

New York City Department of Consumer Affairs

PROCESS SERVING AGENCY (109)

License Application Checklist

DCA LICENSING CENTER

42 Broadway, 5th Floor

New York, NY 10004

For more information, call 311 (or 212-NEW-YORK outside of NYC) or visit

www.nyc.gov/consumers

LICENSE DESCRIPTION:

A person or business must have a Process Serving Agency license if the person or business assigns, distributes, or delivers process to another for actual service.

This description is only a general explanation of which businesses need to have a Process Serving Agency license.

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the New York City Consumer Protection Law and Rules, are accessible via www.nyc.gov/consumers

Electronic Devices Rule

As of November 12, 2011, process servers must carry and operate an electronic device that records Global Positioning System (GPS) location while serving process. Key regulations include:

- The device must make an electronic record of the date, time, and location of where process is served or attempted to be served using GPS or Assisted-Global Positioning (A-GPS) technology.
- If a GPS signal is unavailable, the device must use triangulated cellular tower signals to establish the date and time when the record is made.
- The device must transmit a completed record automatically to an independent third party contractor.
- The contractor must store electronic records for seven years without allowing access for the process server to delete or alter the original records. The contractor must also make the electronic records available to DCA upon request.

A list of software companies is included in this packet. The companies have represented that they provide software and services that comply with the Rules.

For convenience, a copy of the Electronic Devices Rule is included in the Educational Materials for Process Servers. The handout also includes:

- New York City Laws and Rules regarding Process Servers
- New York General Business Law
- New York Civil Practice Law and Rules
- New York Domestic Relations Law
- New York Real Property Actions and Proceedings Law
- New York Business Corporation Law

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

APPLICATION FILING PROCESS:

Process Serving Agency applicants can submit new license applications online. Details are available at www.nyc.gov/consumers. Click Business Toolbox. Applying for the license online does not mean the license is automatically approved. A major credit card is required to submit applications online. Convenience fees apply.

Note: After successfully filing the application form online, Process Serving Agency applicants must visit the DCA Licensing Center within five (5) business days to be fingerprinted. As outlined in the “When You File” section, applicants must submit Roster of Process Servers; surety bond; bond receipt; Compliance Plan Affirmation; Electronic Device Certification; Recordkeeping Certification; and Granting Authority to Act Affirmation (if applicable). If you do not upload required documents as part of the application form submission, you must fax, e-mail, or bring documents to the DCA Licensing Center within five (5) business days after successfully filing the application form online. Applicants should follow instructions on the printed confirmation page. Your license application will not be complete without these requirements.

You can also file applications in person at the DCA Licensing Center, 42 Broadway, 5th floor, in Manhattan between 9:00 a.m. and 5:00 p.m. on Monday, Tuesday, Thursday and Friday, and on Wednesday from 8:30 a.m. to 5:00 p.m.

APPLICATION REQUIREMENTS:

Before You File Your DCA License Application:

You must obtain the following required documents *before* filing your application. Although DCA does not require submission of these documents in order to process your application in person or online, DCA reserves the right to request and examine the documents under section 20.104 of the New York City Administrative Code.

- Applicable Business Certificates Based on Your Business’s Legal Structure.
 - Sole Proprietorships operating under a name other than your own must file a Business/Assumed Name Certificate with the clerk of the county in which your business is conducted.
 - Sole Proprietorships doing business under your own name—and not under a trade or Doing-Business-As (DBA) name—do not need a Business Certificate.
 - General/Business Partnerships must file your Partnership Certificate with the clerk of the county in which your business is conducted.
 - Corporations, Limited Partnerships, Limited Liability Companies, or Limited Liability Partnerships must register and remain active with the New York State Department of State. Active status will be verified by DCA prior to license issuance. You can confirm the status of your business entity at http://www.dos.ny.gov/corps/bus_entity_search.html. If applicable, you must also file an Assumed Name Certificate for your business.
 - Businesses incorporated out of state must obtain a Certificate of Doing Business in Good Standing from your home state’s Secretary of State and file this with an application for Authority to Conduct Business in New York with the New York State Secretary of State.

When You File Your DCA License Application:

Below are requirements when filing your license application:

- **Basic License Application** (attached).
- **Process Serving Agency Background Information Form** (attached).
All applicants must complete the Process Serving Agency Background Information Form.
- **Roster of Process Servers** (attached).
All applicants must submit a list of process server individuals who will serve process on behalf of the process serving agency.
- **Copy of your \$100,000 Surety Bond, properly signed.**
The copy of the bond must name the Department of Consumer Affairs as the Certificate Holder. Your corporate name, Doing-Business-As (DBA) name (if any), and premises address must be exactly the same on all documents. You must also submit a **copy of the bond receipt** showing that the bond has been paid in full and does not expire before the end of the licensing period. See **License Fee** section for expiration date. A Surety Bond model template is attached.

A list of bonding companies is attached. The companies listed have provided bonds for licensees, or have communicated to the Department of Consumer Affairs an interest in doing so. The list must not be considered a recommendation of any company, or a complete listing. All applicants are advised to investigate and compare these and other bonding companies. Some companies may provide only certain types of bonds. Companies are listed in alphabetical order.

- **Process Serving Agency Compliance Plan Affirmation** (attached).
- **Electronic Device Certification** (attached).
- **Recordkeeping Certification** (attached).
- **Child Support Certification Form** (attached).
If your business is a SOLE PROPRIETORSHIP or GENERAL or LIMITED PARTNERSHIP, the proprietor or **each** individual general partner must submit a Child Support Certification Form.
- **Granting Authority to Act Affirmation** (attached).
If this application will be filed by someone other than the license applicant, the license applicant must submit a Granting Authority to Act Affirmation.
- **Fingerprints and Processing Fee.**
All sole proprietors, general partners, directors, corporate officers, and all shareholders owning 10% or more of the business applying for a license must be fingerprinted at the DCA Licensing Center.
EXCEPTIONS: *Any person who currently has fingerprints on file with DCA does not need to be fingerprinted. DCA has fingerprints on file for anyone who provided fingerprints within the last three years and for those who provided fingerprints for an active DCA license.* Each person who must be fingerprinted must visit the DCA Licensing Center, located at 42 Broadway, 5th Floor, in lower Manhattan, with photo identification (ID) and pay a \$75 processing fee by check or money order, payable to NYC Department of Consumer Affairs.

Acceptable forms of ID include:

- o driver’s license or non-driver’s license identification issued by a State Department of Motor Vehicles
- o license or permit issued by a government agency
- o passport
- o alien card/green card
- o a City, State, or Federal employee ID card

Your fingerprints will be checked for any criminal record that you may have. Note that a conviction will not necessarily prevent you from being granted a license. However, failure to reveal a conviction can constitute grounds for the denial of your application.

• **License Fee.**

Must be paid by credit card, money order, or check. Cards accepted at the DCA Licensing Center include MasterCard, American Express, and Discover Card. Credit card payments are subject to a 2.49% convenience fee. Checks or money orders must be payable to NYC Department of Consumer Affairs. The chart below lists the amount due depending upon when your license application is filed. **Note:** An odd year is any year ending in an odd digit; for example, 2011, 2013, etc. An even year is any year ending in an even digit; for example, 2012, 2014, etc.

Please note that convenience fees apply if you submit your license application online. A major credit card is required to submit applications online.

PROCESS SERVING AGENCY LICENSE			
License Term	License Expiration Date	If You File Your Application Between These Dates:	Your License Fee is:
2 years	February 28 in an even year	From March 1 in an even year to August 31 in an even year	\$340
		From September 1 in an even year to February 28 in an odd year	\$255
		From March 1 in an odd year to August 31 in an odd year	\$170
		From September 1 in an odd year to February 28 in an even year	\$85 OR *\$425

***Note:** If you are applying for a license between September 1 in an odd year and February 28 in an even year, you can pay the prorated fee for the license period about to end (\$85) PLUS the fee for the new two-year license period (\$340), for a total of \$425. If you pay both fees, you will *not* need to renew the license until February 28 of the *next* even year.

Online Applicants: If you submit your license application online between September 1 in an odd year and February 28 in an even year, you will be required to pay the combined fee totaling \$425. You will *not* need to renew the license until February 28 of the *next* even year.

IMPORTANT INFORMATION

- **Roster of Process Servers.**

- Process serving agencies must submit an updated Roster of Process Servers to DCA within five (5) days of assigning service to new process server individuals.
- If a process server ceases to serve process exclusively for the agency as an employee, the agency must notify DCA within five (5) days of the change in writing. The notification must include the process server's name, address, and DCA license number.
- Agencies that do not provide updated information are subject to fines or other sanctions.

- **Monthly Compliance Report.**

DCA created a template that process serving agencies may use to prepare the monthly written report required by law. See Title 6, Rules of the City of New York §2-234a (b). The template is available at www.nyc.gov/consumers. Click Business Toolbox, then select Process Serving Agency: Monthly Compliance Report from the section "Download Selected Industry-Specific Forms."

- **Electronic Records.**

Your agency must maintain records in an electronic format that is resistant to tampering. Your agency must maintain records by:

- Entering the required information in a format provided by DCA as an Excel spreadsheet. Go to www.nyc.gov/processserver to download the spreadsheet. **OR**
- Using a third party document management system provided that records contain the fields outlined in §2-233a (3) (i) to (xiv). Refer to the Final Rule published February 18, 2011 in Educational Materials.

- **Electronic Devices.**

A list of software companies that sell electronic devices with GPS is attached. The companies have represented that they provide software and services that comply with the Rules. The list must not be considered a recommendation of any company, or a complete listing. All applicants are advised to investigate and compare these and other companies. Companies are listed in alphabetical order.

- **Traverse Reports.**

Under New York City law, licensed process servers and process serving agencies must report a scheduled traverse hearing (hearing contesting service) to DCA within 10 days of receiving oral or written notice. See Title 6, Rules of the City of New York § 2-236(c). A Traverse Report Form for Process Servers/Agencies is available at www.nyc.gov/processserver. You can use this form to report the hearing.



BASIC LICENSE APPLICATION

Please print.

Section 1 – All applicants

What is your Business’s legal structure?

- Legal structure options: Sole Proprietor, Business/General Partnership, Limited Partnership, Limited Liability Partnership, Limited Liability Company, Corporation, S-Corporation, Nonprofit.

If your Business’s legal structure is Sole Proprietor, complete Sections 1, 2, and 4.

If your Business’s legal structure is NOT Sole Proprietor, complete Sections 1, 3, and 4.

Business Information

Form with fields for: Legal Name of Business, Business’s Trade or Doing-Business-As (DBA) Name, Business Address, City and State, ZIP Code, Borough (check one), Country, Business Telephone Number, Fax Number, E-mail, Federal Employer Identification Number (EIN), and New York State Sales Tax Identification Number or Certificate of Authority Application Confirmation Number.

Contact Mailing Information

If you want DCA correspondence addressed and mailed to a contact other than the business name and address provided on page 1, please complete the information below.

Contact Name and Title		
Mailing Address (<i>Building Number, Street Name, Unit, e.g., Floor, Suite, or P.O. Box Number</i>)		
City and State	ZIP Code	Borough (check one):
		<input type="checkbox"/> 01-Manhattan <input type="checkbox"/> 04-Queens <input type="checkbox"/> 02-Bronx <input type="checkbox"/> 05-Staten Island <input type="checkbox"/> 03-Brooklyn <input type="checkbox"/> 08-Outside NYC
Country		

Providing Social Security or Individual Taxpayer Identification numbers in Sections 2 and 3 is voluntary. The City requests this information under the NYC Charter and Administrative Code. This information will or may be used to allow the City of New York to maintain and update City databases, to carry out the powers and duties of the Department, and for other purposes necessary to promote the general welfare.

Section 2 - Sole Proprietor

Last Name	Suffix, e.g., Jr., Sr., Esq. (<i>optional</i>)	First Name	Middle Name (<i>optional</i>)
Social Security Number or Individual Taxpayer Identification Number <input type="text"/> <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>			
Home Address (<i>Building Number, Street Name, Unit, e.g., Floor, Suite</i>)			
City and State	ZIP Code	Borough (check one):	
		<input type="checkbox"/> 01-Manhattan <input type="checkbox"/> 04-Queens <input type="checkbox"/> 02-Bronx <input type="checkbox"/> 05-Staten Island <input type="checkbox"/> 03-Brooklyn <input type="checkbox"/> 08-Outside NYC	
Country			

Section 3 – Corporate Officers, Partners, and Shareholders

You must provide information on *all* general partners and *all* corporate officers and *each* shareholder owning 10% or more of the business applying for a license. Note: Limited Liability Companies must provide information on *all* members. Nonprofits must provide information on *all* officers and *all* Board of Directors members. **Attach additional sheets if necessary.**

Important: If the partner or shareholder is an entity (rather than an individual), DCA will verify active status prior to license issuance. Corporations, Limited Partnerships, Limited Liability Companies, or Limited Liability Partnerships must register and remain active with the New York State Department of State. If you file your application in person, DCA can print a copy of the partner's or shareholder's Certificate of Incorporation and/or Certificate of Authority to Conduct Business in New York from the New York State Department of State's Web site.

See page 3.

Corporate Officers, Partners, and Shareholders

Individual #1

Last Name		Suffix, e.g., Jr., Sr., Esq. (optional)	First Name		Middle Name (optional)
Title		Social Security Number or Individual Taxpayer Identification Number □□□-□□-□□□□		% Stock Owned	
Home Address (Building Number, Street Name, Unit, e.g., Floor, Suite)		City and State	ZIP Code	Borough (check one):	
				<input type="checkbox"/> 01-Manhattan <input type="checkbox"/> 02-Bronx <input type="checkbox"/> 03-Brooklyn	<input type="checkbox"/> 04-Queens <input type="checkbox"/> 05-Staten Island <input type="checkbox"/> 08-Outside NYC
Country					

Individual #2

Last Name		Suffix, e.g., Jr., Sr., Esq. (optional)	First Name		Middle Name (optional)
Title		Social Security Number or Individual Taxpayer Identification Number □□□-□□-□□□□		% Stock Owned	
Home Address (Building Number, Street Name, Unit, e.g., Floor, Suite)		City and State	ZIP Code	Borough (check one):	
				<input type="checkbox"/> 01-Manhattan <input type="checkbox"/> 02-Bronx <input type="checkbox"/> 03-Brooklyn	<input type="checkbox"/> 04-Queens <input type="checkbox"/> 05-Staten Island <input type="checkbox"/> 08-Outside NYC
Country					

Entity #1

Entity Name					
Federal Employer Identification Number (EIN) □□-□□□□□□□□				% Stock Owned	
Business Address (Building Number, Street Name, Unit, e.g., Floor, Suite)		City and State	ZIP Code	Borough (check one):	
				<input type="checkbox"/> 01-Manhattan <input type="checkbox"/> 02-Bronx <input type="checkbox"/> 03-Brooklyn	<input type="checkbox"/> 04-Queens <input type="checkbox"/> 05-Staten Island <input type="checkbox"/> 08-Outside NYC
Country					

Entity #2

Entity Name					
Federal Employer Identification Number (EIN) □□-□□□□□□□□				% Stock Owned	
Business Address (Building Number, Street Name, Unit, e.g., Floor, Suite)		City and State	ZIP Code	Borough (check one):	
				<input type="checkbox"/> 01-Manhattan <input type="checkbox"/> 02-Bronx <input type="checkbox"/> 03-Brooklyn	<input type="checkbox"/> 04-Queens <input type="checkbox"/> 05-Staten Island <input type="checkbox"/> 08-Outside NYC
Country					

Section 4: Applicant Background Questions – All applicants

Please answer the questions below on behalf of *all* individuals named on the application (i.e., sole proprietors, general partners, directors, corporate officers, officers, Board of Directors members, and all shareholders owning 10% or more of company stock). **Attach additional sheets as necessary.**

Some background questions inquire about criminal and/or civil charges. A conviction does not, by itself, mean you will not get a license. Factors such as the nature and seriousness of the offense, the amount of time that has passed since the conviction, and your age at the time of the conviction will be considered. However, your license may be denied if you fail to disclose a conviction in response to the questions.

1. Has this individual ever been licensed by the New York City Department of Consumer Affairs (DCA)? YES NO

If YES, provide the following information:

Name of the Business or Individual Involved	
Business or Home Address Associated with the License	
DCA License Number	

2. Has this individual ever had a DCA license denied, suspended, or revoked? YES NO

If YES, provide the following information:

Name of the Business or Individual Involved	
Business or Home Address Associated with the License	
DCA License Number	

3. Is this individual related by blood or marriage to any individual who is or who ever has been licensed by DCA, or who serves, or has ever served, as an officer, director, shareholder, or partner in an entity licensed by DCA? YES NO

If YES, provide the following information:

Relative's Name	
Relationship to Applicant	
Name of the Business or Individual Involved	
Business or Home Address Associated with the License	
DCA License Number	

4. Has this individual ever been an officer, director, shareholder, or partner of an entity licensed by DCA? YES NO

If YES, provide the following information:

Name of the Business or Individual Involved	
Business or Home Address Associated with the License	
DCA License Number	

If you answer YES for any of the following questions, please include the requested description and attach all relevant documents to this application. NOTE: Description should include the date of conviction, the nature of the incident, persons involved, and the outcome. Please include convictions for which you might have been imprisoned or fined even if, in fact, you only had to perform community service or were put on probation. You may omit parking violations and offenses that resulted in a finding of juvenile delinquency, youthful offender, wayward minor, or person in need of supervision.

5. Has this individual ever been found guilty of a crime, offense, or violation? YES NO
If YES, please provide a description of the crime, offense, or violation.

