

## **REFRESHER COURSE – SERVICE OF PROCESS**

As in most industries, it is important in the field of process serving to stay up to date with the rules of process serving and changes that occur yearly and occasionally more frequently. The legal community depends on us as professionals, to guide them through the ins and outs of service. We must be aware not only of the legal aspects but also the practical aspects to maintain the quality of the services we provide. As members of professional organizations, our process servers attend refresher courses on a regular basis.

So, what should the legal community do in preparation for sending documents out to be served through a professional process server? To answer that question, maybe we should go back to the basics.

- 1) ***What is service of process?*** It is the legal responsibility of a party involved in a lawsuit to provide notice of documents filed in the court to the other party (or parties) in the case. To provide the notice, a third person (NOT INVOLVED IN THE CASE) needs to deliver the documents to the opposition or other parties in the case.

***This step is required by the court so you can move forward in your case.***

- 2) ***Who should serve my documents? How do I decide?*** Legally, service of process in California, can be performed by anyone over the age of 18 and not a party to the action. (Certain limitations apply to the number of services being performed and the type of document being served if you are not a sheriff, marshal, or registered process server) However, when choosing a process server, be sure the rules regarding service are strictly followed. Specific service rules in California are determined by “The California Code of Civil Procedure”, the “California Rules of Court”, and “Local Rules”.

***The type of service required is most often determined by the type of document being served. Your professional process server can sometimes guide you in determining if a document is to be served by personal delivery, substitute service, or other acceptable method of service. There are rules to be followed with each method of service. Be sure to review the appropriate code or rule. Services can be invalid if not properly performed.***

- 3) ***Now what?*** You’ve filed your documents with the court, and you have chosen a process server. How do you know who to serve? What information do you need to provide the process server? Be sure to determine if you are suing an individual or an entity. If you are serving an entity, what type? You may need to do some research so you can properly

instruct the process server to whom and where documents should be served. There are a lot of public resources such as the Secretary of State's offices to help you find corporate officers and/or agents for service of process. If serving an individual, be sure to provide as much information as you can to help the process server in their quest to serve the documents in accordance with your needs.

***A professional process server will ask you for details and specific instructions. When serving an individual, they may ask for a photo or description of the party being served. Of course, you will need to provide an address for service. You may be asked for alternative addresses if one address turns out to be invalid or service cannot be performed. If you are serving an entity, they may be able to assist with locating an agent for service of process.***

- 4) ***How do I tell the court what happened?*** Once the documents in your case have been properly served, the court needs to know. Specifically, the court needs a properly prepared and executed proof of service. Proof of service needs to provide the details of the service such as the date, time, and location of the service. It needs to be signed by the process server. California courts require the process server to declare service was made in the manner prescribed by the code or rules of court and signed under the penalty of perjury. Once you have proof of service, it must be filed with the court where you filed your lawsuit.

***The process server needs to conform with the format required by the court of jurisdiction. Most professional process servers can provide the necessary proof of service and often have professional computer software designed for that purpose.***

***Self Help is provided by the Judicial Council of California at: <https://www.courts.ca.gov/selfhelp-serving>***