

CITY OF NEW YORK
DEPARTMENT OF CONSUMER AFFAIRS

DEPARTMENT OF CONSUMER AFFAIRS,

Complainant,

-against-

BOLD APPELLATE SOLUTIONS, LLC
20 PINEHURST DRIVE
BELLPORT, NY 15113

Respondent.

CONSENT ORDER

PROCESS SERVING
AGENCY

License No. 1361431

Violation No. LL005287426

Bold Appellate Solutions, LLC (“Respondent”) voluntarily consents to this Consent Order (“CO”) to settle the above-captioned violation with the Department of Consumer Affairs (“DCA” or “the Department”) and agrees as follows:

I. DEFINITIONS

- A. Terms are defined in 6 RCNY § 2-231.
- B. “Material breach” means the failure to comply with this CO in whole or in part by commission or omission.

II. INJUNCTIVE RELIEF

- A. Respondent shall, in accordance with 6 RCNY § 2-234a(b), develop and implement policies and procedures set forth in a written Compliance Plan to ensure that individual process servers to whom it distributes process for service act with integrity and honesty and comply with the recordkeeping requirements applicable to process servers. This includes adopting and implementing the following policies:

Confirmation of Process Servers’ License Status

- 1. Respondent shall check the Department’s website at least once each month to ensure that all individuals to whom it assigns or distributes process for service in New York City have an active individual process server license.

Screening of New Process Servers

2. Prior to assigning or distributing process to an individual process server who has not attempted or effected service of process on Respondent's behalf previously, Respondent shall use the Process Server Screening Protocol annexed as Attachment A as a guide to determine whether the process server is fit to serve process in New York City.
3. Respondent shall answer each question on the Process Server Screening Protocol truthfully, accurately and completely.
4. Respondent shall attach a copy of the completed Process Server Screening Protocol with each updated roster of process servers that it submits to the Department pursuant to Title 6 of the Rules of the City of New York, Section 2-234a(d)(2). The roster and screening protocol shall be mailed to the following address:

NYC Department of Consumer Affairs
42 Broadway, 5th Floor
New York, NY 1000
Attention: Licensing Division

Confirmation of Integrity of Affidavits of Service

5. Respondent shall ensure that each affidavit of service signed by a process server who attempted or effected service of process on Respondent's behalf in New York City includes the case caption and index number (if they exist), the name and license number of the process server, and the name, license number and address of the process serving agency.
6. Respondent shall ensure that no affidavit of service will be signed by a process server who effected service of process on Respondent's behalf in New York City, notarized, or filed with a court unless the process server has created an electronic record of the location, date and time of service as determined by Global Positioning System ("GPS") technology or Assisted-Global Positioning System ("A-GPS") technology.
7. Respondent shall maintain electronic copies of all signed affidavits of service relating to service of process that Respondent assigned or distributed to an individual process server for service in New York City. Each affidavit of service shall be maintained as a separate electronic file and the electronic files shall be maintained chronologically and named in the following manner:

Example: smithj-20120101-1

**Process Server Last Name and First Initial (no spaces)-
Date of Service (YYYYMMDD)-**

Unique Identifying Number (to distinguish between multiple services on the same date).