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6. Is there any kind of criminal charge whatsoever pending against this individual? YES NO
If YES, please provide a description of the circumstances of the arrest.

7. Is there any civil charge (including administrative charge) pending against this individual? YES NO
If YES, please provide a description of the civil and/or administrative charge.

8. Is there any DCA-issued Notice of Violation, Notice of Hearing, Summons, Padlock Order, or other order now in effect and/or pending against this individual or any business operated by this individual? YES NO
If YES, please provide a description of the order, including all DCA-imposed obligations to pay fines or restitution that have not been satisfied in full.

9. Has any court rendered a judgment against this individual or any business operated by this individual for activity related to the conduct of a business? YES NO
If YES, please provide a description of the court judgment.

10. Is there any judgment against this individual or any business operated by this individual that has not been paid in full for 30 days or more? YES NO
If YES, please provide a description of the judgment.

AFFIRMATION – Please read, check box, and sign below.

I am authorized to complete and submit this application and all attachments (together, the "Application"). I have reviewed the entire Application. To the best of my knowledge, this Application is true, correct, and complete.

If any of the information in this Application changes, the applicant must inform the Department of Consumer Affairs of those changes. I also understand that the applicant must comply with all relevant laws and rules if granted a license to operate.

I understand that the Department of Consumer Affairs has not yet considered this Application. The applicant will not operate the business until receipt of an actual license document from the Department of Consumer Affairs or until / unless the Department of Consumer Affairs has given written permission to operate while this Application is pending. This affirmation shall be deemed executed in the City and State of New York and shall be governed by and construed in accordance with the laws of the State of New York (notwithstanding New York choice of law or conflict of law principles) and the laws of the United States.

I affirm that these statements are true and correct.

PENALTY FOR FALSE STATEMENTS: It is against the law to make a statement in this Application that you know is false. If you make a statement that you know is false, you may be punished.

Under Sections 210.45 and 175.30 of the New York Penal Law, you may be:

- fined up to \$1000 and / or
- sent to jail for up to one year

Under Section 175.35 of the New York Penal Law, you may be punished if you:

- make a statement that you know is false and / or
- make the statement because you intend to mislead the Department of Consumer Affairs

Under Section 175.35 of the New York Penal Law, you may be:

- fined up to \$5000 or
- fined an amount that is twice the amount of money you received by making the false statement and / or
- sent to jail for up to 4 years

The Department of Consumer Affairs may also punish you for making a false statement on this Application. These punishments may include:

- fines or penalties of up to \$500 for each false statement
- permanent loss (revocation) of your license

By checking the box above, I understand and agree that:

- I am swearing or affirming that I have told the truth on this Application.

Applicant's Signature

Applicant's Title (if any)

Print Full Name

Date

If you are not registered to vote, would you like to register here today? YES NO
Whether you apply to register to vote or not, it will not affect the assistance DCA will provide to you. If you wish, we will help you in filling out the voter registration application.

FOR OFFICE USE ONLY - DO NOT WRITE BELOW THIS LINE

Application number									CAMIS number								
Code				Class				Subclass			Item count						
Type				HIC/Landscaper <input type="checkbox"/> Yes <input type="checkbox"/> No					CSC Submitted <input type="checkbox"/> Yes <input type="checkbox"/> No								

PROCESSING THE APPLICATION

1a. Are there any unpaid fines?	<input type="checkbox"/> YES <input type="checkbox"/> NO
1b. If YES, is there a clearance letter attached?	<input type="checkbox"/> YES <input type="checkbox"/> NO
2a. Was a 10-day letter issued?	<input type="checkbox"/> YES <input type="checkbox"/> NO

2b. If YES, give reason ↓

Processor's Signature ↓ APPROVED PENDING **Date** ↓

ADMINISTRATIVE DISPOSITION

Application Status → APPROVED DENIED **Date** →

Processor's Signature

FINGERPRINTS

Date fingerprints were taken

Number of fingerprints taken for one application

Fingerprints were taken by (Counter staff's name)

07-28-2010



42 Broadway
5th Floor
New York, NY 10004

Dial 311
(212-NEW-YORK)

nyc.gov/consumers

PROCESS SERVING AGENCY BACKGROUND INFORMATION FORM

Process Serving Agency: _____
Name of License Applicant

Please answer the questions below on behalf of all individuals named on the application (i.e., sole proprietors, general partners, directors, corporate officers, and all shareholders owning 10% or more of the business applying for a license). Attach additional papers as necessary.

1. Has any individual ever held a license or permit issued by the federal, state, or local government? Yes No

If **Yes**, please complete the information below.

Name of Individual	Government Level <i>(federal, state, or local)</i>	Name of License or Permit	License or Permit Number

2. Has any individual ever had a license or permit denied, suspended, or revoked? Yes No

If **Yes**, please complete the information below.

Name of Individual	Government Level <i>(federal, state, or local)</i>	Name of License or Permit	License or Permit Number



3. Has any individual ever had the renewal of a license or permit denied? Yes No

If **Yes**, please complete the information below.

Name of Individual	Government Level <i>(federal, state, or local)</i>	Name of License or Permit	License or Permit Number

4. Has any individual ever operated as a process server under another name? Yes No

If **Yes**, provide all prior names and the dates when they were used below.

Name of Individual	Prior Process Server Name	Dates Used

5. Does any individual have authorization to act as a Notary Public or Commissioner of Deeds? Yes No

If **Yes**, complete the information below.

Name of Individual	Type of authorization <i>(Notary Public or Commissioner of Deeds)</i>



6. Is any individual engaged in any type of business at a location that is different from the business address listed on the license application? Yes No

If **Yes**, provide the information below.

Name of Individual	Type of Business	Business Name and Address	Business Telephone

7. Is any individual employed by the City of New York? Yes No

By signing below, I understand that falsification of any statement made herein is an offense punishable by a fine or imprisonment or both.

Signature

Print Name

Date



42 Broadway
5th Floor
New York, NY 10004

Dial 311
(212-NEW-YORK)

nyc.gov/consumers

ROSTER OF PROCESS SERVERS

Process Serving Agency Name:	
Process Serving Agency's DCA License Number (if applicable):	
Business Address:	

Process serving agencies must submit a list of all process server individuals who will serve process on behalf of the agency. Please provide required information below. Attach additional papers as necessary.

Process Server Individual's Name	Process Server Individual's Address	DCA License Number	Does this individual serve process exclusively as an employee of the agency?
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Yes <input type="checkbox"/> No

IMPORTANT REQUIREMENTS ABOUT UPDATING INFORMATION:

- Process serving agencies must submit an updated Roster of Process Servers to the Department of Consumer Affairs (DCA) within five (5) days of assigning service to new process server individuals.
- If a process server ceases to serve process exclusively for the agency as an employee, the agency must notify DCA within five (5) days of the change in writing. The notification must include the process server's name, address, and DCA license number.
- Agencies that do not provide updated information are subject to fines or other sanctions.

I understand that falsification of any statement made herein is an offense punishable by a fine or imprisonment or both.

Signature

Print Name

Title (if any)

Date



Important Message for Process Server Organizations and Individuals

The new regulations for Process Server Organizations and Individuals (including bond requirements) are in effect.

Attached are Surety Bond model templates that meet Code requirements. Other forms may meet the requirements.

Surety Bond Process Serving Agency

(NYC Administrative Code Section 20-406.1)

Effective Date: _____

Bond Number: _____

The premium of this bond is \$ _____ for the term of _____.

KNOW ALL PERSONS BY THESE PRESENTS:

That _____,
(Name of Principal)

doing business as _____,
(Name of Business)

a Process Serving Agency, whose address is _____,
(Street Address)

_____, as PRINCIPAL, and
(City, State, ZIP Code)

_____,
(Name of Surety)

a corporation authorized to transact a general surety business in the State of New York, as SURETY, are held and firmly bound to the People of the City of New York, as Obligee, for the use and benefit of the City of New York or any aggrieved person who may be injured by the Principal as hereinafter provided in the sum of one hundred thousand dollars (\$100,000), for which payment we bind ourselves and our legal representatives, jointly and severally, firmly by these presents.

THE CONDITION of the above obligation is such that WHEREAS the Principal(s) is a Process Serving Agency pursuant to Sections 20-403 *et seq.* of the NYC Administrative Code, and is required to give security pursuant to Section 20-406.1 of the NYC Administrative Code in the principal amount of one hundred thousand dollars (\$100,000).

NOW, THEREFORE, the conditions of the foregoing obligations are that if the Principal(s) complies with NYC Administrative Code Sections 20-403 *et seq.* and Rules of the City of New York Sections 2-231 *et seq.*, as are now in force or which may hereafter be amended relating to the business of Process Serving Agency, and that the Principal(s) will pay to the City any fine, penalty or other obligation the City imposes relating to a violation of NYC Administrative Code Sections 20-403 *et seq.* and Rules of the City of New York Sections 2-231 *et seq.* and will pay to a plaintiff any final judgment recovered in an action arising out of the violation of any of the provisions of NYC Administrative Code Sections 20-403 *et seq.* and Rules of the City of New York Sections 2-231 *et seq.* within thirty (30) days of its imposition, and shall indemnify and save harmless the Obligee or any aggrieved person from all loss and damage that they shall suffer by reason of said Principal's failure to comply with said laws and regulations, then this obligation is to be void; otherwise, it is to remain in full force and effect.

PROVIDED, HOWEVER, this bond is issued subject to the following express conditions:

1. This bond shall be deemed continuous in form and shall remain in full force and effect for the term of the initial bond and all subsequent terms, for all liabilities, acts, omissions or causes arising after this bond becomes effective until terminated as hereinafter provided.
2. This bond may be canceled by the Surety by giving sixty (60) days notice in writing to the City of New York Department of Consumer Affairs and Principal(s) at the address last known to the Surety by certified mail at least sixty (60) days prior to the termination date specified in such notice and upon giving such notice, the Surety shall be discharged from all liability under this bond for any act or omission of the Principal occurring after such termination date.
3. The people of the City of New York, as Obligee, or any person aggrieved by the Principal's breach of conditions of this bond may proceed against the Principal or Surety herein, or both, to recover damages. Successive actions may be brought against this bond for successive breaches of its conditions.
4. Regardless of the number of years the bond remains in effect, the number of premiums paid, the number of renewals of the license, the number of claimants or the number of claims made, the aggregate liability under the bond shall not exceed the penal sum of the bond.

Executed in _____ on this _____ day of
(City, State)

_____,
(Month) (Year)

_____, Principal

By _____

_____, Surety

By _____, Attorney-in-Fact

(Address of Surety)

Surety Bond Process Server Individual

(NYC Administrative Code Section 20-406.1)

Effective Date: _____

Bond Number: _____

The premium of this bond is \$ _____ for the term of _____.

KNOW ALL PERSONS BY THESE PRESENTS:

That _____,
(Name of Process Server Individual)

a Process Server Individual, whose address is _____
(Street Address)

_____, as PRINCIPAL, and
(City, State, ZIP Code)

_____,
(Name of Surety)

a corporation authorized to transact a general surety business in the State of New York, as SURETY, are held and firmly bound to the People of the City of New York, as Obligee, for the use and benefit of the City of New York or any aggrieved person who may be injured by the Principal as hereinafter provided in the sum of ten thousand dollars (\$10,000), for which payment we bind ourselves and our legal representatives, jointly and severally, firmly by these presents.

THE CONDITION of the above obligation is such that WHEREAS the Principal(s) is a Process Server Individual pursuant to Sections 20-403 *et seq.* of the NYC Administrative Code, and is required to give security pursuant to Section 20-406.1 of the NYC Administrative Code in the principal amount of ten thousand dollars (\$10,000).

NOW, THEREFORE, the conditions of the foregoing obligations are that if the Principal(s) complies with NYC Administrative Code Sections 20-403 *et seq.* and Rules of the City of New York Sections 2-231 *et seq.*, as are now in force or which may hereafter be amended relating to the business of Process Server Individual, and that the Principal(s) will pay to the City any fine, penalty or other obligation the City imposes relating to a violation of NYC Administrative Code Sections 20-403 *et seq.* and Rules of the City of New York Sections 2-231 *et seq.* and will pay to a plaintiff any final judgment recovered in an action arising out of the violation of any of the provisions of NYC Administrative Code Sections 20-403 *et seq.* and Rules of the City of New York Sections 2-231 *et seq.* within thirty (30) days of its imposition, and shall indemnify and save harmless the Obligee or any aggrieved person from all loss and damage that they shall suffer by reason of said Principal's failure to comply with said laws and regulations, then this obligation is to be void; otherwise, it is to remain in full force and effect.

PROVIDED, HOWEVER, this bond is issued subject to the following express conditions:

1. This bond shall be deemed continuous in form and shall remain in full force and effect for the term of the initial bond and all subsequent terms, for all liabilities, acts, omissions or causes arising after this bond becomes effective until terminated as hereinafter provided.

2. This bond may be canceled by the Surety by giving sixty (60) days notice in writing to the City of New York Department of Consumer Affairs and Principal(s) at the address last known to the Surety by certified mail at least sixty (60) days prior to the termination date specified in such notice and upon giving such notice, the Surety shall be discharged from all liability under this bond for any act or omission of the Principal occurring after such termination date.
3. The people of the City of New York, as Obligee, or any person aggrieved by the Principal's breach of conditions of this bond may proceed against the Principal or Surety herein, or both, to recover damages. Successive actions may be brought against this bond for successive breaches of its conditions.
4. Regardless of the number of years the bond remains in effect, the number of premiums paid, the number of renewals of the license, the number of claimants or the number of claims made, the aggregate liability under the bond shall not exceed the penal sum of the bond.

Executed in _____ on this _____ day of
(City, State)

_____, _____.
(Month) (Year)

_____, Principal

By _____

_____, Surety

By _____, Attorney-in-Fact

(Address of Surety)

BONDING COMPANIES

The following bonding companies have provided bonds for licensees, or have communicated to the Department of Consumer Affairs an interest in doing so. This must **not** be considered a recommendation of any company, or a complete listing. All applicants are advised to investigate and compare these and other bonding companies. Some companies may provide only certain types of bonds. Companies are listed in alphabetical order.

A to Z Business Services

130 William Street, Suite 526
New York, NY 10038
Telephone: (212) 598-4026
Fax: (212) 598-4083
E-mail: info@atozbondingagency.com
Web site: www.atozbondingagency.com

A. BRS Planning & Brokerage Inc.

8802 Flatlands Avenue
Brooklyn, New York 11236
Telephone: (718) 257-4000
Fax: (718) 272-0469

Advance Insurance Services

Bernard Fleischer & Sons

29 Broadway, Suite 1511
New York, NY 10006
Telephone: (212) 566-1881
Fax: (212) 566-1615
E-mail: bonds@bfbond.com

Alegre Insurance Agency

1857 Westchester Avenue
Bronx, New York 10472
Telephone: (718) 430-9893
Fax: (718) 824-7009
E-mail: alegreinsurance@optonline.net

Kenneth S. Benson Insurance and Bonds

1665 East 24th Street
Brooklyn, New York 11229
Telephone: (718) 258-2226
Fax: (718) 253-5065

BondAbility Insurance Agency

106 Whispering Pines
Birdsboro, Pennsylvania 19508
Telephone: (800) 818-3940
Fax: (815) 550-2439
E-mail: customerservice@bondability.com
Web site: www.bondability.com

BondsExpress.com

1937 Teall Avenue
Syracuse, New York 13206
Telephone: (800) 331-5453
Fax: (866) 404-1255
E-mail: info@bondsexpress.com
Web site: www.bondsexpress.com

Brownyard Group

21 Maple Avenue
Bay Shore, NY 11706
Telephone: (631) 666-5050
Fax: (631) 666-5723
Web site: www.brownyard.com

Caraballo Services LLC

111 Atlantic Avenue
Brooklyn, NY 11201
Telephone: (718) 875-2929
Fax: (718) 875-3737
Web site: www.cblservices.com

Castle Rock Agency

419 Lafayette Street, 2nd Floor
New York, New York 10003
Telephone: (646) 467-7830
E-mail: info@castlerockagency.com
Web site: www.castlerockagency.com

Consumers Coverage Corporation

75-12 Roosevelt Avenue
Jackson Heights, New York 11372
Telephone: (718) 651-4436
Web site: www.consumerscoverage.com

Fleetwood Agency, Inc.

108 Greenwich Street, 7th Floor
New York, New York 10006
Telephone: (212) 968-9100

Carmine J. Guadagno Agency

929 Morris Park Avenue
Bronx, New York 10462
Telephone: (718) 863-1973
Fax: (718) 518-0830

Ivan Agency, Inc.

