

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY,
FLORIDA

ADMINISTRATIVE ORDER NO:
19-12-B
SUPERSEDES 14-18-B

**IN RE: PROCESS SERVERS - Procedures for Appointment of Certified Process Servers and
Grievances**

WHEREAS, sections 48.25 through 48.31, Florida Statutes, authorizes the chief judge of each circuit to qualify, appoint, and remove certified process servers in the respective circuits, it is therefore

ORDERED AND ADJUDGED that pursuant to the authority vested in me as Chief Judge of the Eighteenth Judicial Circuit of Florida, there shall be established an approved list of certified process servers, for Brevard County, who may be chosen by counsel without the necessity of a motion and order in each individual case, pursuant to the following requirements:

**I. QUALIFICATION OF CERTIFIED PROCESS SERVERS TO BE INCLUDED ON THE
APPROVED LIST**

The prospective certified process server must meet and comply with the following requirements:

- a. Be at least 18 years of age;
- b. Have no mental or legal disability;
- c. Be a permanent resident of the State of Florida;
- d. Within the five (5) years preceding application has not been convicted of any felony;
- e. Within the five (5) years preceding application, has not been convicted of a misdemeanor involving moral turpitude or dishonesty or a violation of the laws relating to controlled substances;
- f. Must have no pending criminal case;
- g. Applicant must complete with a passing grade an orientation program in service of process conducted by a designated representative of the Brevard County Sheriff's Office (the "Sheriff") and file with the Brevard County Clerk of the Circuit Court (the "Clerk") a certificate of successful completion of that program. The orientation certificate will expire one (1) year after date of testing. An applicant who does not activate the new process

- h. server certification within that period of time, must retake the orientation program;
- i. File with the Clerk proof that the applicant has obtained a bond in the amount of \$5,000 with said bond to remain in effect as long as the certified process server is authorized to act. The bond shall be in favor of the Eighteenth Judicial Circuit of Florida. A certified process server, and if applicable, the employing agency, must notify the Clerk if the bond lapses for any reason during the period of appointment. A certified process server who fails to notify the Clerk of such lapse will be subject to the grievance provisions found in Section IX below; and
- j. Take and file with the Clerk an oath of office that he/she will honestly, diligently, and faithfully fulfill the duties of a certified process server.

II. APPLICATION PROCESS FOR APPOINTMENT

Any individual seeking appointment as a certified process server under this administrative order shall complete an application for appointment, which shall be in affidavit form, filed with the Clerk, and shall include the following information, at a minimum:

- a. The applicant's name, date of birth, and social security number;
- b. The applicant's residence and business addresses and telephone numbers;
- c. The names, addresses, and telephone numbers of the applicant's immediate supervisor and employer, if applicable;
- d. A disclosure if the applicant has ever been removed as a process server by another jurisdiction;
- e. A statement indicating that the applicant has read and is aware of this administrative order and its contents, including Section IX regarding grievances and removal as a certified process server;
- f. The documents required by Section I above;
- g. A certification that the original has been delivered to the Clerk; and
- h. Each application shall include non-refundable processing fees made payable to the Clerk and the Sheriff (required for the applicant's background check). Said fees shall be forwarded to the appropriate Clerk and Sheriff if the application facially meets the requirements set forth herein. If the application does not facially meet said requirements, the fees shall be returned to the applicant with the deficiencies noted.
- i. Proof of a \$5,000 bond shall be filed with the Clerk.

III. BACKGROUND CHECK OF CERTIFIED PROCESS SERVER

Upon receiving application, the Sheriff shall conduct a background investigation of the applicant. The investigation will include, but is not limited to, a check of criminal records and fingerprints. The Sheriff will advise the Clerk of the results of the background investigation. The investigating role by the Sheriff does not imply or create any right of control by the Sheriff over the certified process server.

IV. APPOINTMENT

- a. Upon the filing of the application and all supporting documents in proper form the Clerk will submit a proposed order to the Chief Judge or his/her designee who will either deny or grant same by order. The Clerk will add the successful applicant's name to the list of certified process servers for the Eighteenth Judicial Circuit. The Clerk shall maintain a

current list of the certified process servers. A certified process server appointed in Brevard County shall be eligible to execute process throughout the Eighteenth Judicial Circuit.

- b. The Clerk shall issue an identification card to each certified process server bearing his/her identification number, printed name, signature, photograph, seal of the Clerk, and an expiration date.

V. DUTIES

- a. Each certified process server shall comply with all of the duties and responsibilities of certified process servers set forth in sections 48.25 through 48.31, Florida Statutes, and this administrative order, as the same now exists, and as may hereafter be amended or modified.
- b. The certified process sever shall not receive any compensation from the Eighteenth Judicial Circuit, the Clerk, or the Sheriff for service as a process server.
- c. Certified process servers are not employees, agents, officers, or representatives of the Eighteenth Judicial Circuit, the Brevard County Clerk of the Circuit Court, the Seminole County Clerk of the Circuit Court, the Brevard County Sheriff, or the Seminole County Sheriff. Certified process servers are independent contractors hired by third parties to serve process within the Eighteenth Judicial Circuit. Consequently, neither the Eighteenth Judicial Circuit, the Brevard County Clerk of the Circuit Court, the Seminole County Clerk of the Circuit Court, the Brevard County Sheriff, or the Seminole County Sheriff are liable for the actions of any certified process server.

VI. PERIOD OF APPOINTMENT

Any appointment or reappointment granted under this administrative order shall be valid until the expiration of the certified process server's current order of appointment/reappointment, such appointment not exceeding one (1) year.

