

IN THE THIRD JUDICIAL CIRCUIT OF FLORIDA
ADMINISTRATIVE ORDER NO. 2013-008
(Supersedes Administrative Order 2010-001)

CERTIFIED PROCESS SERVERS: CERTIFICATION AND REGULATION

Whereas, the Florida Certified Process Server Act, sections 48.25 through 48.31, Florida Statutes, expressly vests in the Chief Judge the authority to establish an approved list of process servers who have met the requirements for certification under the Florida Certified Process Server Act and the requirements set forth by the Third Judicial Circuit of Florida; and

Whereas, the Florida Certified Process Server Act also empowers the Chief Judge to remove persons from the certified process server list; and

Whereas, it is necessary for the prompt and efficient administration of justice to update the procedures and eligibility requirements used to approve individuals who are designated as certified process servers in this circuit; and

Whereas, this Administrative Order serves to amend and reestablish the standards and requirements governing certified process servers within the Third Judicial Circuit; and

Pursuant to the authority vested in me as Chief Judge of the Third Judicial Circuit, it is therefore **ORDERED**:

I. **Standards and Requirements.** Individuals seeking certification must submit a completed application packet with the required processing fee to Court Administration. The application packet and an informational page containing the current processing fee can be found on Court Administration's website: www.jud3.flcourts.org.

A. Applicants must also

- (1) Be at least eighteen years of age,
- (2) Have no mental or legal disability,
- (3) Be a permanent resident of the State of Florida,
- (4) Submit to a background investigation by the Florida Department of Law Enforcement. That background investigation, at the applicant's expense, will be requested by and submitted directly to Court

Administration;

- (5) Submit a signed and notarized Certificate of Good Conduct, whereby the applicant certifies that there are (1) no pending criminal cases against the applicant, (2) no record of any felony convictions, (3) no record of any misdemeanor convictions involving moral turpitude or dishonesty within the preceding five years. (This form is available with the application materials on the Court Administration website.);
- (6) Take and pass a written examination after completing the above requirements. That examination will be offered at least once per month if there are pending applications. Court Administration, under the supervision of the Chief Judge, will be responsible for scheduling, administering, and grading the examination. A grade of eighty percent or higher is passing;
- (7) Execute a bond in the amount of \$5,000 with a licensed surety or insurance company authorized to do business in the State of Florida for the benefit of any person wrongfully injured by malfeasance, misfeasance, neglect of duty, or incompetence of the applicant, in connection with his or her duties as a process server. The bond shall name "Administrative Office of the Courts, Third Judicial Circuit" as the Obligee. The applicant must file with Court Administration a certified copy of this bond. This bond shall be renewable annually;
- (8) Take an oath of office that he or she will honestly, diligently, and faithfully exercise the duties of a certified process server.

B. An applicant who completes the requirements set forth in this Administrative Order, as adopted from Florida Statutes section 48.29, shall be eligible to be placed on the approved list of certified process servers. Successful applicants must also provide a passport photo to be used on their identification card.

II. Certification.

A. An applicant's application materials will be reviewed by a designated

employee of Court Administration for verification of the applicant's compliance with the eligibility requirements and determination of eligibility.

- (1) If the designated employee determines that the applicant meets all of the eligibility requirements, then the applicant's name will be referred to the Chief Judge for approval to be added to the list of approved certified process servers. If the Chief Judge is satisfied that the conditions have been met, the Chief Judge shall issue an order placing the applicant on the list of certified process servers and provide a copy of the order to the Court Administrator and the Clerk of Court for each county in the Third Judicial Circuit.
- (2) If the designated employee determines that the applicant does not meet all of the eligibility requirements, then the applicant's name will not be added to the list of approved certified process servers.
- (3) If the designated employee is unable to determine whether an applicant meets all of the eligibility requirements, then the applicant's application materials will be referred to the Chief Judge.

B. All applicants will be notified of the designated employee's finding. If an applicant wishes to challenge an unfavorable determination made solely by the designated employee, an applicant may, within thirty days of the notice of the unfavorable determination, request in writing that the application materials be reviewed by the Chief Judge.