111 Grand Avenue, Suite #204
Palisades Park, New Jersey 07650
Telephone: (201) 585-5155

Jamesz Bonds Agency

1952 Ford Street
Brooklyn, New York 11229
Telephone: (718) 552-5309
(646) 775-1805
E-mail: jameszbonds@mac.com
Web site: www.jameszbonds.com

Jasper Surety Agency LLC
137 Willis Avenue
Mineola, NY 11501
Telephone: (516) 742-8815

David S. Kaplan Associates, Inc.
2459A East Tremont Avenue
Bronx, New York 10461
Telephone: (718) 822-5500
Fax: (718) 824-5910

Theodore E Kass Insurance
20 Route 112
Patchogue, New York 11772
Telephone: (631) 207-0928
E-mail: tekassinsurance@yahoo.com

Lance Surety Bond Associates, Inc.
4387 Swamp Road, #287
Doylestown, PA 18902
Telephone: (877) 514-5146
Fax: (267) 362-4817
Web site: www.suretybonds.org

David J. Louie, Inc.
202 Centre Street, 5th Floor
New York, New York 10013
Telephone: (212) 941-8919
Fax: (212) 226-9248

39-06 Main Street
Flushing, New York 11354
Telephone: (718) 353-8919
Fax: (718) 353-8918

E-mail: info@davidjlouie.com
Web site: www.davidjlouie.com

Mary C. Menendez Brokerage Inc.
74-09 37th Avenue, Suite 414
Jackson Heights, New York 11372
Telephone: (718) 672-8081
Fax: (718) 672-8124

Northeastern Group Ltd.
188-10 Northern Boulevard
Flushing, New York 11358
Telephone: (718) 445-8835
Fax: (718) 886-5042

695 Hempstead Turnpike
Franklin Square, New York 11010
Telephone: (516) 505-7700
Fax: (516) 483-5821

RHG Brokerage
175 Park Avenue
Brooklyn, New York 11205
Telephone: (718) 858-2282
Fax: (718) 858-2283
E-mail: rhgbrokerage@gmail.com
Web site: www.rhgbrokerage.com

Roanoke Trade Services, Inc.
61 Broadway, Suite 2700
New York, New York 10006
Telephone: (212) 747-1800

Serhey-Davidson Corp.
160 Broadway, #1106
New York, New York 10038
Telephone: (212) 964-7802
Fax: (212) 608-3629

Starway Agency Inc.
334 East 92nd Street, Suite 1C
New York, New York 10128
Telephone: (212) 426-3880
Fax: (212) 426-3882

Thompson Surety Agency - METROBOND
1 Dupont Street, Suite 210
Plainview, New York 11803
Telephone: (800) 98-BONDS
Fax: (516) 349-5916

Topper Brokerage, Inc.
321 Broadway, 4th Floor
New York, New York 10007
Telephone: (800) 613-4178
(212) 233-6969
Fax: (212) 619-0889

Total Dollar
57 Manhasset Avenue
Manhasset, New York 11030
Telephone: (212) 689-4477
Fax: (516) 833-1555

Gerald J. Wilkoff, Inc.
95 Main Street
Post Office Box 142
Mineola, New York 11501
Telephone: (516) 747-0200
(800) 85-BONDS
E-mail: info@wilkoffbonds.com

Rafael Yakubov
Jamaica Insurance Brokerage
84-75 Parsons Boulevard
Jamaica, New York 11432
Telephone: (718) 261-2899
Fax: (718) 739-2927

Harold Zipperman, Inc.
336 East 149th Street
Bronx, New York 10451
Telephone: (718) 292-1841
Fax: (718) 993-2758



42 Broadway
5th Floor
New York, NY 10004

Dial 311
(212-NEW-YORK)

nyc.gov/consumers

PROCESS SERVING AGENCY COMPLIANCE PLAN AFFIRMATION

Process Serving Agency Name:	
Process Serving Agency's DCA License Number (if applicable):	
Business Address:	

I affirm the following:

1. I am authorized to complete and submit this affirmation on behalf of the Process Serving Agency named above.
2. The Process Serving Agency named above has adopted a written Compliance Plan to ensure that each individual serving process on behalf of the Agency acts with integrity and honesty and complies with the record-keeping requirements applicable to process servers. (*Section 2-234a (c) of Title 6 of the Rules of the City of New York*)
3. I understand that falsification of any statement made herein is an offense punishable by a fine or imprisonment or both.

Signature

Print Name

Title (if any)

Date



42 Broadway
5th Floor
New York, NY 10004

Dial 311
(212-NEW-YORK)

nyc.gov/consumers

PROCESS SERVING AGENCY ELECTRONIC DEVICE CERTIFICATION

Process Serving Agency Name:	
Process Serving Agency's DCA License Number (if applicable):	
Business Address:	

I affirm the following:

1. I am authorized to complete and submit this certification on behalf of the Process Serving Agency named above.
2. I have read section 20-410 of the New York City Administrative Code and section 2-233b of Title 6 of the Rules of the City of New York (6 RCNY).
3. The Process Serving Agency has entered into a contract with the independent third party below to provide the device and services required by 6 RCNY section 2-233b.

Contractor Name:	
Contractor Address:	
Account Number	

The Process Serving Agency will submit an amended certification within two days of entering a contract with a different contractor.

4. The Process Serving Agency will provide individuals who serve process with the required electronic device to record service.

More



Please select the statement that describes the Process Serving Agency:

- The Agency will provide the device and services to all of the Process Server Individuals listed on the Roster of Process Servers.
- The Agency will provide the device and services only to Process Server Individuals listed as exclusive employees on the Roster of Process Servers.
- The Agency will provide the device and services to the following Process Server Individuals. Attach additional papers as necessary.

Process Server Individual Name	DCA License Number

5. I understand that falsification of any statement made herein is an offense punishable by a fine or imprisonment or both.

Signature

Print Name

Title (if any)

Date



42 Broadway
5th Floor
New York, NY 10004

Dial 311
(212-NEW-YORK)

nyc.gov/consumers

PROCESS SERVING AGENCY RECORDKEEPING CERTIFICATION

Process Serving Agency Name:	
Process Serving Agency's DCA License Number (if applicable):	
Business Address:	

I affirm the following:

1. I am authorized to complete and submit this certification on behalf of the Process Serving Agency named above.
2. I have read section 20-406.3 of the New York City Administrative Code and sections 2-233 and 2-233a of Title 6 of the Rules of the City of New York (6 RCNY).
3. The Process Serving Agency named above will keep electronic records of each process served or attempted for at least seven (7) years in compliance with 6 RCNY section 2-233a. Records must include information required in section 89-cc of the New York State General Business Law and 6 RCNY 2-233. I understand that tampering with electronic records is prohibited.
4. The Process Serving Agency named above will keep complete and accurate records of each Process Server Individual who serves process on behalf of the Agency. All individuals, including those who serve process exclusively as employees for the Agency, are listed on the Roster of Process Servers.
5. I understand that falsification of any statement made herein is an offense punishable by a fine or imprisonment or both.

Signature

Print Name

Title (if any)

Date

Child Support Certification

Certification pursuant to General Obligations Law Section 3-503(2)

Personal information

Last name _____ First name _____

Social Security Number or ITIN _____ Date of Birth ____ / ____ / ____

Street address _____ Apt. number _____

City _____ State _____ Zip code _____

Employer information

Business name _____

Street address _____

City _____ State _____ Zip code _____

(Choose #1 or #2, and put an "X" in the box in front of the applicable statement.)

1. I am not under a court or administrative order to pay child support. OR
2. I am under an obligation to pay child support.
My child support account number[s] (if applicable): _____

(If you chose #2, put an "X" in front of the applicable statement.)

- a. I do not owe arrears equal to 4 months or more of child support payments.
- b. I have arrears equal to 4 months or more of child support payments, and one of the following statements applies to me (check the appropriate boxes):
 - I am making payments by income execution or by court agreed payment/repayment plan or by a plan agreed to by the parties.
 - My child support obligation is the subject of a pending court proceeding.
 - I am currently in receipt of Public Assistance or Supplemental Security Income.

My case number is: _____.

- c. I have arrears equal to 4 months or more of child support payments and none of the above statements in "B" apply to me.

I hereby do solemnly swear under oath and subject to penalty of perjury that the information provided by me in this certificate is true and accurate to the best of my knowledge.

Signature _____ Date _____

The intentional submission of false written statements for the purpose of frustrating or defeating payment of support is punishable pursuant to Section 175.35 of the penal law. Persons who are four months or more in arrears in child support or who have failed to comply with a summons, subpoena or warrant relating to a paternity or child support proceeding may be subject to suspension of their business, professional, drivers, and/or recreational license and permits including, but not limited to, license issued pursuant to section 11-0713 of the environmental conservation law.

If you are experiencing difficulties obtaining a NYC license, permit, certificate or registration because of an outstanding child support problem, please come to OCSE's Customer Service Walk-In Center and you may receive assistance in resolving your problem:

The New York City Office of Child Support Enforcement Customer Service Walk-In Center
151 West Broadway, 4th Floor, New York, NY 10013 (between Worth St. and Thomas St.)
Monday – Friday 8 a.m. – 7 p.m.; Saturday 9 a.m. – 5 p.m.



Granting Authority to Act Affirmation

_____ affirms the truth of the following:
(Applicant Name)

1. I am the _____ of _____
(State relationship to business) (Name of business as it appears on your Business or Partnership Certificate, or Certificate of Incorporation or Filing Receipt. If you are applying for an Individual-based license, please enter "N/A".)

which is located at _____ and whose
(Street Address, Borough, State, and Zip Code)
telephone number and email address are _____ and _____.
(Area code & Number) (Email Address)

2. I hereby authorize _____ of _____
(Full name of designated representative) (Full name of representative's business)

who maintains an office/resides at _____
(Street Address, Borough, State, and Zip Code)
and whose telephone number and email address are _____ and
(Area code & Number)

_____ to represent me before the license, permit, or certificate
(Email Address)

issuing Agency in regard to the preparation and submission of an application for the following license(s), permit(s) or certificate(s):

3. I understand that I will be legally bound by the representations made in said applications and will be held responsible by the license, permit, or certificate issuing Agency for any inaccuracies or misrepresentations.

4. I understand that this affirmation will expire 180 days from the date I sign and date this form.

5. I understand that I may revoke (withdraw) the Granting Authority to Act by calling 311 and asking for assistance revoking a Granting Authority to Act. A 311 call taker will advise me on how to notify the relevant issuing Agencies about revocation, and I will be responsible for notifying the relevant issuing Agencies of each application to which the revocation applies. Revocations may only be made prior to issuance of the applicable license, permit or certificate.

Signature

Print Name

Date

Software Company List

As of December 19, 2011, process servers must carry and operate an electronic device that records Global Positioning System (GPS) location while serving process. The companies listed below have represented that they provide software and services that comply with the Rules.

Note:

This list must **not** be considered a recommendation of any company, or a complete listing. Companies are listed in alphabetical order.

All process servers are advised to investigate and compare these and other companies.

CivilMap

Telephone: (970) 240-8876
Fax: (970) 409-3090
E-mail: Mike@civilmap.com
Web site: www.civilmap.com

Database Services, Inc.

5415 Lake Howell Road #327
Winter Park, FL 32792
E-mail: support@dbsinfo.com
Web site: <http://dbsinfo.com/>

LoyalDog Software, LLC

P.O. Box 350604
Jamaica, NY 11435
Telephone: (347) 395-7143
E-mail: loyalpuppy@gmail.com
Web site: www.loyalpuppy.com

Process 360

7301 RR 620 N. #155-355
Austin, TX 78726
Telephone: (512) 565-3373
Web site: www.Process-360.com

The Independent Server

1265 Sunrise Highway, #103
Bay Shore, NY 11706
Telephone: (631) 482-7185
E-mail: theindependentserver@gmail.com
Web site: www.theindependentserver.com

TrueServe / JJL Technologies Corp

6415 Lake Worth Road, Suite # 100
Greenacres, FL 33463
Telephone: (877) 458-8555
Web site: www.mytrueserve.com

Educational Materials for Process Servers



Department of
Consumer Affairs

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New York City Laws and Rules regarding Process Servers

New York City Administrative Code and Rules regarding Process Servers

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of the New York City Licensing Law (and Rules, if enacted) are included as a handout in this packet. The Law (and Rules) are current as of January 2009.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

NEW YORK CITY ADMINISTRATIVE CODE

TITLE 20: CONSUMER AFFAIRS

CHAPTER 2: LICENSES

SUBCHAPTER 23: PROCESS SERVERS

§ 20-403 License required. It shall be unlawful for any person to be employed as or perform the services of process server without a license therefor.

§ 20-404 Definition.

a. A process server is a person engaged in the business of serving or one who purports to serve or one who serves personally or by substituted service upon any person, corporation, governmental or political subdivision or agency, a summons, subpoena, notice, citation or other process, directing an appearance or response to a legal action, legal proceeding or administrative proceedings.

b. For the purposes of this subchapter the service of five or more process in any one year shall be deemed to constitute doing business as a process server.

§ 20-405 Exceptions.

a. The provisions of this subchapter shall not apply to any employee of any city, state or federal department or agency, who is acting within the scope of his or her employment.

b. The provisions of this subchapter shall not apply to attorneys duly admitted to practice law in the state of New York.

§ 20-406 Application; fingerprinting.

a. An application for such a license or renewal thereof shall be made to the commissioner on a form prescribed by him or her.

b. The commissioner shall require that applicants for licenses issued pursuant to this subchapter be fingerprinted for the purpose of securing criminal history records from the state division of criminal justice services. The applicant shall pay a processing fee as required by the state division of criminal justice services. Fingerprints shall be taken of the individual owner if the applicant is a sole proprietorship; the general partners if the applicant is a partnership; and the officers, principals, directors, and stockholders owning more than ten percent of the outstanding stock of the corporation if the applicant is a corporation. Any person required to be fingerprinted hereunder shall furnish to the department three current passport-sized photographs of such person. Notwithstanding the foregoing, the commissioner need not require applicants for licenses required under this subchapter to be fingerprinted if criminal history records concerning such applicants are not available from the state division of criminal justice services.

§ 20-407 Fee; term. The biennial license fee to be paid by such persons shall be three hundred forty dollars.

§ 20-408 Rules and regulations. The commissioner may make and promulgate such rules and regulations as he or she may deem necessary for the proper implementation and enforcement of this subchapter.

§ 20-409 Issuance, renewal, suspension and revocation of a license.

a. A license issued hereunder may be suspended or revoked or its renewal denied by the commissioner at any time for the failure of the licensee to comply with any rule, regulation or order promulgated by the commissioner.

b. In addition to any of the powers that may be exercised by the commissioner pursuant to this subchapter and chapter one of this title, the commissioner, after notice and an opportunity to be heard, may refuse to issue or renew, or may suspend or revoke, a license required under this subchapter if the applicant or licensee, or any of its principals, officers or directors, or any of its stockholders owning more than ten percent of the outstanding stock of the corporation has been convicted of a crime which, in the judgment of the commissioner, has a direct relationship to such person's fitness or ability to perform any of the activities for which a license is required under this subchapter or has been convicted of any other crime which, in accordance with article twenty-three-a of the correction law, would provide a justification for the commissioner to refuse to issue or renew, or to suspend or revoke, such license.

Note: New York City businesses must comply with all relevant federal, state, and City laws and rules. All laws and rules of the City of New York, including the Consumer Protection Law and Rules, are available through the Public Access Portal, which businesses can access by visiting www.nyc.gov/consumers. For convenience, sections of the New York City Licensing Law (and Rules, if enacted) are included as a handout in this packet. The Law (and Rules) are current as of January 2009.

Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs (DCA) is not responsible for errors or omissions in the handout provided in this packet. The information is not legal advice. You can only obtain legal advice from a lawyer.

RULES OF THE CITY OF NEW YORK
TITLE 6: DEPARTMENT OF CONSUMER AFFAIRS
CHAPTER 2: LICENSES
SUBCHAPTER W: PROCESS SERVERS

§2-231 Definitions.

For the purposes of the application of Subchapter 23 of Chapter 2 of Title 20 of the Administrative Code, (unless the context indicates otherwise), the following definitions apply.

Engaged in the business of serving. "Engaged in the business of serving" means the following:

- (1) Service of five or more processes within the City of New York in any one calendar year; or
- (2) One who assigns, distributes or delivers processes to another for actual service.

Person. "Person" shall mean any individual, firm, company, partnership, corporation, association or other organization.

Process. "Process" shall mean a summons, notice of petition, order to show cause, subpoena, notice, citation or other legal paper issued under the laws of the State of New York directing an appearance or response to a legal action, legal proceeding or administrative proceeding; provided, however, that if under the laws of the State of New York the mailing of such legal paper is sufficient to effect service, such legal paper shall not be process for the purpose of this subchapter.

Process Server. "Process Server" shall mean a person engaged in the business of serving process upon any person, corporation, governmental or political subdivision or agency.

§2-232 License Requirement Exceptions.

(a) No license under Subchapter 23 of Chapter 2 of Title 20 of the Administrative Code is required of any employee of any city, state or federal department or agency, who is acting within the scope of his employment.

(b) No license under Subchapter 23 shall be required of any attorneys duly admitted to practice in the State of New York.

(c) No license under Subchapter 23 shall be required of any employee of a process server or attorney who does not actually serve process.

(d) The provisions of Subchapter 23 shall only apply to service of process within the City of New York.

§2-233 Records.

(a) *Duty of individual licensee to keep records.* Each process server shall keep records in compliance with the provisions of §89-c of the General Business Law, as follows:

(1) Each process server shall maintain a legible record of all service made by him as prescribed in this section.

(2) The record to be maintained shall include the following information, where applicable:

- (i) the title of the action;
- (ii) the name of the person served, if known;
- (iii) the date and approximate time service was effected;
- (iv) the address where service was effected;
- (v) the nature of the papers served;
- (vi) the court in which the action has been commenced;
- (vii) the index number of the action, if known.

(3) If service is effected pursuant to subdivisions one, two, or three of section three hundred eight of the civil practice law and rules, the record shall also include the description of the person served, including, but not limited to, sex, color of skin, hair color, approximate age, height and weight and other identifying features.

(4) If service is effected pursuant to subdivision four of section three hundred eight of the civil practice law and rules, the record shall also include the dates, addresses and time of attempted service pursuant to subdivisions one, two or three of such section.

(5) If the process server files an affidavit of service with the court, his record shall include the date of such filing.

(6) Process servers shall retain each record required to be kept under this §2-233(a) for a period of two years from the date of service. Where a process server is employed as a process server by any person, a copy of such records shall also be maintained by such person at his principal office in this state for the same period.