Conducting of Record Reviews

8. At least once each month, Respondent shall review the records of each individual process server to whom it assigns or distributes process for service in New York City for completeness by following the steps contained in the "Process Server Records Review Checklist" annexed as Attachment B. Failure to follow and complete all of the directions and steps contained in the checklist shall constitute a violation of this Consent Order.
9. Respondent shall prepare a monthly report of its review of the records maintained pursuant to 6 RCNY § 2-233 (concerning bound logbooks), 6 RCNY § 2-233a (concerning electronic logbooks), 6 RCNY § 2-233b (concerning GPS), and 6 RCNY § 2-235 (concerning affidavits of service), of each individual process server to whom it assigns or distributes process using the "Monthly Compliance Report" annexed as Attachment C. Respondent shall maintain the monthly report as a Microsoft Excel file. The report is available on the Department's web site and may be updated periodically.
10. Respondent shall answer each and every question contained in the Monthly Compliance Report, including all subsequent updates to the report, truthfully, accurately and completely.
11. Respondent shall maintain each Monthly Compliance Report for at least seven (7) years at the address where Respondent is licensed. The reports must be made immediately available to the Department's inspectors, upon request, between the hours of 9 a.m. and 5 p.m., Monday through Friday, excluding holidays.
12. Each month, Respondent shall, for each individual process server to whom it assigns or distributes process for service in New York City, prepare a "GPS Investigation Report" using the review instrument annexed as Attachment D. Respondent shall maintain the monthly report as a Microsoft Excel file. The report is available on the Department's web site and may be updated periodically.
13. Respondent shall follow each and every instruction contained in the GPS Investigation Report and shall complete the report, including all subsequent updates to the report, truthfully, accurately and completely.
14. Respondent shall maintain each GPS Investigation Report for at least seven (7) years at the address where Respondent is licensed. The reports must be made immediately available to the Department's inspectors, upon request, between the hours of 9 a.m. and 5 p.m., Monday through Friday, excluding holidays.
15. Respondent understands that the Department may, from time to time, notify Respondent of GPS records showing that a process server was not at an address that he or she claimed to have attempted or effected service of process. When such a notification is sent to Respondent by the Department, Respondent shall

investigate the service in accordance with Instruction 4 of the “GPS Investigation Report” annexed as Attachment D and submit the completed report to the Department within thirty (30) days of receiving the notification.

Conducting Trainings

16. At least once a year, Respondent shall meet with each process server to whom it assigns or distributes process for service in New York City to conduct a training on the following process server laws and rules:

Title 6 of the Rules of the City of New York, Section 2-231

Title 6 of the Rules of the City of New York, Section 2-232

Title 6 of the Rules of the City of New York, Section 2-232a

Title 6 of the Rules of the City of New York, Section 2-232b

Title 6 of the Rules of the City of New York, Section 2-232c

Title 6 of the Rules of the City of New York, Section 2-232d

Title 6 of the Rules of the City of New York, Section 2-233

Title 6 of the Rules of the City of New York, Section 2-233a

Title 6 of the Rules of the City of New York, Section 2-233b

Title 6 of the Rules of the City of New York, Section 2-234

Title 6 of the Rules of the City of New York, Section 2-234b

Title 6 of the Rules of the City of New York, Section 2-235

Title 6 of the Rules of the City of New York, Section 2-236

Title 6 of the Rules of the City of New York, Section 2-237

Title 6 of the Rules of the City of New York, Section 2-238

New York General Business Law, Section 89-ff

New York Civil Practice Law and Rules, Section 307

New York Civil Practice Law and Rules, Section 308

New York Civil Practice Law and Rules, Section 309

New York Civil Practice Law and Rules, Section 310

New York Civil Practice Law and Rules, Section 310-a

New York Civil Practice Law and Rules, Section 311

New York Civil Practice Law and Rules, Section 311-a

New York Civil Practice Law and Rules, Section 312

New York Business Corporation Law, Section 306

Respondent shall also conduct a training prior to assigning or distributing process to an individual process server who has not attempted or effected service of process on Respondent's behalf previously.

17. The training shall include a review of the Process Server Records Review Checklist, including a discussion of each and every item on the checklist. The training shall also consist of a review of the three (3) most recent Monthly Compliance Reports completed for the process server undergoing the training, except with respect to new process servers to whom the Respondent had not previously assigned or distributed service.
18. At the conclusion of each training, Respondent shall ensure that the process server sign the "Process Server Training Acknowledgement Form" annexed as Attachment E.
19. Respondent shall maintain the Process Server Training Acknowledgment Form for each training it conducts for a period of seven (7) years at the address where Respondent is licensed. The acknowledgements must be made immediately available to the Department's inspectors, upon request, between the hours of 9 a.m. and 5 p.m., Monday through Friday, excluding holidays.