III. Identification Card.

- A. Court Administration will issue to each successful applicant an identification card bearing his or her identification number, printed name, signature, photograph, the seal of the Third Judicial Circuit, and an expiration date.
- B. Certified process servers must, while serving process, carry the official certified process server identification card issued to them and display it to anyone who requests information on the process server's authority to serve process.

- C. Each identification card shall be renewable annually upon the timely filing of an application for renewal with Court Administration and approval by the Chief Judge following proof of good standing, proof of current bond, successful completion of the yearly background investigation, payment of the renewal and yearly background investigation fee (current fee amounts available on the Court Administration website), and submission of an updated passport photo.
- D. If a process server needs an identification card reissued to him or her, a request should be made to the designated employee in Court Administration. There will be a \$20.00 charge, and the process server will need to provide a current passport photo.

IV. Duties of Certified Process Servers.

- A. Certified process servers shall comply with all rules, case law, and statutes pertaining to service of process and will be expected to keep up to date with any new provisions within said rules, case law, and statutes.
- B. A process server has a duty to notify the designated employee in Court Administration with any updates to his or her biographical information, including legal name, telephone number, address, and email address.
- C. A process server has a duty to report certain conduct related to his or her ability to act as a process server.
 - (1) In the event that any process server of the Third Judicial Circuit is arrested or charged with a misdemeanor or felony in any jurisdiction, the process server must report the arrest and/or charge(s) to Court Administration in writing within five days of the arrest or charge. Upon receipt of such information, the Chief Judge will review the matter and determine whether the process server should be temporarily suspended pending resolution of the matter. If the Chief Judge determines that a temporary suspension is warranted, the Chief Judge shall enter an order effectuating the temporary suspension.
 - (2) In the event that any certified process server of the Third Judicial

Circuit is the subject of any sanction or penalty with respect to his or her certification to serve process in another circuit, the process server must report the sanction or penalty to Court Administration in writing within five days. Upon receipt of such information, the Chief Judge will review the matter and determine whether the process server should be temporarily suspended pending resolution of the matter. If the Chief Judge determines that a temporary suspension is warranted, the Chief Judge shall enter an order effectuating the temporary suspension.

- (3) A certified process server's failure to report as required under this subsection will result in an immediate temporary suspension of the process server by the Chief Judge.
- (4) If a process server is temporarily suspended by the Chief Judge, the process server will be ordered to surrender his or her certified process server identification card to Court Administration and immediately advise all clients for which he or she is holding outstanding process that he or she has been temporarily suspended as a process server. The process server will be ordered to appear before the Chief Judge and show cause as to why he or she should not be permanently disqualified as a process server. This hearing may be postponed until the underlying matter has been resolved.

V. **Renewal.**

- A. Certification of a process server is for a period of one year at which time the certification shall expire unless extended temporarily as set forth herein or by order of the Chief Judge. The renewal materials should be filed (actually received by Court Administration) no sooner than ninety days prior to expiration and no later than sixty days prior to expiration to allow sufficient time for processing of the renewal materials. Individuals are warned that renewal materials filed less than sixty days prior to expiration may, under certain circumstances, not be fully processed by the expiration date and, if not, will be deemed expired pending approval and

shall not be permitted to serve process unless and until recertification is approved. Individuals filing prior to sixty days (but no sooner than ninety days) prior to expiration will be allowed to continue to serve process unless and until the application for certification is denied or the Chief Judge otherwise suspends or terminates the certification. Materials for recertification filed after the annual expiration date but within ninety-days (“grace period”) after that expiration date shall still be considered for renewal but the individual will not be permitted to serve process unless and until there is approval of the application for renewal as provided herein. Failure to properly and timely file the necessary materials for renewal with Court Administration and/or failure to keep his or her bond current will cause the name of the certified process server to be automatically removed from the approved list and such person shall lose all standing as a certified process server until such time as standing is re-established. Any request for renewal or reinstatement filed after the grace period and/or lapse of bond will be treated as an original application and must comply with section I of this Administrative Order.

- B. To renew, a certified process server must submit the current renewal fee to Court Administration (the amount of the renewal fee is available on the Court Administration website). In addition to the renewal fee, the certified process server must submit himself or herself to a limited background investigation, at his or her expense, to ensure that he or she has not acquired a criminal record in the preceding year. The process server is responsible for the fee associated with that limited background investigation (the amount of the limited background investigation fee is available on the Court Administration website). The process server must also provide proof of the \$5,000.00 surety bond that he or she is required to carry. If any of the information provided by the process server has changed in the preceding year (for example, address, telephone number, email address), the process server must provide the updated information to the designated employee in Court Administration. The process server

must also provide an updated passport photo for his or her new identification card.