(b) Licensees who serve process shall also include in their records the following:

(1) If service is effected pursuant to CPLR 308(4) or RPAPL 735(1), a description of the area adjacent to the door to which process is affixed including the color and composition of hallway walls, color and composition of hallway floor or doorstep, and location of premises in relation to stairs, elevator or entranceway.

(2) The person or firm from whom the process served was received.

(3) Type of service effected whether personal, substituted or conspicuous.

(4) The postal receipt number of registered or certified mail if service is effected pursuant to RPAPL 735(1).

(5) Records shall be kept in chronological order in a bound, paginated volume.

(6) Corrections in records shall be made only by drawing a straight line through the inaccurate entry and clearly printing the accurate information directly above the inaccurate entry. All other methods of correction, including but not limited to, erasing, opaquing, obliterating, or redacting, are prohibited.

(c) Duty of other licensees to keep records. Every licensee shall keep complete and accurate records with respect to each individual licensee to whom he distributes, assigns or delivers process to be served. Such records shall include:

(1) The name of the individual licensee to whom process is distributed, assigned or delivered to be served;

(2) The names and index numbers of each case;

(3) The date that such papers were assigned for service, and the date that service was effected;

(4) The person from whom such papers were received for service;

(5) The date of filing of papers with the court.

(d) Availability of records. All records shall be retained by the licensee for two years or until further order of the department and shall be available for inspection by the Commissioner of Consumer Affairs or his designee. For the convenience of licensees, the Department has made a suggested form a part of this regulation. Any form which allows the licensee to record the information required by this regulation is acceptable.

§2-234 Duty to Comply with Law.

The licensee shall at all times strictly and promptly conform to all laws, rules, regulations and requirements of the federal, state and municipal authorities relating to the conduct of licensees and the service of process in

the State of New York and the preparation, notarization and filing of affidavits of service and other documents now in force or hereafter adopted during any license period.

§2-235 Preparation of Affidavits of Service.

No licensee shall sign or notarize or cause to be signed or notarized an affidavit of service until all factual averments have been set forth. The licensee shall include his/her license number on all affidavits of service signed by him/her.

§2-236 Duty to Report Hearings Contesting Service.

The licensee shall notify the Department (attention of Counsel's Office), in writing, by certified mail, within ten days of the conclusion of any court hearing, including, but not limited to, hearings commonly known as "traverse hearings," where service of process is contested. Such written notice shall include:

- (a) the title and index number of the action;
- (b) the court and the judge before whom the hearing took place;
- (c) the date(s) of the hearing;
- (d) any finding of the court regarding the service of process, if known.

§2-237 Wearing of Insignia Prohibited.

No licensee while serving process shall wear or display any badge, insignia, shield, medal, decoration or facsimile thereof.

§2-238 Use of Zip Codes.

All process mailed pursuant to the requirements of CPLR §308(4) or RPAPL §735(1) shall include on the envelope as part of the address the proper zip code of the person served.

New York City Laws and Rules regarding Process Servers

New York City Council Int. No. 6-A of 2010

File #: Int 0006-2010, Version: A

Int. No. 6-A

By Council Members Garodnick, Brewer, Gonzalez, James, Koslowitz, Lappin, Palma, Seabrook, Vallone, Barron, Mendez, White, Jackson, Lander, Williams, Sanders Jr., Levin and Vann

A Local Law to amend the administrative code of the city of New York, in relation to process servers.

Be it enacted by the Council as follows:

Section 1. Section 20-403 of the administrative code of the city of New York is amended to read as follows:

a. Process server license. It shall be unlawful for any person to do business as, be employed as or perform the services of a process server without a license therefor.

b. Process serving agency license. It shall be unlawful for any process serving agency to assign or distribute process to individual process servers for actual service in the city of New York without a license therefore.

§2. Section 20-404 of the administrative code of the city of New York is amended to read as follows:

a. A process server is a person engaged in the business of serving or one who purports to serve or one who serves personally or by substituted service upon any person, corporation, governmental or political subdivision or agency, a summons, subpoena, notice, citation or other process, directing an appearance or response to a legal action, legal proceeding or administrative proceedings.

b. A process serving agency is any person, firm, partnership, association or corporation, other than an attorney or law firm located in this state, or city marshal, who maintains an office, bureau or agency, the purpose of which is to assign or distribute process to individual process servers for actual service in the city of New York.

[b.] c. For the purposes of this subchapter the service of five or more process in any one year shall be deemed to constitute doing business as a process server.

§3. Section 20-406 of the administrative code of the city of New York is amended by adding a new subdivision c to read as follows:

c. Each such applicant for a process server license or renewal thereof shall be required to pass an examination satisfactorily. Such examination shall be under the supervision of the commissioner and shall test the knowledge of the applicant concerning proper service of process within the city of New York and familiarity with relevant laws and rules.

§4. Subchapter 23 of chapter 2 of title 20 of the administrative code of the city of New York is amended by adding new sections, 20-406.1, 20-406.2, 20-406.3 and 20-406.4 to read as follows:

20-406.1 Bond required. a. As a condition of the issuance of a process server license, each applicant for such license or a renewal thereof shall furnish to the commissioner a surety bond executed by the applicant in

the sum of ten thousand dollars, payable to the city of New York, and a surety approved by the commissioner. Such bond shall be conditioned upon the applicant's compliance with the provisions of this subchapter and any rules promulgated thereunder, and upon the further condition that the applicant will pay (i) to the city any fine, penalty or other obligation the city imposes relating to a violation of this subchapter and any rules promulgated thereunder, and (ii) to a plaintiff any final judgment recovered in an action arising out of the violation of any of the provisions of this subchapter within thirty days of its imposition. If an applicant is unable to obtain a surety bond as required by this section, and upon the provision of proof satisfactory to the commissioner of such inability, the individual applicant may, in lieu of furnishing such bond, deposit an amount of no less than one thousand dollars in a fund to be established by the commissioner to pay (i) to the city any fine, penalty or other obligation the city imposes relating to a violation of this subchapter and any rules promulgated thereunder, and (ii) to a plaintiff any final judgment recovered in an action arising out of the violation of any of the provisions of this subchapter within thirty days of its imposition.

b. A process server licensed under this subchapter who engages in the business of serving process exclusively as an employee of a process serving agency licensed under this subchapter shall not be required to furnish a surety bond.

c. As a condition of the issuance of a process serving agency license, each applicant for such license or a renewal thereof shall furnish to the commissioner a surety bond in the sum of one hundred thousand dollars executed by the applicant payable to the city of New York, and a surety approved by the commissioner. Such bond shall be conditioned upon the applicant's compliance with the provisions of this subchapter and any rules promulgated thereunder, and upon the further condition that the applicant will pay (i) to the city any fine, penalty or other obligation the city imposes relating to a violation of this subchapter and any rules promulgated thereunder, and (ii) to a plaintiff any final judgment recovered in an action arising out of the violation of any of the provisions of this subchapter within thirty days of its imposition.

§20-406.2 Responsibilities of process serving agencies. Every process serving agency licensed under this subchapter shall:

a. Comply with all applicable state and federal laws;

b. Be legally responsible for any failure to act in accordance with the laws and rules governing service of process by each process server to whom it has distributed, assigned or delivered process for service;

c. Provide to each process server employed by such agency a written statement indicating the rights of such employee and the obligations of the process serving agency under city, state and federal law. Such statement of rights and obligations shall include, but not be limited to, a general description of employee rights and employer obligations pursuant to laws regarding minimum wage, overtime and hours of work, record keeping, social security payments, unemployment insurance coverage, disability insurance coverage and workers' compensation;

d. Keep on file in its principal place of business for a period of three (3) years a statement for each employee, signed by such employee, indicating that the employee read and understood the statement of rights and obligations such employee received pursuant to subdivision (c) of this section.

§20-406.3 Records, Audits. a. Every process server and process serving agency licensed under this subchapter shall retain records in compliance with section 89-cc of the New York state general business law for no less than seven (7) years of each process served. Such records shall be retained in electronic form. Tampering with any such electronic records shall be prohibited.

b. A process server licensed under this subchapter who engages in the business of serving process exclusively as an employee of a process serving agency licensed under this subchapter shall not be subject to the provisions of subdivision (a) of this section, but shall be required to comply with all other applicable laws.

c. The commissioner may conduct audits of the information required to be kept pursuant to subdivision (a) of this section in order to monitor compliance with this subchapter.

§20-406.4 Educational materials. The commissioner shall develop educational materials to be provided to all process servers and process serving agencies licensed under this subchapter. Such materials shall at a minimum identify the laws and regulations pertaining to service of process in the city of New York.

§5. Section 20-409 of the administrative code of the city of New York is amended by adding a new subdivision c to read as follows:

c. Upon application for renewal of a license issued pursuant to this subchapter, applicants subject to subdivision (a) of section 20-406.3 of this subchapter shall certify in writing compliance with the record keeping provisions of such section.

§6. Subchapter 23 of chapter 2 of title 20 of the administrative code of the city of New York is amended by adding new sections 20-409.1 and 20-409.2 to read as follows:

§20-409.1 Violations and penalties. Any person who, after notice and hearing shall be found guilty of violating any provision of this subchapter, shall be punished in accordance with the provisions of chapter one of this title and shall be subject to a penalty of not less than seven hundred dollars nor more than one thousand dollars for each violation.

§20-409.2 Civil Cause of Action. Any person injured by the failure of a process server to act in accordance with the laws and rules governing service of process in New York state, including this subchapter and regulations promulgated thereunder, shall have a cause of action against such process server and process serving agency, which distributed or assigned process for service, in any court of competent jurisdiction for any or all of the following relief:

- a. compensatory and punitive damages, provided that punitive damages shall only be awarded in the case of willful failure to serve process;
- b. injunctive and declaratory relief;
- c. attorneys' fees and costs; and
- d. such other relief as a court may deem appropriate.

§20-409.3 Reporting. Twenty-four months after the local law that added this section becomes effective, the commissioner shall submit a report to the speaker of the council regarding the effectiveness of these provisions on effectuating proper service and improving oversight over the process service industry. Such report shall include, among other things, the results of audits the commissioner has completed of process servers and process serving agencies, including information regarding their compliance with the provisions of this subchapter.

§ 7. Subchapter 23 of chapter 2 of title 20 of the administrative code of the city of New York is amended by adding a new section 20-410 to read as follows:

§ 20-410 Electronic record of service. A process server licensed pursuant to this subchapter shall carry at all times during the commission of his or her licensed activities and operate at the time process is served or attempted an electronic device that uses a global positioning system, wi-fi device or other such technology as the Commissioner by rule shall prescribe to electronically establish and record the time, date, and location of service or attempted service. All records created by such electronic device shall be maintained in an electronic database by the process server, or if such process server is acting exclusively as an employee of a process service agency, by the process service agency, for seven (7) years from the date such record is created.

§8. This local law shall take effect one hundred eighty days after enactment provided, however that the commissioner of consumer affairs shall take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date and except that section 20-410 shall take effect sixty days after the adoption of rules promulgated pursuant to such section.

New York City Laws and Rules regarding Process Servers

Notice of Adoption of Rules and Amendments to Rules regarding the licensing of Process Servers, February 18, 2011

The following notice of adoption to promulgate the following rule and amendments to rules was published in the *City Record* on February 18, 2011. The rule and amendments become effective March 21, 2011.

NOTICE OF ADOPTION

Notice of Adoption of Rules and Amendments to Rules regarding the licensing of Process Servers.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the Department of Consumer Affairs by Section 20-104(b) of Chapter 1, Title 20 of the Administrative Code of the City of New York and in accordance with the requirements of Section 1043 of the New York City Charter that the Department promulgates and adopts rules and amendments to existing rules regarding the licensing of process servers.

These rules and amendments were proposed and published on November 10, 2010. The required public hearing was held on December 10, 2010. This Notice of Adoption supersedes and replaces the Notice of Adoption published on January 24, 2011. This rule will take effect in thirty days.

Material being deleted is shown below in brackets and material being be added is underlined.

RULE

Section 1. Section 2-231 of subchapter W of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

§ 2-231 Definitions.

For the purposes of the application of Subchapter 23 of Chapter 2 of Title 20 of the Administrative Code, (unless the context indicates otherwise), the following definitions apply.

Bound volume. "Bound volume" means a book or ledger that at the time of purchase contains a specified number of unfolded sheets of paper or other material that are permanently secured to covers by stitching, glue or any other such method that is calculated to make readily discernable the removal or insertion of one or more sheets after the first use of such volume.

Chronological. "Chronological" with respect to the notation in a process server record or log means that each notation shall be entered sequentially according to the time and date of the activity recorded and without leaving any blank spaces between each entry that would allow for the insertion of any additional notation between any two entries.

Contemporaneous. "Contemporaneous" in relation to entries in records means at or near the time of the event as to which an entry is recorded, or within a reasonable time thereafter.

Engaged in the business of serving. "Engaged in the business of serving" means the following:
(1) Service of five or more processes within the City of New York in any one calendar year; or

(2) One who assigns, distributes or delivers processes to another for actual service.

Image file. “Image file” in relation to scans of the records kept by process servers or process serving agencies means a file that contains graphic data such that the file is an exact replica of a specific set of data, and is saved as a portable data file (“pdf”).

Legible. “Legible” with respect to the handwriting in the record kept by process servers and in the scanned or copied images of such record means easily read and discernable in all of its details, and in no way obscured.

Paginated. “Paginated” means that each page in a volume or log, at the time of purchase, is sequentially numbered starting with the number “1” or contains an indelible label stating the number of pages the volume originally contained.

Person. "Person" shall mean any individual, firm, company, partnership, corporation, association or other organization.

Portable media device. “Portable media device” as it pertains to electronic record-keeping means an electronic data storage device used to record and store data, such as a flash memory device, CD-ROM or external hard drive.

Process. "Process" shall mean a summons, notice of petition, order to show cause, subpoena, notice, citation or other legal paper issued under the laws of the State of New York directing an appearance or response to a legal action, legal proceeding or administrative proceeding; provided, however, that if under the laws of the State of New York the mailing of such legal paper is sufficient to effect service, such legal paper shall not be process for the purpose of this subchapter.

Process Server. "Process Server" shall mean a person engaged in the business of serving process upon any person, corporation, governmental or political subdivision or agency.

Process Serving Agency. “Process serving agency” shall mean any person, firm, partnership, association or corporation, other than an attorney or a law firm located in this state, or city marshal, who maintains an office, bureau or agency, one purpose of which is to assign or distribute process to individual process servers for actual service in the City of New York.

Scanning. “Scanning” in relation to electronic record-keeping means the process of translating a document into a digital form that can be recognized by a computer. A “scan” with respect to electronic record-keeping is the image file that is created by scanning.

Section 2. Subchapter W of Chapter 2 of Title 6 of the Rules of the City of New York is amended by adding new sections 2-232a, 2-232b, 2-232c and 2-232d to read as follows:

§ 2-232a Surety Bond Requirements for Process Server and Process Serving Agencies

(a) The surety bond required under Section 20-406.1 of the Administrative Code shall be paid in full and must be effective for the entire term of the license.

(b) If a process server or process serving agency’s surety bond lapses for any reason, the license issued pursuant to Section 20–403 of the Administrative Code shall become void for such process server or process serving agency.

§ 2-232b Employee Exemption from Bond

(a) Any process server seeking exemption from the bond requirement pursuant to Section 20-406.1(a) of the Administrative Code because he or she serves process exclusively as an employee of a licensed process serving agency shall furnish to the Department upon application or renewal, a certification from the licensed process serving agency for which he or she works in a form approved by the Commissioner that affirms that

(1) the process server serves process exclusively as an employee of the process serving agency;

(2) the bond that the licensed process server agency has furnished to the commissioner is conditioned upon the process server's compliance with the laws and rules governing the activities of a process server and upon the further conditions set forth in Section 20-406.1(a) of the Administrative Code; and

(3) the process serving agency acknowledges that it must notify the Department in writing within five (5) days of the date that the process server ceases to serve process exclusively as an employee of the process serving agency.

(b) The process server or the process serving agency shall provide additional documentation that the Department may seek regarding the process server's employee status.

§2-232c Process Server Trust Fund. (a) Establishment. There is hereby established a Process Server Trust Fund (hereinafter, "the Fund") to provide for the payment of outstanding awards to aggrieved consumers and fines owed to the City. The Fund shall be administered by the Comptroller of the City of New York pursuant to §93 (h) of the New York City Charter.

(b) Participation in the Fund. (1) To qualify for participation in the Fund, an applicant for a process server license or renewal therefore shall submit with such server's application a copy of its completed application to two sureties approved by the Commissioner for the bond required by §20-406.1 of the Administrative Code of the City of New York and the original copies of the rejection or denial of such application by such sureties. Pursuant to such section, process serving agencies shall not be eligible to participate in the Fund.

(2) Any process server who qualifies for participation in the fund may participate by submitting with the application for a process server license or renewal thereof a certified check or money order in the amount \$1,000, made payable to the New York City Consumer Affairs Department for depositing the amount in such Fund.

(3) A bonded licensee may participate in the Fund in lieu of continued compliance with the bond requirement of §20-406.1 (a) of such Code by submitting proof that consists of an original copy from the process server's current surety denying renewal and the completed applications and original denials from two additional sureties approved by the Commissioner, and upon submitting to the Department a certified check or money order in the amount of \$1,000 made payable to the New York City Department of Consumer Affairs, prior to the expiration or cancellation of the licensee's bond.

(4) The required deposit to be made by applicants to participate in the Fund shall not be refundable upon the issuance of a process server license. If the Department denies issuance of a license or renewal thereof, the deposit made by the applicant shall be refunded within thirty days after the application for a license or renewal thereof is denied.