Implementing Disciplinary Actions

20. Respondent shall take appropriate disciplinary action against all individual process servers who fail to comply with the process server rules and laws, including, but not limited to, suspending or terminating his or her employment, agency or other relationship with the individual process server.
21. Respondent shall report to the Department in writing all individual process servers against whom it has taken disciplinary action within ten (10) days of taking the action using the "Disciplinary Actions and Non-Compliance Report" annexed as Attachment F. The term "disciplinary action" includes, but is not limited to, written or oral warnings or reprimands, probation, monetary penalties, suspensions or terminations of employment, and decisions to give a process server less work or no work at all because of their misconduct. The report to the Department shall be sent via e-mail to **process_server@dca.nyc.gov** in Microsoft Excel format.
22. Respondent shall report to the Department in writing the name and license number of each individual licensed process server who does not comply with the rules or law governing process servers within ten (10) days of learning of such non-compliance using the "Disciplinary Actions and Non-Compliance Report" annexed as Attachment F. This includes reporting any failure to comply with the requirements of 6 RCNY § 2-233 (concerning bound logbooks), the requirements of 6 RCNY § 2-233a (concerning electronic logbooks), the requirements of 6 RCNY § 2-233b (concerning GPS), the requirements of 6 RCNY § 2-235 (concerning affidavits of service), or the requirements of 6 RCNY § 2-236

(concerning traverse hearings). The report to the Department shall be sent via e-mail to **process_server@dca.nyc.gov** in Microsoft Excel format.

23. Respondent shall maintain records of any disciplinary actions taken against individual process servers and report of non-compliance with the process server rules and laws for at least seven (7) years at the address where Respondent is licensed. The records and reports must be made immediately available to the Department's inspectors, upon request, between the hours of 9 a.m. and 5 p.m., Monday through Friday, excluding holidays.

Reporting Traverse Hearings

24. Whenever Respondent receives any type of notice, including an oral communication, that a court has scheduled a hearing to determine whether service of process assigned by Respondent to an individual process server was effective, Respondent shall, within two (2) business days, inform in writing the individual process server whose service is being challenged of the scheduling of the hearing, the date and time of the hearing, the title and index number of the action, and the court and judge before whom the hearing is scheduled.
25. Whenever Respondent 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, Respondent shall submit a report to the Department, within ten days of receiving such notice, using the report form annexed as Attachment G. Respondent shall submit the completed traverse report form by e-mail to **TraverseReports@dca.nyc.gov**.
26. Respondent shall include a copy of all written communications made pursuant to Paragraph 24 of this Consent Order with the traverse reports it submits to the Department, as well as all responses received from the individual process server.
27. Respondent shall ensure that the agency and the individual process server submit separate traverse reports to the Department for each hearing in which process assigned by Respondent to the individual process server was challenged.
28. Respondent shall learn the result of each hearing in which process assigned by Respondent to the individual process server was challenged, including any judicial order or voluntary settlement resolving the challenge to service of process, and obtain a copy of the court's decision on the matter.
29. Respondent shall submit a report to the Department by email, to **TraverseReports@dca.nyc.gov**, using the report form annexed as Attachment G. Respondent shall submit the report within ten days of learning the result and shall **attach a copy of the court's decision on the matter**.
30. Respondent shall conduct an investigation into every traverse hearing scheduled since January 1, 2011, whether or not held, relating to process that was assigned or distributed by Respondent for service in New York City within one (1) month from the effective date of this Consent Order. The investigation shall, to the

extent possible, be conducted in accordance with the instructions contained in the Service Investigation Report annexed as Attachment H. The report is available on the Department's web site and may be updated periodically.

31. Respondent shall also conduct an investigation into every traverse hearing scheduled in the future, whether or not held, relating to process that was assigned or distributed by Respondent for service in New York City within ten (10) days of learning of such hearing in accordance with the instructions contained in the Service Investigation Report annexed as Attachment H.
32. Respondent shall follow every instruction contained in the Traverse Hearing Investigation Report and shall complete the report, including all subsequent updates to the report, truthfully, accurately and completely.
33. Respondent shall maintain a single report concerning all traverse hearings that Respondent investigated and shall submit the report to the Department as a Microsoft Excel file at least once every three (3) months by e-mailing the report as an attachment to process_server@dca.nyc.gov.

Investigating Default Judgments

34. Respondent understands that the Department may, from time to time, notify Respondent of individual process servers whose assigned service of process resulted in a substantial number of defaults, and will provide Respondent a list of such defaults. When such a notification is sent to Respondent by the Department, Respondent shall investigate the services in accordance with the instructions contained in the Service Investigation Report annexed as Attachment H and submit the completed report to the Department within thirty (30) days of receiving the notification.

