. For the Presiding Judge, he or she must be a member of the Bar in good standing, as well. The elected Justice of the Peace was determined to meet the minimum standards, and under the Agreement to which the city employed the current Presiding Judge, "...he will at all times faithfully and to the best of his ability and experience perform all of the duties that are required of him pursuant to the express and implicit terms of this Agreement and the Code of Judicial Conduct and Orders of the Arizona Supreme Court."

The duties of the Justice of the Peace, while separate from the City

Justice of the Peace is also an employee of the City of Maricopa, in his contracted dual capacity, he is responsible to the City for activities conducted in the City Court.

In hearing cases and administering due process, the Judge (Justice of the Peace) must take responsibility for the activities of his subordinate employees. Part of the administration of justice is to account for fines and other penalties imposed on defendants who have been found guilty of misdemeanor crimes, petty or civil offenses. Where there is a question of accountability, in this instance, there is also a question of competence and management of the overall court structure.

Because of the question of judicial accountability at this court, there is the bigger question of whether or not justice was properly administered to those persons who paid fines but who were not credited for same.

As a result of this catastrophic failure in accounting for fines, it is damaging to not only the City and all persons who appeared before the Court during this time, but to the justice system, itself. The local version of the Pandora's Box has been opened by the incompetence displayed at this court. One wonders how many cases will have to be dismissed, penalties for non-payment reversed, and warrants recalled.

In general, people have little faith in the justice system. When local blunders become controversial exhibitions in mismanagement, one wonders who will take ultimate

responsibility.

The City Court should be a place where the administration of justice is done fairly and impartially, and when fines issued, these fines imposed should be promptly accounted for and remitted to the City. Unfortunately, as we have seen, this is not the case.

Further, pursuant to Administrative Order No. 2014-10, issued on January 9, 2014, the Arizona Supreme Court found the State Treasurer did not receive any monies from the municipal court for the months of November 2012, February 2013, and April through November 2013.

The Supreme Court ordered that the presiding judge of the Pinal County Superior Court take over day to day operations of the court. The elected Justice of the Peace has since been reassigned to other duties.

Becoming a Justice of the Peace in Arizona

The Justice of the Peace is an elected (four year) position that requires the JP be an Arizona resident at least 18 years of age, a voter in the precinct in which duties of office will be performed, and read and write English. The JP does not need to be an attorney. In smaller incorporated cities and towns where the Justice of the Peace Court sits within the city limits, the city may contract with that JP to act in a dual capacity as the City Judge (or Magistrate). The city or town may require that the person appointed be hired as an employee, clear a background check and either have a law degree or applicable experience and a four-year college degree.



Maricopa County Court Clerk/Process Server Quarterly Meeting (continued)

The next item that was addressed is the new application form for process servers. The new form will be requiring proof of citizenship for all applicants. The clerk's website lists the acceptable forms of proof such as passport, drivers license, social security card and birth certificate. I asked about the new requirement for a high school diploma and how that was being addressed.

Mr. Jeanes did not have an immediate answer but said they will look into it and address it at a later meeting. I also asked if he could get clarification on whether the diploma requirement would be just for new applicants or if it would be retroactive for anyone renewing their certification.

Marty Vance of Maricopa County Justice Court Administration reported that as of now the North Mesa Justice Court facility will not be moving as had been planned. He also announced that the Maricopa County Justice Courts will be going back online with AZTurbo Court this summer.

Mr. Jeanes also mentioned that on June 1, 2015 the State will be accepting multiple vendors for the e-filing system. I inquired about the electronic case initiation system and he said Pima County is running a pilot program now with a limited number of firms. Once the Pima County program is up and running Maricopa County will begin their program.

The new payment system that Maricopa County Superior Court has implemented was brought up. Currently no checks will be accepted for payment from pro se litigants. They are still accepting checks from law firms and process serving companies but will eventually move to a system in which no checks are

accepted for payment. This is just for the Maricopa County Superior Court and does not affect Justice Courts or other counties at this time.