(5) Participation in the Fund does not relieve a licensee of any obligation to pay awards or fines imposed by the Department or judgments or arbitration awards rendered against the licensee by a court of competent jurisdiction. In the event that a process server's license is revoked, surrendered or the process server fails to renew its license, and the Fund is invaded to pay an award, fine or judgment that was rendered against such process server pursuant to the provisions of the Code or these rules, no license shall be issued or reinstated to such process server unless the amount(s) paid out of the Fund on behalf of such process server is reimbursed by such process server in full.

(c) Invasion of the Fund. (1) If the Department has revoked a process server's license or the licensee has surrendered or failed to renew the license, the Commissioner may require that disbursements be made from

the Fund to pay to the City any fine, penalty or other obligation the City imposes relating to the violation of subchapter 23 of Chapter 2, Title 20 of the Administrative Code of the City of New York and any rules promulgated thereunder or to pay a final outstanding judgment recovered in an action arising out of the violation of the provisions of such subchapter.

(2) No disbursement shall be made from the Fund to pay an award, fine or judgment that is rendered against a licensee who has furnished a bond pursuant to the requirements of §20-406.1 (a) of the Administrative Code of the City of New York or against a process server who was not licensed by the Department or a participant in the Fund at the time of the violation.

(3) Disbursement from the Fund shall be made at the discretion of the Commissioner or his or her designee, provided, however, that invasion of the fund shall be limited to no more than \$10,000 for all awards, fines or judgments arising out of a single service of process.

(4) The Commissioner or his or her designee may order that partial payment of awards, fines or judgments be made from the Fund.

(5) Nothing contained herein shall be construed to limit the rights and remedies of any party, including the Department, to pursue a cause of action against a process server who is a participant in the Fund.

(6) Nothing contained herein shall be construed to provide for the payment of awards or judgments rendered against Fund participants in personal injury actions.

(d) Accounting. The Commissioner shall, by January 31 of each year, cause an accounting to be made of all of the Fund's activities during the preceding calendar year.

§ 2-232d Testing.

Every person who applies for a process server license or renewal thereof shall be required to pass an examination prior to being issued a license or renewal. Such examination shall test the applicant or licensee's knowledge regarding proper service of process within the city of New York and familiarity with relevant laws and rules. The fee for this examination will be \$75 and is not refundable. An applicant who fails the exam on the first attempt may take the examination a second time without an additional fee. After the second successive failure, the applicant's application or renewal will be denied and he or she must reapply for a process server license.

Section 3. Section 2-233 of subchapter W of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

§ 2-233 Records.

(a) Duty of individual licensee to keep records. Each process server shall keep records in compliance with the provisions of [§ 89-cc] 89-cc of the General Business Law, as follows:

(1) Each process server shall maintain a legible record of all service made by him as prescribed in this section.

(2) The record to be maintained shall include the following information, where applicable:

(i) the title of the action or a reasonable abbreviation thereof;

(ii) the name of the person served, if known;

(iii) the date and approximate time service was effected;

(iv) the address where service was effected;

(v) the nature of the papers served;

(vi) the court in which the action has been commenced;

(vii) the index number of the action, if known.

(3) If service is effected pursuant to subdivisions one, two, or three of section three hundred eight of the civil practice law and rules, the record shall also include the description of the person served, including, but not limited to, sex, color of skin, hair color, approximate age, height and weight and other identifying features.

(4) If service is effected pursuant to subdivision four of section three hundred eight of the civil practice law and rules, the record shall also include the dates, addresses and time of attempted service pursuant to subdivisions one, two or three of such section. All attempts must be entered in a separate, chronological entry.

(5) If [the process server files] an affidavit of service is filed with the court, [his] the record shall include the date of such filing.

(6) Process servers shall retain each record required to be kept under this § 2-233(a) for a period of [two] seven years from the date of service. Where a process server is employed as a process server by any person, a copy of such records shall also be maintained by such person at his principal office in this state for the same period.

(b) *Licensees who serve process shall also* [include in] maintain their records in the following manner:

(1) The licensee shall make a separate and contemporaneous entry of the date, time and address of every attempted and effected service of process in chronological order in a bound, paginated volume.

(2) The licensee shall make entries in only one volume at a time, which shall contain every attempted and effected service made by the licensee, until all of the available space in the volume is filled.

(3) The written entry for each service shall include the type of service effected whether personal, substituted or conspicuous.

(4) If service is effected pursuant to CPLR § 308(4) or RPAPL § 735(1), the entry shall include a description of the area adjacent to the door to which process is affixed including the color and composition of hallway walls, color and composition of hallway floor or doorstep, and location of premises in relation to stairs, elevator or entranceway.

(5) If service pursuant to RPAPL § 735(1) is effected by affixing a copy of the notice and petition upon a conspicuous part of the property sought to be recovered or placing a copy under the entrance door of such premises then the record shall also include the dates, addresses and time of attempted service. All attempts must be entered in a separate, chronological entry.

[2] (6) The [person or firm] entry shall include the name and license number of the process server organization from whom the process served was received, or, if not received from a process server organization, of such other person or firm from whom the process served was received.

[(3) Type of service effected whether personal, substituted or conspicuous.]

[4] (7) If service is made pursuant to RPAPL § 735(1) in a manner other than by delivery of the notice of petition and petition to the respondent personally, the entry in the process server's record of service or attempted service shall include [The] the postal receipt number of registered or certified mail [if service is effected pursuant to RPAPL 735(1).]

[(5) Records shall be kept in chronological order in a bound, paginated volume.]

[6] (8) Corrections in records shall be made only by drawing a straight line through the inaccurate entry and clearly printing the accurate information directly above the inaccurate entry. All other methods of correction, including but not limited to, erasing, opaquing, obliterating, or redacting, are prohibited.

(c) *Duty of* [other licensees] licensed process serving agencies to keep records. Every [licensee] process serving agency shall keep complete and accurate records with respect to each individual licensee to whom it distributes, assigns or delivers process to be served. Such records shall [include:] be kept in a searchable manner that permits ready identification of (i) the daily activity of each such individual licensee and (ii) any or

all process assigned or distributed for service by the name of the person or entity from whom the process serving agency received such papers for service.

(1) The records shall at a minimum include:

(i) The name and license number of the individual licensee to whom process is distributed, assigned or delivered to be served;

[(2) The names and index numbers of each case;]

[(3) The date that such papers were assigned for service, and the date that service was effected;]

[(4) The person from whom such papers were received for service;]

[(5) The date of filing of papers with the court.]

(ii) All of the information required to be maintained pursuant to paragraphs (1) through (5) of subdivisions (a) and paragraphs (3) through (5), and (7), of subdivision (b) of this rule.

(iii) A copy or a scan to an image file that legibly reproduces the original record in all details of the individual licensee's record maintained pursuant to subdivisions (a) and (b) of this rule for each day on which the individual licensee attempted or effected service of the process assigned to the individual licensee;

(iv) A copy of every routing sheet, work order or other written instruction given to the individual licensee;

(v) Copies of any notes, memoranda or other writings submitted by the individual licensee containing information related to the attempted or effected service of process;

(vi) A copy of every affidavit of service signed by the individual licensee.

(2)[(d)] Availability of records. All records shall be retained by the licensee for [two] seven years or until further order of the Department and shall be available for inspection by the Commissioner of Consumer Affairs or his designee.

Section 4. Subchapter W of Chapter 2 of Title 6 of the Rules of the City of New York is amended by adding a new section 2-233a to read as follows:

§2-233a Electronic Records.

Licensed process servers and process serving agencies must maintain records in an electronic format that is resistant to tampering.

(a) Process Servers. Process servers shall maintain electronic records in accordance with the provisions of this subdivision. A licensed process server may meet the requirement to maintain records in an electronic format as required by § 20-406.3 of the Administrative Code by

(1) scanning into an image file that legibly reproduces in all details on a daily basis the original record the process server maintains in a bound volume pursuant to section 2-233,

(i) the image file shall be named with the date of the service recorded in the bound volume and the process server's license number, and shall be date and time stamped with the date and time that the file was created; and

(ii) such scanning shall be done within twenty-four hours from the last event that the record records; and

(iii) the process server must save the scanned image file to a portable media device at least once per week and shall maintain the portable media device in a manner designed to ensure its security and preservation, including by keeping it in a location separate from the original image file; and

(iv) such portable media device shall be labeled with the process server's last name, license number, and the date range of the records stored on the device; or by

(2) maintaining electronic records in accordance with the provisions set forth in subdivision (b) of this section.

(3) Nothing in this section shall be construed to relieve the licensed process server of the duty to maintain a bound, chronological, and contemporaneous record of service as provided under section 2-233 of this rule.

(b) Process Serving Agencies. Process serving agencies shall maintain electronic records in accordance with this subdivision. Such agencies must maintain all information required to be maintained pursuant to section 2-233(c) of this rule.

(1) Licensees shall input information required to be maintained pursuant to § 2-233(c) into the electronic record-keeping system within twenty-four hours after the last event recorded occurred.

(2) The licensee shall use an electronic records management system that:

(i) ensures the authenticity, reliability and integrity of the digital records;

(ii) permits the efficient retrieval of digital records;

(iii) contains a backup support system such that the electronic records shall be capable of being reconstructed in the event of an electronic or computer malfunction or unforeseen accident resulting in the destruction of the system or the information contained therein.

(3) The information required to be maintained pursuant to section 233(c)(1) shall be maintained in electronic form in a format provided by the Department as an Excel spreadsheet and accessible at the following internet address: <http://www.nyc.gov/processserver> or by a third party document management system in any of the following formats provided that the records shall contain such separate fields with parameters as follow:

(i) name of the individual process server to whom service is assigned, which will be entered as last name, first name;

(ii) the license number of the individual process server to whom service is assigned, which will be specified as a seven digit number, where the first number shall be zero if the process server's license number is less than seven digits;

(iii) the title of the action, if any;

(iv) the name of the person served, if known, which shall be entered as last name, first name;

(v) the date that service was effected, which shall be entered as MM/DD/YYYY;

(vi) the time service was effected, which shall be entered as military time;

(vii) the address where service was effected, which shall be entered as three different fields such that one field will be for the street address and any apartment number, the second field will be for the city or borough, and the third field will be for zip code;

(viii) the nature of the papers served;

(ix) the court in which the action has been commenced, which shall be entered as either Civil Court NYC, Civil Supreme, Criminal, Housing(L/T), or District Court, followed by the county of the court, the judicial department if appellate, or the federal district;

(x) the full index number, which shall be entered with all information necessary to identify the case, such as XXXXX/XX, unless the case is a Civil Local matter, in which case, it will include the prefix of CV, CC, LT, MI, NC, RE, SC, or TS;

(xi) if service was effected pursuant to subdivisions (1) through (3) of CPLR § 308, a description of the person served which shall consist of six fields, including sex, hair color, approximate age, height, weight, and any other identifying features;

(xii) whether service was delivered, as indicated by a Y or N;

(xiii) the type of service effected, which shall be entered as a P for personal service, an S for substitute service, or a C for conspicuous service;

(xiv) if service was effected pursuant to subdivision (4) of CPLR § 308 or subdivision one of RPAPL § 735, a description of the door and the area adjacent.

(4) If the process serving agency elects to record the information required to be maintained pursuant to section 233(c)(1) itself rather than through a third-party provider, it shall convert such information into a portable document ("pdf") format within twenty four hours from the last event the record records.

(i) The process serving agency shall ensure that the security settings for this converted pdf are set so that editing and printing of the document is restricted and no edits or changes may be made to the document.

(5) Licensees shall preserve the electronic records by either (a) submitting the record entries to a third party service on a daily basis or (b) copying the file to a portable media device within one week of a creation of the file. Such device must be maintained in a manner designed to ensure its security and preservation, including by keeping it in a separate off-site location. (c) Process servers shall not tamper with data or properties of any electronic record kept pursuant to this section after an image file is made by modifying, amending, deleting, rearranging or in any other way altering any such data or properties including but not limited to using a meta data scrubber or similar device or program.

Section 5. Subchapter W of Chapter 2 of Title 6 of the Rules of the City of New York is amended by adding a new section 2-233b to read as follows:

§ 2-233b Electronic Record of Service

Process servers shall comply with all rules regarding the tracking of service with a global positioning system (“GPS”) as shall be promulgated by the Commissioner.

Section 6. Subchapter W of Chapter 2 of Title 6 of the Rules of the City of New York is amended by adding new sections 2-234a and 2-234b to read as follows:

§ 2-234a Duties of Process Serving Agencies.

(a) Assignment of Process to Individual Process Servers. A process serving agency shall not assign or distribute process for service to an individual process server who:

- (1) is not licensed to serve process;
- (2) has not complied with the requirements of Section 20-406.1 of the Administrative Code;
- (3) does not display integrity and honesty in his or her process serving activities; and
- (4) does not comply with the recordkeeping requirements applicable to the service of process in the City of New York, including maintaining an electronic record of service.

(b) Compliance Plan. A process serving agency shall develop and implement policies and procedures set forth in a written Compliance Plan to ensure that an individual process server acts with integrity and honesty and complies with the recordkeeping requirements applicable to process servers.

- (1) The process serving agency shall take appropriate disciplinary action against an individual process server who fails to comply with the law, including, but not limited to, suspending or terminating its employment, agency or other relationship with the individual process server;
- (2) The policies and procedures to review the individual process server’s compliance with recordkeeping requirements shall require the agency to:
 - (i) at least once each month, review for completeness and accuracy the records of each individual process server to whom it assigns or distributes process;
 - (ii) prepare a monthly written report of its review of the records maintained pursuant to section 2-233 of these Rules of each individual process server to whom it assigns or distributes process during that month;
 - (iii) maintain each monthly report for at least seven years;
 - (iv) maintain records of any disciplinary actions taken against the individual licensed process server;
 - (v) report to the Department in writing the name and license number of each individual licensed process server who does not comply with the law governing process servers within ten (10) days of learning of such non-compliance;
 - (vi) make available, upon request, to the Department a copy of its record review procedures, any written reports of the reviews it maintains, and copies of any referrals of individual process servers to the Department.

(c) **Implementation Affirmation.** A process serving agency in possession of a license issued by the Department on the effective date of this Rule shall submit an affirmation to the Department that it has adopted a written Compliance Plan within sixty (60) days of such effective date. After the effective day of this Rule, no license shall be issued or renewed until the process serving agency files with the Department an affirmation that it has adopted a Compliance Plan.

(d) **Persons to Whom the Agency Assigns Service.**

(1) A process serving agency must notify the Department in writing at the time of its application or renewal, or at such times as requested by the Department of:

(i) the names, addresses, and Department license numbers of each process server who serves process exclusively as an employee of the process serving agency; and

(ii) the names, addresses, and Department license numbers of each process server who serves process on behalf of the process serving agency.

(2) If additional process servers are assigned process by the process serving agency or a new process server is hired to serve process exclusively as an employee of the process serving agency after the date of such application or renewal, the licensee must notify the Department in writing within five (5) days of the new assignment or employee with the names, addresses and Department license numbers of such additional process servers.

(3) If a process server ceases to serve process exclusively as an employee of a process serving agency after the date of such application or renewal, the process serving agency must notify the Department in writing within five (5) days that the process server ceases to serve process exclusively as an employee with the name, address and Department license number of such process server.

(4) The process serving agency must advise the Department of any process server who is misrepresenting his or her license status or his or her compliance with the requirements of Section 20-406.1 of the Administrative Code.

§ 2-234b Duty of Process Servers to Report Agencies That Assign Service.

(a) A process server must report the name and license number of the process serving agency for whom he or she serves process exclusively as an employee when applying for a license or renewal thereof.

(b) A process server must report to the Department in writing when he or she ceases to exclusively serve process as an employee of a process serving agency within five (5) days that he or she ceases such employment. The process server must include the name and license number of any other process serving agency that he serves process exclusively as an employee.

(c) When applying for a license or renewal thereof, a process server shall report the name and license number of every process serving agency which he or she has reason to believe assigns process for service to the applicant.

(d) A process server applying for a renewal of a license shall report the name and license number of every process serving agency from which it has accepted assignment of service of process within the previous two years.

(e) A process server shall keep a list of the name and address of each process serving agency that assigns service to the process server. The process server shall maintain the list for seven years and produce it upon request by the Department.

Section 7. Section 2-235 of subchapter W of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

§ 2-235 Preparation of Affidavits of Service.

No licensee shall sign or notarize or cause to be signed or notarized an affidavit of service until all factual averments have been set forth. The licensee shall include his/her license number on all affidavits of service signed by him/her. The licensee shall maintain a copy of every affidavit of service for at least seven years in electronic form or as a paper copy.

Section 8. Section 2-236 of subchapter W of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

§ 2-236 Duty to Report Hearings Contesting Service.

(a) Whenever a process server or process serving agency receives any type of notice, including an oral communication, that a court has scheduled a hearing to determine whether service of process made or assigned by such licensee was effective, [The] the licensee shall [notify] submit a report to the Department (attention of Counsel's Office), in writing, by certified mail, or by e-mail to an address designated by the Department, within ten days of [the conclusion of any court hearing, including, but not limited to, hearings commonly known as "traverse hearings," where service of process is contested.] receiving such notice. Such written [notice] report shall include:

[(a)] (1) the title and index number of the action;

[(b)] (2) the court and the judge before whom the hearing [took place] is scheduled;

[(c)] (3) the date(s) of the hearing;

[(d) any finding of the court regarding the service of process, if known.] (4) the name and license number of every licensee who effected service or assigned or distributed the process for service; and

(5) copies of all records, including but not limited to, routing sheets, the pages of the licensee's log book for each day on which service of the process in issue was attempted or effected, and all affidavits of service, pertaining to the contested service.