Maintaining Electronic Records

35. Respondent shall maintain electronic records in accordance with 6 RCNY § 2-233(c)(1)(i)-(vii) and 6 RCNY § 2-233a(b), including electronic records of daily activity and electronic copies of all affidavits of service, work orders, routing sheets, instructions to individual process servers and notes submitted by individual process servers. Such records shall be maintained at the address where Respondent is licensed and shall be made immediately available to the Department's inspectors, upon request, between the hours of 9 a.m. and 5 p.m., Monday through Friday, excluding holidays.
36. Respondent shall maintain for seven (7) years electronic image files of the logbooks of each individual process server to whom Respondent has assigned or distributed process for service in New York City. Such records shall be maintained at the address where Respondent is licensed and shall be made immediately available to the Department's inspectors, upon request, between the hours of 9 a.m. and 5 p.m., Monday through Friday, excluding holidays.

V. NON-COMPLIANCE WITH THIS ORDER

- 1) A finding, after notice and hearing, that Respondent has committed a material breach of the terms of this Order shall be sufficient grounds for the revocation of Respondent's license and for ineligibility to be licensed for a period of five years.
- 2) Specific violations of this Order shall constitute independent and separate violations of any applicable law, regulation or rule.
- 3) Violations of law and violations of this Order shall be assessed as separate violations with separate fines, with a maximum penalty of \$1,000.00 for each violation.

VI. WAIVER OF APPEALS

- 1) Respondent waives any right to a hearing, appeal of and/or any challenge of the facts alleged by the above-referenced violation under Code § 20-104 or under Article 78 of the New York State Civil Practice Law and Rules (CPLR), §§ 7801-7806, in any forum.

VII. DEPARTMENT'S AUTHORITY

- 1) Nothing in this Order shall be construed to limit in any way the authority of the Department to exercise its regulatory or enforcement powers under Code §§ 20-104 or 20-409.

Agreed to by Bold Appellate Solutions, LLC

Accepted for the Department of
Consumer Affairs

By:

Brian Jusas

By:

Title: Senior Staff Attorney

Signature 

Date



Signature

Date 9/26/12

Businesses licensed by the Department of Consumer Affairs (DCA) must comply with all relevant local, state and federal laws. Copies of New York City licensing laws are available in person at DCA's Licensing Center, located at 42 Broadway, 5th Floor, New York, NY, by calling 311, New York City's 24 hour Citizen Service Hotline, or by going online at www.nyc.gov/consumers.

ATTACHMENT A

PROCESS SERVER SCREENING PROTOCOL

Name of Process Serving Agency ("PSA"): _____

PSA License No.: _____

Name of Process Server Individual ("PSI"): _____

PSI License No.: _____

Date(s) That PSI Was Screened By PSA: _____

A. License Status

Instructions:

1. Review the DCA website to check the process server's license status.
2. Make a copy of the process server's license.
3. If the process server does not have a license, ask to see a temporary operating letter from DCA.

What is the process server's license status according to DCA's website?

Did the process server give you a copy of his/her license?

If the process server did not give you a copy of his/her license, did the process server give you a temporary operating letter from DCA? For what period of time?

B. Complaints and Violations History

Instructions:

1. Make a Freedom of Information Law ("FOIL") request to DCA for information about the process server's complaints and violations history.
2. Check DCA's website for consent orders entered into by the process server and to see the terms with which the process server must comply. Consent orders from 2009 to the present are available for viewing in the "Know The Law" section of the website.

Has anyone filed a complaint against the process server with DCA? For what reason(s)?

Was the process server ever fined or disciplined by DCA? For what reason(s)?

C. Employment History

Instructions:

1. Ask the process server how many years of experience he/she has and confirm that with the documents received in response to your FOIL request.
2. Ask the process server for a list of process serving agencies, law firms or other employers that he/she has worked for over the past five years.
3. Ask the process server if he/she has stopped working for any other PSA or employer and if so, why.
4. Contact three of the process server's previous employers and ask them whether the process server was ever disciplined or terminated, or whether the employer stopped giving the process server work.
5. Ask the previous employers whether any red flags were ever raised with respect to the process server.
6. Ask the previous employers how many traverse hearings the process server had and how many resulted in a finding of improper service.