The final item of business brought up at the meeting was a fee that was changed at the end of last year for new civil case filings. The fee for filing a new civil case was lowered due to the expiration of a statutory lengthy trial fee put in place by the legislature. Mr. Jeanes is assuming the fee will be back once the legislature reviews this and it may have an emergency effective date once passed. He will keep us apprised of the situation.

I would like to continue to encourage those of you in Maricopa County to attend these quarterly meeting with the Clerk's office. This is a great opportunity to speak directly to the Clerk and most of the filing counter supervisors and address any issues that you are concerned about. Any items that you would like to be addressed at the meetings can be emailed to serverp@cosc.maricopa.gov.

The next meeting will be held on Tuesday, April 8, 2014 at 12:00 noon. The address for the meeting is 620 W. Jackson St. 2nd floor, rooms 1 and 2, Phoenix, AZ 85007. I hope to see some new faces there in April.

Maricopa County Superior Court Clerk Information and Exchange Meeting report for October, 2013

Before I begin my report on the meeting held on October 8, 2013. I would like to thank the members of the association for allowing me to serve another year on the board. I look forward to the challenges coming up in the next year.

The Clerk's meeting this last

October had a few new items that we should be aware of and pass on to our clients. The main change that was brought up is acceptable forms of payment at the Court. For the past few months the Maricopa County Superior Court Clerk's office has been working on a way to eliminate unguaranteed forms of payment ie personal checks, certified checks, money orders and business checks. The first phase of this program begins on January 2, 2014 when the Clerks office will no longer accept personal checks from pro se litigants. The Clerks office wants to eventually move to credit/debit card and wire transfer only for all parties. Just to be clear, this is only the Maricopa County Superior Court but it may eventually trickle down to the other Courts as well. In addition to the change in forms of payment, the Clerks office is looking into streamlining the fee deferral process to make it more useful and to help make abusers of the system more accountable.

The Supreme Courts E-Access program was brought up and it appears that they have run into a few technical problems. They are now looking at a launch sometime in the spring of 2014. There will be more information available at the January meeting as well as a demonstration of the system for those that are interested.

There is a new form now being provided with the Order of Protection forms. This form is titled Service of Process Information Form. The Clerk's office wanted to remind us that this form is not to be served but is for informational purposes only to assist the process server with the service on the party.

You can find out more by looking at the clerk's minutes on their website. — ed.



Training Corner: Serving in Prisons



Barry R. Goldman

©2013 Barry R. Goldman



Process servers are often requested to serve inmates and detainees in jails and prisons. As different facilities have different rules, dependent on their security concerns, we thought we would like to bring some information to our APSA members.

Firstly, not every process server is allowed to serve legal process within the prisons. "What?" you say? It's true. Each process server wishing to serve legal process within the prisons of Arizona must have a "gate pass" – or clearance – for them to enter and serve legal process. The gate pass is a secondary clearance on top of the criminal background investigation each process server has already passed.

Each Department of Corrections facility is its own fiefdom. The warden of each prison may set forth additional policies and procedures consistent with the department's own. This is primarily due to the security concerns of the facility, including the number inmates, their housing arrangements and the employees' needs for operating within a safe environment. Working in a prison means that the staff will have to encounter inmates who are security, safety or escape threats, including those inmates at the top of their food chain.

Accordingly, it is

reasonable for the prison, as a whole and down to the unit level, to institute and carry out policies and procedures which are designed to give the staff, other prisoners, and visitors the least exposure to risk of personal injury or death.

The gate pass model is designed to weed out persons who may have compromised access – generally non-felons who have a known relationship with prison gang members. The limitation on access is designed to remove the threat of communications from a criminal organization to a prisoner (inmate). In accordance with Arizona Department of Corrections policy, the gate pass expires every six months. Consequently, a process server needing access to the facility to serve an inmate should have their gate pass renewed within that time, or access to the facility may be denied.

Most of the time, a gate pass background check on a process server takes less than a day. However, each facility runs at its own speed and turnaround time. For the three facilities which the author frequents, the turnaround time is usually two to three days from the time when personal information is called in to the time of the clearance call. To obtain a gate pass clearance, the process server must have his/

her driver license and Social Security number available to give to the prison personnel.