(b) The licensee shall have an affirmative obligation to learn and report to the Department the result of the hearing, including any judicial order or voluntary settlement resolving the challenge to service of process, within ten days of the issuance of a decision on or settlement of the challenge.

Statement of Basis and Purpose. Section 20-104 (a) of the New York City Administrative Code confers on the Commissioner cognizance and control over all licenses issued under Chapter 2 of such Code, which includes process servers who are required to be licensed pursuant to Subchapter 23 of Chapter 2 of Title 20 of the Code. Section 20-104 (b) confers on the Commissioner the power to promulgate rules necessary to carry out his or her powers and duties, to require licensees to keep such records as he or she may determine are necessary or useful to carrying out the purpose of Chapter 2 governing licensing laws and all other laws conferring such powers upon him and her, and to protecting the health, safety, convenience and welfare of the general public with respect to licensed activities. Those powers include the authority to promulgate rules prescribing how licensees maintain records that they are by law required to keep; to require that licensees, their employees and agents, conduct their activities consistent with the requirements of the laws applicable to the service of process in the City of New York and with standards of honesty and integrity; and to require the licensees notify the Department and the public when they fail to carry out their duties in a competent and lawful manner.

The Department has concluded that the Rules applicable to persons and entities engaged in the business of process service in the City of New York require strengthening. These proposed rules will tighten the recordkeeping requirements that currently exist; impose specific duties on process server organizations to ensure that the individual process servers to whom they assign process for service act with honesty and integrity, and maintain records of their activities in compliance with legal requirements; require a process server organization to notify the Department and disclose to the public when it has reason to know that the requirements of the law applicable to process service have not been followed; require that records be maintained for seven years in an electronic format; and direct that all process servers utilize a global positioning system device to ensure that all service is made in accordance with rules to be promulgated by the Department.

Section 1 of the Rule amends definitions already in the Rules and adds new definitions to clarify the meaning of terms used in the Rules that have previously been undefined. The terms “bound volume”, “paginated” “legible” and “chronological” have previously appeared in the Rules without definition. The definitions will clarify for process servers their duty to maintain records of their process serving activities in a manner that is resistant to tampering and manipulation. The term “contemporaneous” has been added to ensure that process servers maintain records in a timely manner when memory of their activity is fresh and accurate. Terms that relate to electronic records have also been added to clarify the requirements for that rule.

Section 2 of the Rule adds Section 2-232a, 2-232b, 2-232c, and 2-232d. Section 2-232a implements the surety bond for process servers and process serving agencies and requiring that a surety bond must be effective for the entire term of the license period. This Section also provides that if a process server or a process serving agency’s bond lapses for any reason, the license is void.

Section 2-232b elaborates on the exemption from the bond requirement set forth in Section 20-406.1 of the Code for process servers who serve process exclusively as employees of an agency under the Rule, if an applicant for a license or renewal claims that he or she is an employee of an agency, and therefore exempt, that process server must submit a certification from the agency affirming that the process server serves process exclusively as an employee of the agency and that the bond that the agency submitted is conditioned upon the process server’s compliance with the laws and rules governing the activities of a process server. This section also requires that if a process server ceases to be an employee of a process serving agency, the agency must notify the Department within five (5) days of the process server is ceasing to be an employee.

Section 2-232c establishes a Trust Fund into which process server applicants can deposit a minimum of \$1,000 in lieu of providing the required bond upon providing proof satisfactory that they were unable to obtain such bond. Proposed Rule 2-232c (a) creates the necessary Trust Fund; subdivision (b) prescribes the proof applicants must submit that they are unable to obtain the bond and the conditions under which process server licensees participate in the Trust Fund; subdivision (c) specifies how the Trust Fund may be invaded to pay awards to consumers and fines and penalties on behalf of licensees participating in the Trust Fund; and subdivision (d) provides for the Commissioner accounting annually for all of the activities of the Fund.

The Department has also concluded that to ensure that the Trust Fund remains financially solvent to pay prospective obligations, process server applicants be required to make a contribution of at least the minimum \$1,000 whenever they apply for license renewals.

Section 2 of the Rule also adds § 2-232d which establishes the test required under § 20-406(c) of the Code. This Rule establishes that all applicants and renewals for a process server license must pass an examination that will test the laws and rules for service of process in the city. The test fee is \$75. If the process server applicant or renewal fails the test on the first attempt, he or she may take the test a second time for no additional fee. If the applicant or renewal fails the test on the second attempt, the application or renewal will be denied and he or she must reapply for a license.

Section 3 of the Rule amends Section 2-233 of the Rules, which sets forth recordkeeping requirements applicable to individual process servers and process server organizations. It clarifies that individual process servers must keep a contemporaneous record of every attempted and effected service of process in a bound and paginated volume. The Rule has not previously required that every attempted service be recorded in chronological order, only that attempted services be recorded after “nail and mail” service is completed. The requirement that attempted and effected service be recorded chronologically will prevent process servers from post hoc recording of attempted service to avoid detection of dishonesty. Together with the requirements that records be kept in bound, paginated volumes and that corrections do not obscure original entities, these new rules will ensure that process servers’ records will be more complete and transparent than in the past. Section 6 also adds new responsibilities to process serving agencies to collect and maintain records of service performed by the individuals they hire to complete service to provide a second set of data available to the Department and the public and thereby achieve greater compliance with process serving laws.

Section 4 of the Rule adds a new Section 2-233a to require process servers and process serving agencies maintain their records in an electronic format. The rules specify the manner in which licensees must comply with this requirement to ensure the integrity, security and legibility of the electronic records. The new section will give process server individuals who are not exclusive employees of an agency two options. The first option allows the process server individual to scan information that he or she is required to maintain under New York State and City Law into an electronic format. The process server must make these scans within twenty-four (24) hours of the last recorded service for a day. The scans must be saved to a labeled portable media device, such as a flash drive or a CD-ROM. In the alternative, a process server may follow the same requirement as a process serving agency. The process server will still be required to maintain a bound, paginated volume that records service. Process serving agency licensees must maintain records in a tamper-proof electronic format that is maintained by a third party or they may enter it into a spreadsheet such as the one that will be made available on the Department’s website and converted to a pdf and copied to a portable media device. The measures outlined will help to ensure that the records maintained are easily accessible and searchable by the Department and others.

Section 5 pertains to the new electronic record of service provision that will be promulgated at a later date. It requires that all process servers and process serving agencies will comply with any rule regarding electronic record of service promulgated by the Commissioner.

Section 6 of the Rule adds new Sections 2-234a and 2-234b to the Rules to clarify the responsibilities of process serving agencies to ensure that the individual process servers to whom they assign or distribute process are properly licensed, have the requisite bond or trust fund membership, act with honesty and integrity, and comply with recordkeeping requirements.

Section 2-234a sets forth the duties of process serving agencies. Subsection (a) specifies that a process serving agency shall not assign or distribute process for service to an individual process server who is not licensed, does not display integrity and honesty in process serving activities, and does not comply with recordkeeping requirements.

Subsection (b) requires each process serving agency to develop and implement a Compliance Plan for complying with Subsection (a)(2) of the new rule. It requires a process serving agency to develop and implement policies and procedures to regularly review for completeness and accuracy the records kept by individual process servers. Implementation of plans written by the agencies will provide explicit direction to the agencies about how to ensure that individuals they hire act in accordance with the law, and will provide information from which the Department can assess whether the agencies are meeting their supervisory responsibilities. Those plans will obligate the agencies to take corrective actions when they discover that individual process servers have not acted in compliance with the law or have failed to display integrity in their practices, and to make those findings available to the Department, the agencies' clients and to the public.

Subsection(c) provides that no process serving agency can maintain a license unless it has submitted an affirmation that it has developed and implemented a Compliance Plan consistent with the requirements of subsection (b).

Subsection (d) compels process serving agencies to provide a list of all licensed process servers to whom service is assigned at time of application or renewal, as well as a list of all process servers who are employees of the agency. It also requires that the agency update this list within five days when a new process server is assigned service or when a process server ceases to be an employee of the agency. Process serving agencies will also have an affirmative duty to ensure that it only assigns service to process servers who either carry an individual bond or are exclusive employees of the agency, or process servers who participate in the trust fund. This section also requires a process serving agency to notify the Department when a process server misrepresents his or her licensing status.

Section 2-234b requires that a process server report to the Department the name and license number of the process serving agency that assigns service. The process server will have to report this information when applying for the license or renewing. Additionally, process servers who serve process exclusively as an employee have an affirmative obligation to notify the Department in writing when he or she ceases to serve exclusively as an employee for an agency. Process servers must also maintain a list of all agencies that assign service to the process server. These lists must be maintained for seven (7) years, and must be provided to the Department on request.

Section 7 of the Rule amends Section 2-235 to require that process servers maintain for seven years copies of affidavits of service that they execute.

Section 8 of the Rule amends Section 2-236 to clarify the responsibilities of process servers, including process serving agencies, who receive notice that a court has scheduled a hearing in a challenge alleging that process was not properly served. The amended rule clarifies that both the process serving agency and the individual process server to whom process was assigned or distributed for service have an obligation to notify the Department of the scheduling of a hearing and provide documents related to the challenged service within ten days. In addition, the amended rule imposes an affirmative obligation upon licensees to track developments in the challenge to service. The licensee must learn and report to the Department the results of the challenge, including any judicial order or voluntary settlement resolving the challenge, within ten days of the issuance of a decision on or settlement of the challenge.

In the January 24, 2011 Notice of Adoption, the Department inadvertently omitted from Section 4, adding a new section 2-233a, the internet address where licensed process serving agencies may obtain an Excel spreadsheet that provides the format in which electronic records may be maintained. The internet address appears in these rules in section 2-233a(b)(3).

New York City Laws and Rules regarding Process Servers

Notice of Adoption of Rules and Amendments to Rules regarding the licensing of Process Servers, August 1, 2011

The following notice of adoption to promulgate the following rule and amendments to rules was published in the *City Record* on August 1, 2011. The rule and amendments become effective August 31, 2011.

NOTICE OF ADOPTION

Notice of Adoption of Rules and Amendments to Rules regarding the licensing of Process Servers.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the Department of Consumer Affairs by Section 20-104(b) of Chapter 1, Title 20 of the Administrative Code of the City of New York and in accordance with the requirements of Section 1043 of the New York City Charter that the Department promulgates and adopts rules and amendments to existing rules regarding the licensing of process servers.

These rules and amendments were proposed and published on May 12, 2011. The required public hearing was held on June 13, 2011. This rule will take effect in thirty days.

Please note that this Notice of Adoption contains the complete and correct text of the rule published herein. The Notice of Adoption published by this agency on July 26, 2011 was an error and has no effect.

Material being deleted is shown below in brackets and material being added is underlined.

Statement of Basis and Purpose

Section 20-104 (a) of the New York City Administrative Code gives the Commissioner jurisdiction and control over all licenses issued under Chapter 2 of Title 20 of such Code. Section 20-104 (b) grants the Commissioner the power to set forth rules necessary to carry out his or her powers and duties and to require licensees to keep such records as he or she may determine are necessary or useful to carrying out the purpose of Chapter 2.

Those powers include the authority to:

- set forth rules prescribing how licensees maintain records that they are by law required to keep;
- require that licensees, their employees and agents, conduct their activities consistent with the requirements of the laws applicable to the service of process in the City of New York and with standards of honesty and integrity; and
- require the licensees to notify the Department and the public when they fail to carry out their duties in a competent and lawful manner.

The amended Rule simplifies and clarifies the record keeping requirements that individual process servers and process serving agencies must meet.

Section 1 of the Rule amends Section 2-233 to simplify paper recordkeeping in three ways:

- It limits the obligation of an individual process server to include in his or her records the date of the filing of an affidavit of service in court to the instances when the individual process server personally files the affidavit.
- It limits the obligation of the individual process server to record the registered or certified postal receipt number of process delivered by such methods only when the individual makes the mailing himself or herself.
- It shortens the time that licensees must maintain paper records from seven years to three years and thereby reduces the expense of record maintenance.

Section 2 of the Rule amends Section 2-233a to clarify the electronic recordkeeping requirements:

- It clarifies that individual process servers and process server agencies may meet their obligation to maintain electronic records in a secure and unalterable manner by uploading the records to a third party, so long as the records cannot be changed once delivered to the third party.
- It simplifies the alternative method for licensees to maintain unalterable electronic records by permitting them to make two copies of the records on CD-ROM, DVD-ROM or other once-write medium, one copy of which must be stored off-site.
- It adds a method for licensees to correct typographical errors in or inadvertent omissions from the entry into electronic format of the information contained in the individual process server's paper records.

Section 3 of the Rule amends Section 2-236 to simplify the requirement that licensees report court challenges regarding the adequacy of the service of process:

- While continuing the requirement that the licensee notify the Department whenever it receives notice of such a challenge, it eliminates the requirement that the licensee automatically provide to the Department relevant documents concerning the challenge and imposes that requirement only when the Department specific requests documents.
- It modifies the obligation that the licensee report to the Department the result of a challenge to service. A licensee must request a written report of the result of the challenge from the party for which it served process, or its attorney. If the licensee does not learn the result of the hearing in that manner, it must search for the result in the files of the clerk of the court where the hearing was scheduled to occur sixty days after the scheduled date of the hearing, and, if necessary, ninety days after the scheduled date of the hearing. The licensee must inform the Department in writing of the result within ten days after it receives the information, or, if was unable to learn the result, so notify the Department one-hundred days after the scheduled date of hearing.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Material to be deleted is enclosed in brackets. Material to be added is underlined.

RULE

Section 1. Section 2-233 of subchapter W of Chapter 2 of title 6 of the Rules of the City of New York is amended to read as follows:

§ 2-233 Records.

(a) *Duty of individual licensee to keep records.* Each process server shall keep records in compliance with the provisions of 89-cc of the General Business Law, as follows:

(1) Each process server shall maintain a legible record of all service made by him as prescribed in this section.

(2) The record to be maintained shall include the following information, where applicable:

(i) the title of the action or a reasonable abbreviation thereof;

(ii) the name of the person served, if known;

(iii) the date and approximate time service was effected;

(iv) the address where service was effected;

(v) the nature of the papers served;

(vi) the court in which the action has been commenced;

(vii) the index number of the action, if known.

(3) If service is effected pursuant to subdivisions one, two, or three of section three hundred eight of the civil practice law and rules, the record shall also include the description of the person served, including, but not limited to, sex, color of skin, hair color, approximate age, height and weight and other identifying features.

(4) If service is effected pursuant to subdivision four of section three hundred eight of the civil practice law and rules, the record shall also include the dates, addresses and time of attempted service pursuant to subdivisions one, two or three of such section. All attempts must be entered in a separate, chronological entry.

(5) If an affidavit of service is filed with the court by the process server, the record shall include the date of such filing.

(6) Process servers shall retain each record required to be kept under this § 2-233(a) for a period of [seven] three years from the date of service. Where a process server is employed as a process server by any person, a copy of such records shall also be maintained by such person at his principal office in this state for the same period.

(b) *Licensees who serve process shall also maintain their records in the following manner:*

(1) The licensee shall make a separate and contemporaneous entry of the date, time and address of every attempted and effected service of process in chronological order in a bound, paginated volume.

(2) The licensee shall make entries in only one volume at a time, which shall contain every attempted and effected service made by the licensee, until all of the available space in the volume is filled.

(3) The written entry for each service shall include the type of service effected whether personal, substituted, [or] conspicuous, or corporate (i.e. on the Secretary of State).

(4) If service is effected pursuant to CPLR § 308(4) or RPAPL § 735(1), the entry shall include a description of the area adjacent to the door to which process is affixed including the color and composition of hallway walls,

color and composition of hallway floor or doorstep, and location of premises in relation to stairs, elevator or entranceway.

(5) If service pursuant to RPAPL § 735(1) is effected by affixing a copy of the notice and petition upon a conspicuous part of the property sought to be recovered or placing a copy under the entrance door of such premises then the record shall also include the dates, addresses and time of attempted service. All attempts must be entered in a separate, chronological entry.

(6) The entry shall include the name and license number of the process server organization from whom the process served was received, or, if not received from a process server organization, of such other person or firm from whom the process served was received.

(7) If the individual process server completes service made pursuant to RPAPL § 735(1) [in a manner other than by delivery of the notice of petition and petition to the respondent personally] using registered or certified mail, the entry in the process server's record of service or attempted service shall include the postal receipt number of registered or certified mail.

(8) Corrections in records shall be made only by drawing a straight line through the inaccurate entry and clearly printing the accurate information directly above the inaccurate entry.

All other methods of correction, including but not limited to, erasing, opaquing, obliterating, or redacting, are prohibited.

(c) *Duty of licensed process serving agencies to keep records.* Every process serving agency shall keep complete and accurate records with respect to each individual licensee to whom it distributes, assigns or delivers process to be served. Such records shall be kept in a searchable manner that permits ready identification of (i) the daily activity of each such individual licensee and (ii) any or all process assigned or distributed for service by the name of the person or entity from whom the process serving agency received such papers for service.

(1) The records shall at a minimum include:

(i) The name and license number of the individual licensee to whom process is distributed, assigned or delivered to be served;

(ii) All of the information required to be maintained pursuant to paragraphs (1) through (5) of subdivisions (a) and paragraphs (3) through (5), and (7), of subdivision (b) of this rule.

(iii) [A copy or a scan to a] An image file that legibly reproduces the original record in all details of the individual licensee's record maintained pursuant to subdivisions (a) and (b) of this rule for each day on which the individual licensee attempted or effected service of the process assigned to the individual licensee;

(iv) A copy of every routing sheet, work order or other written instruction given to the individual licensee;

(v) Copies of any notes, memoranda or other writings submitted by the individual licensee containing information related to the attempted or effected service of process;

(vi) A copy of every affidavit of service signed by the individual licensee.

