



FOR IMMEDIATE RELEASE
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New Regulations Allow New York City Process Servers to Continue Service

Legal action dropped against DCA

(NEW YORK CITY) – Professional process servers in New York City will continue providing quality services to city residents following the settlement of a lawsuit Tuesday, July 19, 2011, with the New York Department of Consumer Affairs (DCA) that had seriously jeopardized their existence.

The agreement, which simplifies record-keeping for licensing, resolves many conflicts that had threatened process servers and agencies from going out of business, said Larry Yellon, president of both the National Association of Professional Process Servers (NAPPS) and the New York State Professional Process Servers Association (NYSPPSA). NYSPPSA is a chartered state association of NAPPS.

“NYSPPSA and DCA now have a shared goal of providing quality services to the legal system and ultimately justice for those who engage the system within city limits,” Yellon said. “We applaud DCA for recognizing the need to amend rules that were confusing and restrictive. The new rules are based on common sense and fairness, and will help agencies and process servers maintain compliance without upending their business practices.”

As part of the settlement, NYSPPSA agrees to drop all legal action against DCA. In late March, NYSPPSA was granted a partial restraining order to allow the two sides to continue negotiations over the new regulations. Prior to the court filing, NYSPPSA and the City had been negotiating in good faith and were making progress ahead of a March 21 deadline. NYSPPSA chose court action only after a request to extend that deadline was denied.

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2-2-2-2 / PROCESS SERVERS TO CONTINUE SERVICE (con't)

The settlement requires process servers to “conduct their activities within the confines of the new regulations, and notify the city if they fail to carry out their duties in a competent and lawful manner.”

In return, the amended city rules will clarify the record-keeping requirements in the following manner:

- **Reporting requirement** – Changes 24-hour reporting requirement to within two (2) business days after the last event recorded occurred.
- **“Traverse” (contested service)** – Modifies the reporting and research obligations for process servers and agencies when reporting the results of a traverse to DCA. The new rule significantly expands both research and reporting timelines and more definitively defines the search process.
- **Filing process** – The process server and agency only have to keep the file date of the affidavit if they physically filed it.
- **Certified mailing** – The process server will only have to keep the record number of a certified mailing only if they physically did the certified mailing.
- **Record keeping** – The amount of time process servers need to keep paper records is reduced from 7 years to 3 years.
- **Digital records** – The third-party option to maintain digital records have been changed. Now they can be generated at the time of request as long as the records are kept by a third party in a manner that the process server or the agencies are not able to edit them.
- **Corrections & edits** – The new rule adds a method for licensees to correct typographical errors in or inadvertent omissions from an entry into an electronic format.

Yellon stressed that NAPPS and NYSPPSA members are committed to being accountable, reliable and valuable to legal clients and city regulators. “NAPPS members follow a code of ethics and professional conduct, and as an organization we feel very strongly about the oversight and regulation of our own members,” he said. “This is a win-win for everyone involved.”

TIMELINE OF EVENTS / NYSPPSA vs. CITY OF NEW YORK DCA:

April 2010 – New York City Council passes and Mayor Bloomberg signs law regarding new regulations for Digital Record Keeping for Licensed Process Servers and Agencies; authorizes New York Department of Consumer Affairs (DCA) to promulgate rules.

December 2010 – DCA files new rules and holds initial hearing. New York State Professional Process Servers Association President Larry Yellon testifies in opposition to new rules, saying they go far beyond the intent of the law passed by the council.

February 2011 – NYSPPSA enters into negotiations with DCA seeking amendments to the rules as proposed.

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3-3-3-3 / PROCESS SERVERS TO CONTINUE SERVICE (con't.)

March 2011 – NYSPPSA files lawsuit seeking to stop implementation of rules as proposed by DCA. New York State Supreme Court, County of New York Justice Cynthia S. Kern grants NYSPPSA a partial injunction prohibiting DCA from implementing or enforcing “that portion of the Regulations which require that the security settings for the converted PDF are set so that no edits or changes may be made to the document.”

May 2011 – DCA publishes proposed amendments to *Digital Record Keeping for Licensed Process Servers and Agencies* rules.

June 2011 – Hearing on proposed amendments. DCA files “reply memorandum of law.” Oral arguments scheduled for July 20, 2011.

July 19, 2011 – Settlement reached and filed in court.

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The New York State Professional Process Servers Association (NYSPPSA) works as a unifier in the state to improve the professionalism of our members and communication with the rest of the legal community.

For more information about NYSPPSA, visit www.nysppsa.org

The National Association of Professional Process Servers (NAPPS) is a worldwide organization founded on the principles of professionalism and high ethical standards.

For more information about NAPPS, visit www.napps.org