- C. Upon submitting the necessary fees associated with renewal, successful completion of the limited background investigation, proof of the surety bond, and submission of the updated passport photo, the process server will be issued another identification card.

VI. Maintenance of the List of Certified Process Servers. Court Administration will maintain a current list of all persons authorized to act as certified process servers in the Third Judicial Circuit. This list will be provided to the Clerks of Court in the Third Judicial Circuit. The Clerks of Court shall make the list available to the public, and the list shall also be published on the Court Administration website.

VII. Complaints against Certified Process Servers. Any complaint against a certified process server should be in writing and sent to Court Administration. Court Administration will forward a copy of the written complaint to the Chief Judge and to the process server. Court Administration will forward a Notice of Complaint to the process server informing the process server to respond to the complaint in writing within thirty days of the date of the notice. The complainant will be furnished a copy of the process server's response and may submit a reply within thirty days. The complaint, process server's response, and complainant's reply, if any, will be reviewed by the Chief Judge. The Chief Judge will either initiate the process detailed in the section titled Removal of Certified Process Servers or execute an order resolving the complaint (for example, dismissal of the complaint). The complainant and the process server will be notified of the Chief Judge's decision. Nothing in this paragraph affects or limits the authority of the Chief Judge to otherwise suspend or terminate a process server as provided in Florida law or elsewhere in this Administrative Order, regardless of whether a complaint was filed or a response received.

VIII. Removal of Certified Process Servers.

- A. A certified process server may be removed from the approved list for good cause. Good cause shall include, but is not limited to, the following:

- (1) Malfeasance,
 - (2) Misfeasance,
 - (3) Neglect of duty,
 - (4) Incompetence,
 - (5) Conviction of any felony or a misdemeanor involving moral turpitude or dishonesty,
 - (6) Fraud, dishonesty, or corruption which is related to the functions and duties of a certified process server,
 - (7) Fraud or misrepresentation in obtaining or renewing certification,
 - (8) Nonpayment of renewal fees, and
 - (9) Failure to comply with any of the provisions contained in this Order.
- B. If a process server engages in conduct prohibited by law or this Order or if a complaint against a process server cannot be resolved by an order by the Chief Judge, then the Chief Judge shall issue an order to show cause to the process server setting forth the grounds for the suggested removal, which will be served by ordinary U.S. mail to the process server's address. This order to show cause will provide a date, time, and location that the process server shall appear before the Chief Judge and show cause as to why the process server should not be removed from the approved list. The Chief Judge shall conduct a hearing at which the process server may appear and offer evidence. The hearing will be summary in nature, and the formal rules of evidence do not apply. If, from the evidence, the Chief Judge finds the process server guilty of malfeasance, misfeasance, neglect of duty, incompetence, or other unsuitable behavior by a process server, the Chief Judge shall order that the process server be removed from the approved list. The order shall indicate whether the removal is permanent or for a limited period. If the removal is for a limited period, the order shall indicate the length of the suspension.
- C. If the Chief Judge orders that a process server be removed from the approved list, the process server shall surrender his or her certified process server identification card to Court Administration within forty-eight hours

of the suspension and immediately advise all clients for which he or she is holding outstanding process that he or she has been suspended as a process server.

D. If a process server was suspended temporarily, he or she may seek certification upon the expiration of the suspension period. The person seeking certification following a suspension must comply with the application requirements for persons seeking initial certification, that is, comply with section I. This paragraph does not apply if the Chief Judge issues an order directing reinstatement without the need to comply with the application requirements.

IX. Designation by the Chief Judge. The Chief Judge may designate another judge of the Third Judicial Circuit to carry out any of the duties contained in this Order. Appointment of such a judge will be by written order.

X. Effective Date. This administrative Order is effective immediately, and supersedes all previous administrative orders addressing certified process servers (specifically, Administrative Order No. 2010-001).

DONE AND ORDERED on ^{November 14} ~~October~~ 14, 2013.



GREG S. PARKER, CHIEF JUDGE