Once at the prison facility, depending on the facility, the dress code may be strictly enforced. Some process servers (including yours truly) have been turned away from the prison grounds due to their manner of dress (i.e.: brown or khaki cargo pants or blue jeans). Check with the individual facility for wardens' restrictions.

From a compilation of federal and state prison facility websites, all clothing shall be clean, worn in good repair, be non-offensive, and within the bounds of common decency; clothing that is extremely tight fighting is prohibited. Shirts and shoes (not sandals or open toed shoes) shall be worn at all times, and undergarments are required. Muscle shirts, spandex shirts or pants, sleeveless shirts, tank knee length when standing. Jogging shorts, cutoffs, and hip huggers are prohibited. Skirts and dresses shall be knee length when standing -- slits no greater than mid thigh when sitting, and shall not have a high cut split in the back, front, or side.

APSA

Training Corner: (Cont'd)

The following articles or styles of clothing are also prohibited: Clothing that resembles inmate or staff uniform clothing (military-type clothing), including any hats or caps (regardless of style or type), and clothing that is orange, khaki, tan, light brown or dark brown. Blue jeans may be restricted, as well.

While most process servers, especially males, will not wear backless tops, bathing suits, body suits, crop tops, halter tops, leotards, miniskirts, revealing shorts, sundresses or see-through garments of any type, including sheer, see through or open-netted clothing, v-cut or low-cut blouses or dresses, (tops of clothing shall be no lower than the collarbone in the front and back), it should be noted that such articles are also prohibited.

Do not bring more than you absolutely need into a prison facility. All weapons (including Tasers) must be declared and secured before entering. State-run (ADOC) facilities will have a guard shack with weapons lockers. Private and federal facilities may not have such lockers. It is recommended that all weapons and ammunition be stored within that locker (the guard will issue a key), rather than in your vehicle. (If you must leave your weapon in your vehicle, it may be advisable to purchase a portable weapon safe or locker which can be left in the trunk of your car.) If the process server has a key fob or ring of keys, he/she should take the vehicle key(s) off and retain them only for entering. Flash drives and other electronic devices, including cameras and cell phones are prohibited – possession is cause for denial of entry. A wallet should contain your process server identification, driver license and no more than \$40 in cash. Leave your change in the car (it will set off the metal detector). I also take in bottled water.

Once the process server enters the facility, he or she should expect to go through screening similar to airport or courthouse screening. All items should be emptied from one's

pockets, and belts removed. Prepare to remove your shoes and have a secondary pat down, if necessary. Possessions, including the documents to serve and your pen and clipboard may be examined. Paper clips and staples may have to be removed from your documents.

Once past the initial screening, serving the inmate should be a relatively fast process. (Unfortunately, it usually isn't.) If the process server has called ahead to make an appointment with the inmate's counselor (C.O. 3 or C.O. 4) or legal process coordinator in the warden's office, the staff should be expecting the service. It is highly recommended to call ahead and make sure the inmate is available (i.e.: taken off of a work detail) at the time of service. Otherwise, the server may have to make return trips. Process servers who show up unannounced are often subject to and treated as any other visitor – with appropriate visiting hours limitations, etc., so it is highly recommended that the process server make the appointment.

Often times, depending on the inmate and the type of paper served (i.e.: termination of parental rights, injunction against harassment, order of protection (for soon to be discharged inmates)), the inmate will be unaware of the service until he is called forth. Sometimes, the inmate has been sent the same papers via certified mail, but refused to sign for them, necessitating personal service.

In some facilities, the process server will be escorted onto the yard; at others, the inmate will be escorted to the process server. At certain larger facilities, a tram or bus may take the process server from the main entry to the lock-down unit. When an inmate is in segregation, the inmate may be shackled and escorted to the process server, or the process server may be escorted to the unit.

At all times, the process server should take steps to work with the facility for an orderly service to be conducted. It is recommended that the process server call the facility before serving, and make sure their gate pass is up to date.