(vii) If the individual process server or process serving agency completes service made under RPAPL § 735(1) using registered or certified mail, a record of the postal receipt number of registered or certified mail.

(2) Availability of records. All records shall be retained by the licensee for [seven] three years [or until] unless the licensee receives a further order of the Department prior to such date and shall be available for inspection by the Commissioner of Consumer Affairs or his designee.

Section 2. Section 2-233a of subchapter W of Chapter 2 of Title 6 of the Rules of the city of New York is amended to read as follows:

§2-233a Electronic Records.

Licensed process servers and process serving agencies must maintain records in an electronic format that is resistant to tampering.

(a) Process Servers. Process servers shall maintain electronic records in accordance with the provisions of this subdivision. A licensed process server may meet the requirement to maintain records in an electronic format as required by § 20-406.3 of the Administrative Code by

(1) scanning into an image file that legibly reproduces in all details on a daily basis the original record the process server maintains in a bound volume pursuant to [section]§ 2-233,

(i) the image file shall be named with the date of the service recorded in the bound volume and the process server's license number, and shall be date and time stamped with the date and time that the file was created; and

(ii) such scanning shall be done within [twenty-four hours] one business day from the last event that the record records; and

(iii) the process server must save the scanned image file to a portable media device at least once per week and shall maintain the portable media device in a manner designed to ensure its security and preservation, including by keeping it in a location separate from the original image file; and

(iv) such portable media device shall be labeled with the process server's last name, license number, and the date range of the records stored on the device; or by

(2) maintaining electronic records in accordance with the provisions set forth in subdivision (b) of this section.

(3) Nothing in this section shall be construed to relieve the licensed process server of the duty to maintain a bound, chronological, and contemporaneous record of service as provided under [section]§ 2-233 of this rule or an electronic record of service under § 20-410 of the Administrative Code.

(b) Process Serving Agencies. Process serving agencies shall maintain electronic records in accordance with this subdivision. Such agencies must maintain all information required to be maintained pursuant to [section]§ 2-233(c) of this rule.

(1) Licensees shall input information required to be maintained pursuant to § 2-233(c) into the electronic record-keeping system within [twenty-four hours] two business days after the last event recorded occurred.

(2) The licensee shall use an electronic records management system that:

(i) ensures the authenticity, reliability and integrity of the electronic records;

(ii) permits the efficient retrieval of electronic records;

(iii) contains a backup support system such that the electronic records shall be capable of being reconstructed in the event of an electronic or computer malfunction or unforeseen accident resulting in the destruction of the system or the information contained therein.

(3) The information required to be maintained pursuant to [section]§ 2-233(c)(1) shall be maintained in electronic form in a format provided by the Department as an Excel spreadsheet and accessible at the following internet address: <http://www.nyc.gov/processserver> or [by a third party document management system in any of the following formats provided] by the licensee uploading the data to a third party service provider, provided that the permissions of that data will be secured so that the data cannot be edited once the upload has been saved and that the records shall contain such separate fields with parameters as follow:

(i) name of the individual process server to whom service is assigned, which will be entered as last name, first name;

(ii) the license number of the individual process server to whom service is assigned, which will be specified as a seven digit number, where the first number shall be zero if the process server's license number is less than seven digits;

(iii) the title of the action or proceeding, if any;

(iv) the name of the person served, if known, which shall be entered as last name, first name;

(v) the date that service was effected, which shall be entered as MM/DD/YYYY;

(vi) the time service was effected, which shall be entered as military time;

- (vii) the address where service was effected, which shall be entered as three different fields such that one field will be for the street address and any apartment number, the second field will be for the city or borough, and the third field will be for zip code;
- (viii) the nature of the papers served;
- (ix) the court in which the action has been commenced, which shall be entered as either Civil Court NYC, Civil Supreme, Criminal, Housing(L/T), or District Court, followed by the county of the court, the judicial department if appellate, or the federal district;
- (x) the full index number, which shall be entered with all information necessary to identify the case, such as XXXXX/XX, unless the case is a Civil Local matter, in which case, it will include the prefix of CV, CC, LT, MI, NC, RE, SC, or TS;
- (xi) if service was effected pursuant to subdivisions (1) through (3) of CPLR § 308, a description of the person served which shall consist of six fields, including sex, hair color, approximate age, height, weight, and any other identifying features provided by the process server;
- (xii) whether service was delivered, as indicated by a Y or N;
- (xiii) the type of service effected, which shall be entered as a P for personal service, an S for substitute service, [or] a C for conspicuous service, or a CO for corporate service;
- (xiv) if service was effected pursuant to subdivision (4) of CPLR § 308 or subdivision one of RPAPL § 735, a description of the door and the area adjacent.

(4) If the process serving agency elects to record the information required to be maintained pursuant to [section]§ 2-233(c)(1) itself rather than through a third-party provider, [it must convert such information into a portable document (“pdf”) format] within [twenty four hours] two business days from the last event the record records it must copy the Microsoft Excel file containing such information, or a PDF of such Excel file, to a CD-ROM, DVD-ROM or other write-once media, and immediately make a second copy to write-once media, which second copy shall be stored off-site.

[(i) The process serving agency shall ensure that the security settings for this converted pdf are set so that editing and printing of the document is restricted and no edits or changes may be made to the document.]

(5) Licensees shall preserve the electronic records by either (a) submitting the record entries to a third party service on a daily basis or (b) copying the file to a portable media device within one week of a creation of the file. Such device must be maintained in a manner designed to ensure its security and preservation, including by keeping it in a separate off-site location. (c) Process servers shall not tamper with data or properties of any electronic record kept pursuant to this section after an image file is made by modifying, amending, deleting, rearranging or in any other way altering any such data or properties including but not limited to using a meta data scrubber or similar device or program.

(c) If a typographical error has occurred or if data contained in the process server’s record maintained under § 2-233 was accidentally omitted from the electronic data entry:

(i) the original record must not be deleted;

(ii) a new record must be created and be marked “Amended” and the corrected data must be identified by entering it in italics.

(d) All electronic records maintained under § 2-233a must be retained for seven years and must be available for inspection by the Commissioner of Consumer Affairs or his designee.

Section 3. Section 2-236 of subchapter W of Chapter 2 of Title 6 of the Rules of the City of New York is amended to read as follows:

§ 2-236 Duty to Report Hearings Contesting Service.

(a) Whenever a process server or process serving agency receives any type of notice, including

an oral communication, that a court has scheduled a hearing to determine whether service of process made or assigned by such licensee was effective, the licensee shall submit a report to the Department (attention of Counsel's Office), in writing, by certified mail, or by email to an address designated by the Department within ten days of receiving such notice. Such written report shall include:

- (1) the title and index number of the action;
- (2) the court and the judge before whom the hearing is scheduled;
- (3) the date(s) of the hearing; and
- (4) the name and license number of every licensee who effected service or assigned or distributed the process for service.[: and]

~~[(5)](b) On request, such licensee must provide~~ copies of all records, including but not limited to, routing sheets, the pages of the licensee's log book for each day on which service of the process in issue was attempted or effected, and all affidavits of service, pertaining to the contested service.

~~[(b)](c)(1) The licensee shall [have an affirmative obligation] attempt to learn [and report to the Department] the result of [the] such hearing, including any judicial order or voluntary settlement resolving the challenge to service of process [within ten days of the issuance of a decision on or settlement of the challenge], by making a written or email request to the party on whose behalf the challenged service of process was made or the party's attorney for a written report of the result of the hearing. Sixty days after the date of the scheduled hearing, if the party or its attorney has not provided to the licensee a written report of the result of such hearing, the licensee shall search for the result in the file in the office of the clerk of the court where such hearing was scheduled to occur. If the clerk's file does not contain a result sixty days after the hearing, the licensee shall search for the result in the clerk's file ninety days after the scheduled date of such hearing. (2) The licensee shall report to the Department by certified mail or email (i) within ten days of learning the result, or (ii) that it made attempts to learn the result and was unable to do so not later than one-hundred days after the scheduled date of such hearing.~~

New York City Laws and Rules regarding Process Servers

Notice of Adoption of Rules and Amendments to Rules regarding the licensing of Process Servers, August 11, 2011

NOTICE OF ADOPTION

Notice of Adoption of Rules and Amendments to Rules regarding the licensing of Process Servers.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the Department of Consumer Affairs by Section 20-104(b) of Chapter 1, Title 20 of the Administrative Code of the City of New York and in accordance with the requirements of Section 1043 of the New York City Charter that the Department promulgates and adopts rules and amendments to existing rules regarding the licensing of process servers.

These rules and amendments were proposed and published on May 12, 2011. The required public hearing was held on June 13, 2011. This rule will take effect in thirty days.

Material being deleted is shown below in brackets and material being be added is underlined.

Statement of Basis and Purpose

Section 20-104 (a) of the New York City Administrative Code confers on the Commissioner jurisdiction and control over all licenses issued under Chapter 2 of such Code, which includes process servers who are required to be licensed according to Subchapter 23 of Chapter 2 of Title 20 of the Code. Section 20-104 (b) grants the Commissioner the power to set forth rules necessary to carry out his or her powers and duties, to require licensees to keep such records as he or she may determine are necessary or useful to carrying out the purpose of Chapter 2 governing licensing laws and all other laws conferring such powers upon him or her, and to protect the health, safety, convenience and welfare of the general public with respect to licensed activities.

Those powers include the authority to:

- set forth rules prescribing how licensees maintain records that they are by law required to keep;
- require that licensees, their employees and agents, conduct their activities consistent with the requirements of the laws applicable to the service of process in the City of New York and with standards of honesty and integrity; and
- require the licensees to notify the Department and the public when they fail to carry out their duties in a competent and lawful manner.

This new rule, section 2-233b of subchapter W of chapter 2 of title 6 of the Rules of the City of New York, implements section 20-410 of the Administrative Code which was added by Local Law 7 of 2010. Section 20-410 requires licensed process servers to carry and operate a device to establish electronically and record the time, date and location of service or attempted service, (at the time process is served or attempted). In hearings on the provision held by a committee of the City Council, witnesses presented evidence of the widespread

prevalence in New York City of “sewer service,” an illegal practice in which process servers falsely claim to serve summonses and other process on parties to legal proceedings. The false service of legal papers is particularly common in consumer debt collection cases, where it deprives consumers of the opportunity to defend themselves against creditors’ claims that are frequently incorrect or even entirely false. As a result, consumers are subjected to wage garnishments or other damaging efforts to collect debts that are not legally justifiable.

By requiring process servers to carry a device that will record the location and time of service of process, section 20-410 provides a modern, technological tool to detect and deter “sewer service.” Such confirmation data will also help those process servers falsely charged with “sewer service” to defend themselves by providing independent corroboration of their location when they served the disputed process.

According to the rule, a licensed process server must carry and operate a mobile device using Global Positioning System (GPS) technology that makes an electronic record of the location where process is served or attempted to be served, including the date and time. If a GPS signal is unavailable, the mobile device must use triangulated cellular tower signals to establish the date and time when the record is made. The device must transmit a completed record automatically to an independent third party contractor. The process server’s contract with the independent third party must provide that the contractor will store the electronic records for seven years without allowing the process server access to delete or alter the original record. The third party must agree contractually with the process server to make the electronic records available to the Department upon request with specified information and in specified formats, including interactive electronic street maps. The rule provides that, in place of securing his or her own contract, a licensed process server may use services that a process serving agency has contracted from an independent third party.

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

RULE

Subchapter W of Chapter 2 of Title 6 of the Rules of the City of New York is amended by adding a new section 2-233b to read as follows:

§ 2-233b Electronic Record of Service

(a) General Requirements. A process server licensed pursuant to this subchapter must comply with the requirement of section 20-410 of the Code to carry at all times during the commission of his or her licensed activities, and operate at the time process is served or attempted, a device to establish electronically and record the time, date, and location of service or attempted service as follows:

(1) Equipment.

(i) The process server must obtain a mobile device, such as a telephone or personal digital assistant, that utilizes the software necessary to make an electronic record of the location where, and the time and date when, the record is made as determined by Global Positioning System (“GPS”) technology or Assisted-Global Positioning System (“A-GPS”) technology, and labels the record with the network date and time maintained by the mobile

device, the DCA license number of the process server, the DCA license number of the process serving agency that has distributed the process for service, the name of the plaintiff or petitioner, the name of the defendant or respondent, the docket number (if any), the name of the person to whom process is delivered and a unique file identifier of the process being served.

(ii) The mobile device must be equipped with the software necessary to make an electronic record of the location where and time and date when the record is made, as determined by triangulated cell tower signals, in the event that at the time of the effected or attempted service of process a GPS signal is not available.

(iii) The mobile device software must automatically add that location, time and date information to the electronic record as soon as a GPS or cellular signal reaches the device if neither a GPS nor a cellular signal is present at the time the process server causes the electronic record to be made.

(2) Operation of Equipment.

(i) On every occasion that a process server attempts or effects service of process, the process server must ensure that the mobile device makes an electronic record of the GPS location, time and date of the attempted or effected service immediately after attempting or effecting service. In the event that no GPS signal is available at the time of attempted or effected service of process, the location, time and date will be determined by triangulated cell tower signals.

(ii) Each electronic record must be labeled with:

- a) the GPS or cellular network date and military time maintained by the mobile device;
- b) the DCA license number of the process server;
- c) the DCA license number of the process serving agency that distributed the process for service;
- d) the name of the plaintiff or petitioner;
- e) the name of the defendant or respondent;
- f) the docket number, if any;
- g) the name of the person to whom process is delivered; and
- h) a unique file identifier of the process being served.

(3) Contract for Services. The process server must enter into a contract with an independent third party (“the Contractor”) pursuant to which the Contractor will provide services and perform functions described in paragraph (4) of this subdivision that enable the process server to meet the data storage and retrieval requirements set forth in such paragraph, provided, however, that if the process server performs process serving activities distributed to him or her by a licensed process serving agency, the process server may utilize the device and facilities for the electronic record of service that the process serving agency obtains under a contract with a Contractor.

(4) Data Storage and Retrieval. The electronic record must be automatically transmitted electronically from the mobile device to the Contractor as soon as a GPS or cellular signal is available and location, date and time are entered into the electronic record. The Contractor must store the electronic record according to the following terms:

(i) the original digital file must be maintained by the Contractor unaltered for a period of not less than seven years;

(ii) neither the process server nor the process serving agency will be permitted to alter the original data, but may obtain copies of the original data file;

(iii) the Contractor must maintain the records in a manner that will permit retrieval by the DCA license number of the process server, the DCA license number of the process serving agency that has distributed the process for service, the name of the plaintiff or petitioner, the name of the defendant or respondent, the docket number (if any), the name of the person to whom process is delivered and a unique file identifier of the process being served;

(iv) the Contractor must maintain the records in a manner that will ensure that their integrity is adequate for admissibility in a judicial proceeding under the rules of evidence applicable in the state of New York;

(v) the Contractor must produce upon request by the Department, and to any other party according to an appropriate order or subpoena, a copy of the electronic records, or any reasonably described part involved, certified to be true and accurate;

(vi) the Contractor must provide to the Department upon request a street map in hard copy format and access to an interactive electronic street map that display the locations where the digital records were recorded with a date and time provided by GPS or cellular date and time;

(vii) the Contractor must provide to the Department upon request, and to any other party according to an appropriate order or subpoena, such software as may be necessary to display the electronic records in an MS Excel spreadsheet, 2003 version or later, with the following fields and in the following data formats:

- a) Plaintiff or petitioner, which must be specified by the last name of the first plaintiff, or, if not a natural person, the name of the entity, except that the field may contain the name of every plaintiff or petitioner in the case, provided that the entire record is searchable by a wildcard search of the name of any plaintiff or petitioner;
- b) Defendant or respondent, which must be specified by the last name of the first defendant, or, if not a natural person, the name of the entity, except that the field may contain the name of every defendant or respondent in the case, provided that the entire record is searchable by a wildcard search of the name of any defendant or respondent;
- c) the full docket number, which must be entered with all information necessary to identify the case, such as XXXXXX/XX, unless the case is a Civil Local matter, in which case, it will include the prefix of CV, CC, LT, MI, NC, RE, SC, or TS;
- d) the date that service was effected or attempted according to the device, which must be entered as MM/DD/YYYY;
- e) the time that service was effected or attempted according to the device, which must be entered in military time;
- f) the date that service was effected or attempted according to GPS or cellular signals, which must be entered as MM/DD/YYYY;
- g) the time that service was effected or attempted according to GPS or cellular signals, which must be entered as military time;

- h) the address where service was effected or attempted, which must consist of four fields in the following order: building number, street name, city; and zip code, which must be five digits. All address information must be CASS (Coding Accuracy Support System) processed to insure its accuracy with software graded to be CASS Certified by the National Customer Support Center of the United States Postal Service;
- i) the name of the intended recipient of the process, which must be entered in two data fields such that the first data field is the last name of the intended recipient, or, if not a natural person, the name of the entity, and the second data field is the first name of the intended recipient if a natural person.
- j) the name of the person to whom process was delivered, which must be entered in two data fields such that the first data field is the last name of the person, and the second data field is the first name of the person.

(b) Provision of Equipment and Services by Process Serving Agency. A process serving agency licensed according to this subchapter may provide to licensed process servers the device and services required by subparagraph (a) according to a contract with an independent third party. For purposes of this Rule, a third party will not be considered independent if any officer or owner of ten percent or more of the shares of the licensed process serving agency has any interest, direct or indirect, in the third party.

(c) Report to Department.