VII. RENEWAL

- a. Persons appointed under this order may apply for reappointment prior to, or upon, expiration of their current order of appointment. Effective May 1, 2014, the applicant must attend and successfully complete an annual renewal program prior to the expiration of the date of the previous order of appointment/reappointment. Said request for renewal shall contain all information required by Section II, above, shall be sent to the Clerk and shall contain non-refundable processing fees payable to the Clerk and the Sheriff. The Sheriff shall conduct such background information of the applicant as the Sheriff deems necessary to determine the applicant's continued fitness and promptly report to the Clerk a written evaluation by the Sheriff. Upon compliance, as determined by the Chief Judge, through the Clerk, the certified process server shall continue in good standing until the expiration of the order of reappointment; have his/her identification card issued with a new expiration date; and the name of the certified process server shall continue on the list maintained by the Clerk and Court Administration. Failure to renew properly shall cause the name of the certified process server to automatically be removed from the list and such person shall lose all standing as a certified process server to and until such time as standing is reestablished. If a certified process server does not attend and successfully complete an

annual renewal program prior to the expiration date of the server's current order of appointment, the applicant must submit to an orientation program and begin the process as if a new applicant.

VIII. MAINTENANCE OF APPROVED LIST AND RELATED RECORDS

- a. The Clerk and Court Administration shall maintain for public inspection a current list of all persons authorized to act as a certified process server in Brevard County pursuant to an order of appointment.
- b. Pursuant to article I, section 24, Florida Constitution, and rule 2.420, Fla. R. Jud. Admin., the Clerk shall maintain for public inspection a file for each certified process server which shall contain, at a minimum: copies of all original and renewal applications and exhibits thereto; all orders of appointment for the certified process server; any orders denying appointment; any complaints or grievances against the certified process server as outlined in Section IX; and any orders removing certified process servers from the approved list of certified process servers.
- c. The Clerk shall provide a copy of the list of certified process servers to the Sheriffs of Brevard and Seminole Counties, the Seminole County Clerk of the Circuit Court, and Court Administration.

IX. REMOVAL FROM LIST OF CERTIFIED PROCESS SERVERS

Section 48.31(1), Florida Statutes, provides that "a certified process server may be removed from the list of certified process servers for any malfeasance, misfeasance, neglect of duty, or incompetence, as provided by court rule." Section 48.29(4), Florida Statutes, provides that a chief judge of a circuit may, from time to time by administrative order, prescribe additional rules and requirements regarding the eligibility of a person to become a certified process server.

As a result of these statutes, this administrative order establishes the following policies for report of grievances against a certified process server and the review process thereof:

- a. Any complainant seeking to file a grievance against a certified process server shall be required to make such a grievance in writing and file the same with the Clerk. The grievance shall contain, at a minimum: the name of the complainant; an address to which the Clerk or the Chief Judge may send mail to the complainant; and the details of the grievance. All grievances shall be acknowledged before an officer authorized to take oaths pursuant to section 92.50, Florida Statutes, or under penalty of perjury pursuant to section 92.525, Florida Statutes. The grievance shall be filed into the certified process server's administrative file. Pursuant to rule 2.420(c)(3)(B), Fla. R. Jud. Admin., any grievance shall be held as confidential by the Clerk pending resolution of the grievance, allowing access only to the aggrieved party, the certified process server, the Chief Judge, and the Clerk. Upon issuance of an order removing a certified process server or an order dismissing the grievance, the Clerk shall make the complaint available to the public.
- b. The Clerk shall forward a copy of the grievance to the Chief Judge, whereupon the Chief Judge will determine whether probable cause exists to support the claims made in the grievance against the certified process server. The Chief Judge may request a written response from the certified process server prior to finding probable cause. If the Chief Judge finds that no probable cause exists after reviewing the contents of the grievance and

the response, if any, an order dismissing the grievance shall issue forthwith. If the Chief Judge finds probable cause exists, an Order to Show Cause shall be issued to the certified process server with a copy of the grievance attached. All orders under Section IX shall be sent via regular U.S. Mail to the address on file with the Clerk for the certified process server, with a copy to the complainant.

- c. Failure of the certified process server to attend court at the time appointed in the Order to Show Cause may result in an order immediately removing the certified process server from the list of eligible process servers.
- d. Any hearing on an Order to Show Cause shall be summary in nature, and the formal rules of evidence shall not apply. The complainant and the certified process server may choose to be represented by counsel; however, any fees and costs shall be borne by the respective party(ies).
- e. If, based on the evidence presented, the Chief Judge finds the certified process server guilty of malfeasance, misfeasance, neglect of duty, or incompetence, the Chief Judge shall order the certified process server removed from the list of eligible process servers, thereby revoking any current order of appointment.
- f. Removal from the list of certified process servers shall be effective for no less than two (2) calendar years from the date of removal, and may extend beyond such time frame or be permanent in nature, in the discretion of the Chief Judge and dependent on the nature of the grievance.
- g. All decisions of the Chief Judge are final.

X. APPLICATION OF AMENDMENTS TO THIS ADMINISTRATIVE ORDER

The 2019 amendments to this administrative order shall take effect immediately, except as provided herein. Any changes to the form for appointment or reappointment shall apply for all new applicants after the effective date of this order and all renewal applications after the effective date of this order. Section IX regarding removal of a certified process server shall be effective immediately, and shall apply to all process servers, including those currently in the middle of their terms. The Clerk is directed to disseminate a certified copy of this administrative order to the addresses on file for all current certified process servers.

DONE AND ORDERED this 6th day of February, 2019.

TONYA RAINWATER
TONYA RAINWATER
CHIEF JUDGE

Distribution:

All Circuit and County Judges (Brevard County)
Court Administration (Brevard County)
Clerk of Court (Brevard County)
State Attorney (Brevard County)
Public Defender (Brevard County)
Sheriff (Brevard County)
Bar Association (Brevard County) Law
Library (Brevard County) County
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