Legislative Bills of Interest...

HOUSE BILL 2124 changes who appoints four of the nine members of the Constable Ethics Standards and Training Board (Board). Makes changes to ARS §22-136: allows the Constables Association of Arizona instead of the Arizona Assn. of Counties to appoint the four constable members of the Board; requires the Arizona Peace Officer Standards and Training Board to forward copies of certificates of completed constable training to the Board within 30 days after the end of the calendar year in which the training was completed; stipulates that constables may continue serving on the Board until the end of their terms; makes technical and conforming changes.

SENATE BILL 1179 Would amend ARS §22-131, adding subsection G, which reads: "A constable is prohibited from engaging in any act as a private process server outside of the constable's elected or appointed duties.

A constable shall not own an interest in any entity that operates a private process serving business." According to the fact sheets provided by the legislative analyst, the new statute subsection would prohibit constables from acting as a private process server outside of their elected or appointed duties; prohibit constables from owning an interest in any entity that operates a private process serving business; exclude constables in office as of the general effective date from being prohibited to act as a private process server or own an interest in a private process serving business until their current terms of office are over.

SENATE BILL 1192 would amend ARS §11-483 relating to persons who may have their public records redacted at the county recorder offices. Currently, these "eligible persons" as indicated in subsection (O)(4) include "former public official, peace officer, spouse or minor child of a deceased peace officer, justice, judge, commissioner, public defender, prosecutor, code enforcement officer, adult or juvenile corrections officer, corrections support staff member, probation officer, member of the board of executive clemency, law enforcement support staff member, national guard member who is acting in support of a law enforcement agency, person who is protected under an order of protection or injunction against harassment or firefighter who is assigned to the Arizona counterterrorism center in the department of public safety." The bill seeks to add "Certified Process Server" to that list.

SENATE BILL 1196 seeks to amend ARS §28-455 and allow process servers access to records of the Motor Vehicle Division, such as driver license and vehicle registration information. This would make the statute consistent with 18 U.S. Code § 2721 - *Prohibition on release and use of certain personal information from State motor vehicle records*, which allows permissible use under subsection (b)(4), "For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court."

(Continued, Next Page)



The 32nd Annual NAPPS Conference and Education Seminar will be held from April 3rd to 5th, 2014 at the Sheraton Atlanta Hotel in Atlanta, GA. The event will be kicked off by the Annual Softball Game and Alan H. Crowe Memorial Golf Tournament. The event will include the annual meeting, reception and cocktail parties, a poker tournament, and educational speakers.

Contact the Sheraton Atlanta Hotel at (800) 833-8624 and mention you are with NAPPS to receive the negotiated room rate of \$139 +tax/night.

Heard recently...

"You're a what?"

"I'm a process server."

"A what?"

"A process server."

"What's that?"

"A person who serves court orders and other legal papers."

"Come back later when I'm not home."

Have You Been Assaulted?

APSA and NAPPS would both like to know about it. APSA members should contact Tom LaVance, APSA president at (602) 256-9000. NAPPS members can contact them at (503) 222-4180.



LegalShield
Total access. Total freedom.

Donna Sparaco

Small Business and Group Benefits Specialist
O: 480.788.8219 / C: 516.395.8219

Legislative Bills of Interest... (continued)

SENATE BILL 1197 amends ARS §11-445(I), to include, "In attempting to serve or while serving process, a duly appointed or certified process server is authorized and privileged to: 1. Enter and remain lawfully on real property. 2. Enter unannounced and remain lawfully in a planned community or condominium association that is guarded or gated."

SENATE BILL 1198 Amends ARS §13-1204, aggravated assault. Adds under subsection (A)(8)(j), if a person commits the assault knowing or having reason to know that the victim is, "A certified process server while engaged in serving or attempting to serve process".



SENATE BILL 1217 Amending ARS §11-424.01 relating to county officers. The Bill seeks to raise the pay range of Constables from \$15,000 to \$61,000 to a scale from \$16,500 to \$67,000. Rep. Farnsworth (Chairman of the House Judiciary Committee) introduced a floor amendment to establish a "constable study committee". The study committee is charged with the responsibility of reporting constable duties, constable salaries, calculating constable

salaries on workload instead of population and current statutes that regulate constables. The study committee must submit a report by January 15, 2015. The study committee is repealed on July 1, 2015.