(1) Within sixty days after the effective date of this Rule a licensed process server must submit to the Department in a form approved the Commissioner a certification that he or she has secured the contract required by this Rule and identifying the name, address and account number of the Contractor(s) providing the required device and services. After sixty days after the effective date of this Rule, no process server license will be issued or renewed unless the applicant submits such a certificate.

(2) A licensed process server must submit to the Department an amended certification within two days of entering into a contract with a different Contractor.

(3) In place of submitting the certificates required by the preceding provisions, the licensed process server may submit a certification in a form approved by the Commissioner affirmed by an owner or officer of a licensed process serving agency that the device and services the process server is required to obtain are provided by the agency under a contract with an independent third party.

(d) Compliance with all laws. Compliance with the requirements of this Rule does not relieve a licensed process server of the obligation to make or maintain records required by any other federal, state, or local law, rule or regulation.

New York General Business Law

§ 89-bb. Definitions.

For the purposes of this article:

1. A "process server" is a person, other than an attorney or a party to an action acting on his own behalf, who: (a) derives income from the service of papers in an action; or (b) has effected service of process in five or more actions or proceedings in the twelve month period immediately preceding the service in question. A person who serves interlocutory papers upon an attorney or who serves papers on behalf of a federal, state or local governmental agency in the course of his employment by such agency shall not be deemed a process server within the meaning of this article by virtue of such service.
2. A "process serving agency" is any person, firm, partnership, association or corporation, other than an attorney or a law firm located in this state, who, as owner, manager or contractor, maintains an office, bureau or agency for the purpose of assigning or distributing process to individual process servers for actual service.

§ 89-cc. Process server records.

1. Each process server shall maintain a legible record of all service made by him as prescribed in this section. Such records shall be kept in chronological order in a bound, paginated volume. Corrections in records shall be made only by drawing a straight line through the inaccurate entry and clearly printing the accurate information directly above the inaccurate entry. All other methods of correction, including but not limited to erasing, opaquing, obliterating or redacting, are prohibited.
2. The record to be maintained shall include the following information, where applicable:
 - (a) the title of the action or a reasonable abbreviation thereof;
 - (b) the name of the person served, if known;
 - (c) the date and approximate time service was effected;
 - (d) the address where service was effected;
 - (e) the nature of the papers served;
 - (f) the court in which the action has been commenced;
 - (g) the index number of the action, if known;
 - (h) if service is effectuated pursuant to subdivision four of section three hundred eight of the civil practice law and rules or subdivision one of section seven hundred thirty-five of the real property actions and proceedings law, a description of the color of the door to which the summons is affixed;
 - (i) the process serving agency from whom the process served was received, if any;
 - (j) type of service effected whether personal, substituted or conspicuous;
 - (k) if service is effected pursuant to subdivision one, two or three of section three hundred eight of the civil practice law and rules, the record shall also include the description of the person served, including, but not limited to sex, color of skin, hair color, approximate age, height and weight and other identifying features;

(l) if service is effected pursuant to subdivision four of section three hundred eight of the civil practice law and rules, the record shall also include the dates, addresses and time of attempted service pursuant to subdivision one, two or three of such section;

(m) if the process server files an affidavit of service with the court, his record shall include the date of such filing.

§ 89-dd. Process serving agency records.

1. Each process serving agency shall be required to keep complete and accurate records with respect to each process server to whom it distributes, assigns or delivers process to be served. Corrections in records shall be made only by drawing a straight line through the inaccurate entry and clearly printing the accurate information directly above the inaccurate entry. All other methods of correction, including but not limited to, erasing, opaquing, obliterating, or redacting, are prohibited.

2. Such records shall include, where applicable:

- (a) The name of the process server to whom process is distributed, assigned or delivered to be served;
- (b) The titles or a reasonable abbreviation thereof and index numbers of each case if filed in court by the agency;
- (c) The date that such papers were assigned for service, and the date that service was effected;
- (d) The person from whom such papers were received for service;
- (e) The date of filing of papers with the court if filed by the agency;
- (f) The type of service effected whether personal, substituted or conspicuous.

§ 89-ee. Responsibility of process serving agency and process servers.

1. It shall be unlawful for a process server to fail to comply with all legal requirements for the service of process.

2. A process serving agency shall be legally responsible for the acts of each process server to whom it has distributed, assigned or delivered process for service if it could reasonably have known that the process server was acting improperly.

3. It shall be unlawful for a process serving agency or a process server to fail to comply with all laws and regulations respecting preparation, notarization and filing of affidavits of service of process and other documents.

§ 89-ff. Affidavits of service.

It shall be unlawful for a process server to fail to set forth on any affidavit of service or process signed by him his license or registration number if such process server is required to be licensed or registered pursuant to any state or local law and the name and address of any process serving agency from whom he obtained the process for service if any.

New York Civil Practice Law and Rules

§ 307. Personal service upon the state.

1. Personal service upon the state shall be made by delivering the summons to an assistant attorney-general at an office of the attorney-general or to the attorney-general within the state.

2. Personal service on a state officer sued solely in an official capacity or state agency, which shall be required to obtain personal jurisdiction over such an officer or agency, shall be made by (1) delivering the summons to such officer or to the chief executive officer of such agency or to a person designated by such chief executive officer to receive service, or (2) by mailing the summons by certified mail, return receipt requested, to such officer or to the chief executive officer of such agency, and by personal service upon the state in the manner provided by subdivision one of this section. Service by certified mail shall not be complete until the summons is received in a principal office of the agency and until personal service upon the state in the manner provided by subdivision one of this section is completed. For purposes of this subdivision, the term "principal office of the agency" shall mean the location at which the office of the chief executive officer of the agency is generally located. Service by certified mail shall not be effective unless the front of the envelope bears the legend "URGENT LEGAL MAIL" in capital letters. The chief executive officer of every such agency shall designate at least one person, in addition to himself or herself, to accept personal service on behalf of the agency. For purposes of this subdivision the term state agency shall be deemed to refer to any agency, board, bureau, commission, division, tribunal or other entity which constitutes the state for purposes of service under subdivision one of this section.

§ 308. Personal service upon a natural person.

Personal service upon a natural person shall be made by any of the following methods:

1. by delivering the summons within the state to the person to be served; or

2. by delivering the summons within the state to a person of suitable age and discretion at the actual place of business, dwelling place or usual place of abode of the person to be served and by either mailing the summons to the person to be served at his or her last known residence or by mailing the summons by first class mail to the person to be served at his or her actual place of business in an envelope bearing the legend "personal and confidential" and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served, such delivery and mailing to be effected within twenty days of each other; proof of such service shall be filed with the clerk of the court designated in the summons within twenty days of either such delivery or mailing, whichever is effected later; service shall be complete ten days after such filing; proof of service shall identify such person of suitable age and discretion and state the date, time and place of service, except in matrimonial actions where service hereunder may be made pursuant to an order made in accordance with the provisions of subdivision a of section two hundred thirty-two of the domestic relations law; or

3. by delivering the summons within the state to the agent for service of the person to be served as designated under rule 318, except in matrimonial actions where service hereunder may be made pursuant to an order made in accordance with the provisions of subdivision a of section two hundred thirty-two of the domestic relations law;

4. where service under paragraphs one and two cannot be made with due diligence, by affixing the summons to the door of either the actual place of business, dwelling place or usual place of abode within the state of the person to be served and by either mailing the summons to such person at his or her last known residence or by mailing the summons by first class mail to the person to be served at his or her actual place of business in an envelope bearing the legend "personal and confidential" and not indicating on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action against the person to be served, such affixing and mailing to be effected within twenty days of each other; proof of such service shall be filed with the clerk of the court designated in the summons within twenty days of either such affixing or mailing, whichever is effected later; service shall be complete ten days after such filing, except in matrimonial actions where service hereunder may be made pursuant to an order made in accordance with the provisions of subdivision a of section two hundred thirty-two of the domestic relations law;

5. in such manner as the court, upon motion without notice, directs, if service is impracticable under paragraphs one, two and four of this section.

6. For purposes of this section, "actual place of business" shall include any location that the defendant, through regular solicitation or advertisement, has held out as its place of business.

§ 309. Personal service upon an infant, incompetent or conservatee.

(a) Upon an infant. Personal service upon an infant shall be made by personally serving the summons within the state upon a parent or any guardian or any person having legal custody or, if the infant is married, upon an adult spouse with whom the infant resides, or, if none are within the state, upon any other person with whom he resides, or by whom he is employed. If the infant is of the age of fourteen years or over, the summons shall also be personally served upon him within the state.

(b) Upon a person judicially declared to be incompetent. Personal service upon a person judicially declared to be incompetent to manage his affairs and for whom a committee has been appointed shall be made by personally serving the summons within the state upon the committee and upon the incompetent, but the court may dispense with service upon the incompetent.

(c) Upon a conservatee. Personal service on a person for whom a conservator has been appointed shall be made by personally serving the summons within the state upon the conservator and upon the conservatee, but the court may dispense with service upon the conservatee.

§ 310. Personal service upon a partnership.

(a) Personal service upon persons conducting a business as a partnership may be made by personally serving the summons upon any one of them.

(b) Personal service upon said partnership may also be made within the state by delivering the summons to the managing or general agent of the partnership or the person in charge of the office of the partnership within the state at such office and by either mailing the summons to the partner thereof intended to be served by first class mail to his last known residence or to the place of business of the partnership. Proof of such service shall be filed within twenty days with the clerk of the court designated in the summons; service shall be complete ten days after such filing; proof of service shall identify the person to whom the summons was so delivered and state the date, time of day and place of service.

(c) Where service under subdivisions (a) and (b) of this section cannot be made with due diligence, it may be made by affixing a copy of the summons to the door of the actual place of business of the partnership within the state and by either mailing the summons by first class mail to the partner intended to be so served to such person to his last known residence or to said person at the office of said partnership within the state. Proof of such service shall be filed within twenty days thereafter with the clerk of the court designated in the summons; service shall be complete ten days after filing.

(d) Personal service on such partnership may also be made by delivering the summons to any other agent or employee of the partnership authorized by appointment to receive service; or to any other person designated by the partnership to receive process in writing, filed in the office of the clerk of the county wherein such partnership is located.

(e) If service is impracticable under subdivisions (a), (b) and (c) of this section, it may be made in such manner as the court, upon motion without notice directs.

§ 310-a. Personal service upon a limited partnership.

(a) Personal service upon any domestic or foreign limited partnership shall be made by delivering a copy personally to any managing or general agent or general partner of the limited partnership in this state, to any other agent or employee of the limited partnership authorized by appointment to receive service or to any other person designated by the limited partnership to receive process, in the manner provided by law for service of summons, as if such person was the defendant. Personal service upon a limited partnership subject to the provisions of article eight-A of the partnership law may also be made pursuant to section 121-109 of such law.

(b) If service is impracticable under subdivision (a) of this section, it may be made in such manner as the court, upon motion without notice, directs.

(c) A limited liability partnership may also be served pursuant to section 121-1505 of the partnership law.

§ 311. Personal service upon a corporation or governmental subdivision.

(a) Personal service upon a corporation or governmental subdivision shall be made by delivering the summons as follows:

1. upon any domestic or foreign corporation, to an officer, director, managing or general agent, or cashier or assistant cashier or to any other agent authorized by appointment or by law to receive service. A business corporation may also be served pursuant to section three hundred six or three hundred seven of the

business corporation law. A not-for-profit corporation may also be served pursuant to section three hundred six or three hundred seven of the not-for-profit corporation law;

2. upon the city of New York, to the corporation counsel or to any person designated to receive process in a writing filed in the office of the clerk of New York county;
3. upon any other city, to the mayor, comptroller, treasurer, counsel or clerk; or, if the city lacks such officers, to an officer performing a corresponding function under another name;
4. upon a county, to the chair or clerk of the board of supervisors, clerk, attorney or treasurer;
5. upon a town, to the supervisor or the clerk;
6. upon a village, to the mayor, clerk, or any trustee;
7. upon a school district, to a school officer, as defined in the education law; and
8. upon a park, sewage or other district, to the clerk, any trustee or any member of the board.

(b) If service upon a domestic or foreign corporation within the one hundred twenty days allowed by section three hundred six-b of this article is impracticable under paragraph one of subdivision (a) of this section or any other law, service upon the corporation may be made in such manner, and proof of service may take such form, as the court, upon motion without notice, directs.

§ 311-a. Personal service on limited liability companies.

(a) Service of process on any domestic or foreign limited liability company shall be made by delivering a copy personally to (i) any member of the limited liability company in this state, if the management of the limited liability company is vested in its members, (ii) any manager of the limited liability company in this state, if the management of the limited liability company is vested in one or more managers, (iii) to any other agent authorized by appointment to receive process, or (iv) to any other person designated by the limited liability company to receive process, in the manner provided by law for service of a summons as if such person was a defendant. Service of process upon a limited liability company may also be made pursuant to article three of the limited liability company law.

(b) If service is impracticable under subdivision (a) of this section, it may be made in such manner as the court, upon motion without notice, directs.

§ 312. Personal service upon a court, board or commission.

Personal service upon a court consisting of three or more judges may be made by delivering the summons to any one of them. Personal service upon a board or commission having a chairman or other presiding officer, secretary or clerk, by whatever official title he is called, may be made by delivering the summons to him. Personal service upon a board or commission of a town or village may also be made by delivering the summons to the clerk of the town or village. Personal service upon any other board or commission shall be made by delivering the summons to any one of the members.

Chapter 14

§ 232. Notice of nature of matrimonial action; proof of service.

a. In an action to annul a marriage or for divorce or for separation, if the complaint is not personally served with the summons, the summons shall have legibly written or printed upon the face thereof: "Action to annul a marriage", "Action to declare the nullity of a void marriage", "Action for a divorce", or "Action for a separation", as the case may be, and shall specify the nature of any ancillary relief demanded. A judgment shall not be rendered in favor of the plaintiff upon the defendant's default in appearing or pleading, unless either (1) the summons and a copy of the complaint were personally delivered to the defendant; or (2) the copy of the summons (a) personally delivered to the defendant, or (b) served on the defendant pursuant to an order directing the method of service of the summons in accordance with the provisions of section three hundred eight or three hundred fifteen of the civil practice law and rules, shall contain such notice.

b. An affidavit or certificate proving service shall state affirmatively in the body thereof that the required notice was written or printed on the face of the copy of the summons delivered to the defendant and what knowledge the affiant or officer who executed the certificate had that he was the defendant named and how he acquired such knowledge. The court may require the affiant or officer who executed the affidavit or certificate to appear in court and be examined in respect thereto.

New York Real Property Actions and Proceedings Law

Sec. 735. MANNER OF SERVICE; FILING; WHEN SERVICE COMPLETE.

1. Service of the notice of petition and petition shall be made by personally delivering them to the respondent; or by delivering to and leaving personally with a person of suitable age and discretion who resides or is employed at the property sought to be recovered, a copy of the notice of petition and petition, if upon reasonable application admittance can be obtained and such person found who will receive it; or if admittance cannot be obtained and such person found, by affixing a copy of the notice and petition upon a conspicuous part of the property sought to be recovered or placing a copy under the entrance door of such premises; and in addition, within one day after such delivering to such suitable person or such affixing or placement, by mailing to the respondent both by registered or certified mail and by regular first class mail,

(a) if a natural person, as follows: at the property sought to be recovered, and if such property is not the place of residence of such person and if the petitioner shall have written information of the residence address of such person, at the last residence address as to which the petitioner has such information, or if the petitioner shall have no such information, but shall have written information of the place of business or employment of such person, to the last business or employment address as to which the petitioner has such information; and

(b) if a corporation, joint-stock or other unincorporated association, as follows: at the property sought to be recovered, and if the principal office or principal place of business of such corporation, joint stock or other unincorporated association is not located on the property sought to be recovered, and if the petitioner shall have written information of the principal office or principal place of business within the state, at the last place as to which petitioner has such information, or if the petitioner shall have no such information but shall have written information of any office or place of business within the state, to any such place as to which the petitioner has such information. Allegations as to such information as may affect the mailing address shall be set forth either in the petition, or in a separate affidavit and filed as part of the proof of service.

2. The notice of petition, or order to show cause, and petition together with proof of service thereof shall be filed with the court or clerk thereof within three days after;

(a) personal delivery to respondent, when service has been made by that means, and such service shall be complete immediately upon such personal delivery; or

(b) mailing to respondent, when service is made by the alternatives above provided, and such service shall be complete upon the filing of proof of service.

New York Business Corporation Law

§ 306. Service of process

(a) Service of process on a registered agent may be made in the manner provided by law for the service of a summons, as if the registered agent was a defendant.

(b)(1) Service of process on the secretary of state as agent of a domestic or authorized foreign corporation shall be made by personally delivering to and leaving with the secretary of state or a deputy, or with any person authorized by the secretary of state to receive such service, at the office of the department of state in the city of Albany, duplicate copies of such process together with the statutory fee, which fee shall be a taxable disbursement. Service of process on such corporation shall be complete when the secretary of state is so served. The secretary of state shall promptly send one of such copies by certified mail, return receipt requested, to such corporation, at the post office address, on file in the department of state, specified for the purpose. If a domestic or authorized foreign corporation has no such address on file in the department of state, the secretary of state shall so mail such copy, in the case of a domestic corporation, in care of any director named in its certificate of incorporation at the director's address stated therein or, in the case of an authorized foreign corporation, to such corporation at the address of its office within this state on file in the department.

(2) An additional service of the summons may be made pursuant to paragraph four of subdivision (f) of section thirty-two hundred fifteen of the civil practice law and rules.

(c) If an action or special proceeding is instituted in a court of limited jurisdiction, service of process may be made in the manner provided in this section if the office of the domestic or foreign corporation is within the territorial jurisdiction of the court.

(d) Nothing in this section shall affect the right to serve process in any other manner permitted by law.