SENATE BILL 1230 proposes changes to existing ARS §22-102, in the ways that constables are elected. The statute currently states, "The officers of justice precincts shall be a justice of the peace and a constable, who shall be elected by the qualified electors of the precinct at the general election for state and county officers for terms of four years each." Subsections B and C are proposed to be added, "B. A person is not eligible for the office of justice of the peace or constable unless the

person has been a resident of the precinct for at least one year before the date that the person establishes an exploratory committee or a candidate campaign committee for that office or makes an expenditure of more than five hundred dollars for that office. C. For the purposes of this section: 1. Expenditure" has the same meaning prescribed in section 16-901. 2. "Resident" has the same meaning prescribed in section 16-101."



2nd Annual Greater Phoenix SCORE Golf Invitational
 (Fundraiser presented by Greater Phoenix SCORE)
 Monday, April 28, 2014
 Registration 12:30pm Tee-off 1:15pm
 Dinner and Awards 5:30pm-6:45pm
 Encanterra Country Club
 36460 N. Encanterra Dr. San Tan Valley, AZ 85140
 Single: \$125 Foursome: \$400
 Price includes 18 holes of golf, cart, practice area access, and dinner catered by Chef Brandon.

ABCs of Starting a New Business
 First Saturday of the month, starting in April, continuing through November, 2014 from 10:00 AM to 1:00 PM MST
 Are you starting a new business or thinking about it? This session is an essential step in developing a business plan that will increase your chances of being successful. Should you start now? Where? How? What about money? Experienced business professionals will address each of these and help you get started on the best path for your business. Burton Barr

Central Library, 1221 N Central Ave, Phoenix, AZ 85004 (602) 262-4636
For more information, contact:
Greater Phoenix SCORE
 2828 N. Central Avenue #800
 Phoenix, AZ 85004
 Tel: (602) 745-7250
 Fax: (602) 745-7210
<http://greaterphoenix.score.org/chapters/greater-phoenix-score>

(APSA would like to thank Greater Phoenix SCORE for this valuable information we can pass on to our membership and readers. — Ed.)



Phony Process Servers in Arizona Process Server ID Theft

other document that simulates civil or criminal process.
B. Simulating legal process is a class 2 misdemeanor.

The Pima County Clerk of the Court recently informed APSA that there are individuals who are serving papers without proper certification who have become known in Pima County. Other areas are suspected, as well. While the incidents of occurrence of serving without certification are reportedly rather limited, for the individual process server who runs a small business, it's a big black eye.

persons whom he/she serves and serves for.

The penalties for serving legal process without qualification may range anywhere from prosecution for perjury, to simulation of legal process.

Additionally, because the service of process by an unqualified, non-certified person is essentially voidable, and as such may cause the statute of limitations to run, the offender may be subject to additional tort claims by the litigant(s). Due to the structure of the certification system, the court has no authority to sanction the non-certified offender except when prosecuted and found guilty. It should be noted that although an offender may be prosecuted under either of



In the instances reported, the phony process servers were found by routine audit. The court clerk's auditors found that the phrase, "Licensed in Pima County" was used. Process Servers in Arizona are not licensed, but certified. There is a substantial difference between the two. Process Servers in Arizona are certified by the Superior Court in the county they register in to be qualified to serve legal process. A licensee (i.e.: a private investigator) is given permission (license) by the state to conduct business. Process Servers who are certified in Arizona are Officers of the Court, which brings with that title a duty of *candor* or honesty – to the court, as well as

13-2702 Perjury; classification

A. A person commits perjury by making either:

1. A false sworn statement in regard to a material issue, believing it to be false.
2. A false unsworn declaration, certificate, verification or statement in regard to a material issue that the person subscribes as true under penalty of perjury, believing it to be false.

B. Perjury is a class 4 felony.

ARS §13-2814 Simulating legal process; classification

A. A person commits simulating legal process if such person knowingly sends or delivers to another any document falsely purporting to be an order or

the foregoing statutes (or others), he or she is not responsible to the court in the same manner that a qualified process server would be.

If you reasonably suspect that someone may be serving papers without qualification, such activity should be reported to the Clerk of the Court in the Superior Court so the presiding judge may order an investigation. If you may notice that YOUR identification number is being used on papers that you haven't served, this type of bad behavior by such offenders is tantamount to ID theft and should be immediately stopped.

— Barry R. Goldman



PRIVATE PROCESS SERVER PROGRAM DESIGNATED CLERKS' STAFF

County	Contact person	Telephone	Email address
Apache	Delana Waite	928-337-7551	dwaite@apacheclerk.net
Coconino	Debbie Young	928-679-7600	dyoung2@courts.az.gov
Cochise	Martha Rivera	520-432-8581	mrivera@courts.az.gov
Gila	Vickie Aguilar	928-402-8559	vaguilar@courts.az.gov
Graham	Rebecca Ornelas	928-428-3100	rornelas@courts.az.gov
Greenlee	Pam Pollock	928-865-4242	ppollock@courts.az.gov
La Paz	Barbara Kubacki	928-669-6131	bkubacki@courts.az.gov
Maricopa	Sharlette Wright	602-506-1909	wrights006@cosc.maricopa.gov
Mohave	Mim Quesenberry	928-753-0713x416	mquesenb@courts.az.gov
Navajo	Rene Fuentes	928-524-4177	rfuentes@courts.az.gov
Pima	Alan Walker	520-724-3282	awalker@sc.pima.gov
Pinal	Marsha Tucci	520-866-5305	mtucci@courts.az.gov
Santa Cruz	Karla Zuniga	520-375-7700	kzuniga@courts.az.gov
Yavapai	Kelly Gregorio	928-771-3312	kgregori@courts.az.gov
Yuma	Michelle Lackey	928-817-4241	mlackey@courts.az.gov

Complaints about process servers – certified or those impersonating process servers should be addressed to the presiding judge in the Superior Court of the county where the incident occurred. The official complaint form may be found at: <http://www.azcourts.gov/Portals/26/Process%20Server/Doc/ComplaintForm.pdf>

Think it's hard to lose clients? Ask the other guy who is now servicing yours.

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.

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

APSA

ARIZONA PROCESS SERVERS ASSOCIATION

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

www.arizonaprocessservers.org



2012-2013 Membership Application/Renewal

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

Associate/Out of state Process Server

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

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

NEW RENEWAL
Member since: _____

Annual Dues: \$50

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

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

MEMBER I.D. CARDS:

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

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

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



Date: _____ Signature: _____

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

APSA Events Calendar

2014 APSA Board Meetings

March 15, 2014
 May 17, 2014
 July 19, 2014
 September 6, 2014
 November 15, 2014
 All meetings begin at 9:00 AM.
 Location may vary but will be posted one to two weeks before the meeting.

Holiday Court Closures

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

Court & Clerk's Exchange Meeting

Downtown Justice Center
 620 West Jackson Suite #2083
 (Justice Court – Training Room)
 Phoenix, AZ
 12:00 pm—1:00 pm
 April 8th, July 8th, October 14th

PRIVATE PROCESS SERVER TESTING BY COUNTY			
County	Contact person	Telephone	Testing dates/times/detail
Apache	Delana Waite	928-337-7551	Not provided before publication date
Coconino	Debbie Young	928-679-7600	By appointment only through security at 928-679-7510
Cochise	Martha Rivera	520-432-8581	Every 4th Wednesday of the month 9:00 am-10:00 am
Gila	Vickie Aguilar	928-402-8559	By appointment only
Graham	Rebecca Ornelas	928-428-3100	Not provided before publication date
Greenlee	Pam Pollock	928-865-4242	Not provided before publication date
La Paz	Barbara Kubacki	928-669-6131	Not provided before publication date
Maricopa	Sharlette Wright	602-506-1909	2014 dates: April 10th, May 8th, June 12th, July 10th, Aug. 14th, Sep. 11th, Oct. 9th, Nov. 13th, Dec. 11th
Mohave	Mim Quesenberry	928-753-0713x416	Not provided before publication date
Navajo	Rene Fuentes	928-524-4177	Not provided before publication date
Pima	Alan Walker (Call him the day before exam.)	520-724-3282	Check in at 8:30 am on exam day. Apr. 15/30; May 15/30; June 13/30; July 15/30; Aug, 15/29; Sept, 15/30; Oct.15/30; Nov.15/26; Dec.15/30
Pinal	Marsha Tucci	520-866-5305	Not provided before publication date
Santa Cruz	Karla Zuniga	520-375-7700	Not provided before publication date
Yavapai	Kelly Gregorio	928-771-3312	Tuesdays and Thursdays at 8:30 a.m. and 3:00 p.m. by appointment
Yuma	Michelle Lackey	928-817-4241	Scheduled as needed

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

Advertising Submission Policy:

- The APSA Newsletter is published in March, June, September and December of each year.
- 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.
- Advertising rates are quoted for full-color camera-ready copy in electronic submission in an approved format.
- Advertiser is responsible for preparing & submitting ad copy. Copy must be submitted no later than the last day of the month preceding publication
- Acceptance, placement and publication of advertising is subject to the sole approval and discretion of the Editor.
- Inappropriate advertising content will not be accepted. Editor reserves the right to decline any advertisement.
- In the event that an item of advertising is rejected, a refund shall be made to the advertiser.
- Advertisement size quoted is approximate. Actual size may vary depending on page availability.
- Advertorials may be written by APSANews.com staff or outside writer at cost to advertiser. Publication of advertorials is charged by the column inch.



Conference Call — Success at the Pass?

Did you attend this past year's conference? How did you like the 2013 Conference? APSA is planning the 2014 Conference at this time and could use your help. An informal survey said the conference attendees not only enjoyed their time at the conference, but learned a few things, too!

This past year's conference was held at the Wild Horse Pass Hotel in Chandler, AZ. The facilities were quite impressive, and the rooms were top notch, according to those surveyed. Combining the conference curriculum with AALPI, the Arizona Association of Licensed Private Investigators, was a good synergy, according to attendees. It was hard work and well worth it according to those in the know.

This year's conference is in the planning stages. AALPI has expressed their desire to work with us again, and the Wild Horse Pass Hotel is seriously



being considered as the conference venue.

Many APSA members are also licensed private investigators.

WILDHORSEPASS

HOTEL & CASINO

Combining the conference between APSA and AALPI allowed both organizations to do a couple of things: offer additional class options for their respective members, and keep the costs relatively lower because of economies of scale. This coming year, both APSA and AALPI hope to increase the course offerings and attendance.

If you have input on the conference, including offers to teach classes, contact either of APSA's two board members assigned to this task, Sabine Hilten at (602) 317-2175 or Jenna Jones at (480) 516-7221.

6-Hour ACPS Class coming on April 19, 2014 in Phoenix. See inside for details.



KAYE KING 602.703.8368
kaye_king@us.aflac.com

SERVING ARIZONA & CALIFORNIA WWW.RAPIDRPS.COM

CERTIFIED PROCESS SERVERS

Rapid RPS.COM

(877) 472-7431

SERVICE@RAPIDRPS.COM

Process Serving
 Court Filing
 Skip Tracing
 Legal Document Preparation
 Summons / Complaints
 Orders to Appear
 Writs & Levies
 Subpoena Preparation
 Restraining Orders
 Injunctions
 Divorce ~ Family Law ~
 Child Custody
 Family & Spousal
 Support
 Evictions
 Judgment Enforcement

MOVING YOUR LEGAL DOCUMENTS...Fast!

Arizona Process Servers Association
 PO Box 2233
 Phoenix, AZ 85002
 (602) 476-1737
apsadmin@cox.net



Serving Arizona Process Servers Since 1973

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.