According to the process server, how many years of process serving experience does he/she have? _____

According to the process server, what process serving agencies, law firms or other employers has the process server served process for in the past five years (including any that the process server continues to work for)?

According to the process server, why did he/she stop working for other process serving agencies or employers?

According to the process server's previous employers, was the process server ever disciplined or terminated?

Did any of the previous employers stop giving work to the process server? If so, why?

Did any of the previous employers state that there were red flags raised with respect to the process server? If yes, what were they?

According to the process server's previous employers, how many traverse hearings did the process server have? Did any of them result in findings of improper service? Why?

D. Process Server Records

Instructions:

1. Request that the process server provide to you his/her most recent logbook.
2. Request that the process server provide to you the records that the process server maintains pursuant to Section 2-233a of Title 6 of the Rules of the City of New York for the past three months for which there are records.
3. Request that the process server provide to you the GPS records that the process server maintains pursuant to Section 2-233b of Title 6 of the Rules of the City of New York for the past three months for which there are records.
4. Request that the process server provide to you his/her affidavits of service for the most recent month in which the process server served process.
5. Review the process server's records for completeness (*i.e.*, every entry must be looked at) and discuss all recordkeeping violations with the process server.

Did the process server provide you with the following records? (Place a check next to each one that he or she did bring)

- Most Recent Logbook
- Affidavits of Service for Most Recent Month In Which He/She Served Process
- 233a Records for Most Recent 3 Months In Which He/She Served Process
- GPS Records for Most Recent 3 Months In Which He/She Served Process
- Other _____

If there are records that the process server did not provide to you, please identify the records and explain why they were not provided:

Logbook Review:

What is the date range of the logbook?

Is the logbook properly bound? [Properly bound 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.]

- Yes
- No

Is the logbook properly paginated? [The page numbers must have been there at the time of purchase]?

- Yes
- No

Is there a separate entry of every attempted and effected service of process?

- Yes
- No

Were the entries in the logbook made contemporaneously? [“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.]

- Yes
- No

Are the logbook entries in chronological order? [“Chronological” with respect to the notation in a process server record or log means that each notation must 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.]

- Yes
- No

Is the handwriting in the logbook legible?

- Yes
- No

Were logbook corrections made in the appropriate manner? [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.]

- Yes
- No

Do all logbook entries include the following information? [check each one for which the answer is yes]

- the name and license number of the process serving agency from whom the process served was received, or, if not received from a process serving agency, of such

- other person or organization from whom the process served was received
- the title of the action or a reasonable abbreviation thereof
- the name of the individual, company or organization served, if known
- the date and approximate time service was effected
- the address where service was effected
- the nature of the papers served
- the court in which the action has been commenced
- the index number of the action, if known
- the description of the individual served, if applicable
- the type of service effected (personal, substituted, conspicuous, or corporate)
- for process effected by conspicuous service, the color and composition of hallway walls adjacent to the door to which process was affixed
- for process effected by conspicuous service, the color and composition of the hallway floor or doorstep
- for process effected by conspicuous service, the location of the premises in relation to stairs, elevators or entranceways
- for process effected by conspicuous service, the postal receipt number of registered or certified mail

Affidavits of Service Review:

Does the process server maintain copies of the affidavits of service signed by him/her, as required by Title 6 of the Rules of the City of New York, Section 2-235? _____

Do the process server's affidavits of service include the process server's name and license number?

- Yes
- No

Do the process server's affidavits of service include the process serving agency's name and address?

- Yes
- No

Do the process server's affidavits of service include the case name and index number?

- Yes
- No

Does the process server's affidavits of service include any incorrect information? If yes, what?

233a Records Review:

What is the method by which the process server maintains 233a records?

- Scans logbooks into image files and backs up to a portable media device
- Inputs information into DCA-created Excel spreadsheet and backs up to portable media devices
- Uploads data to a third party contractor
- The process server does not maintain 233a records.

If the process server maintains 233a records by inputting the information into the DCA-created Excel spreadsheet or uploading the data to a third party, do the process server's records include all of the following information for every entry? [check each one for which the answer is yes]

- the name of the individual process server to whom service was assigned, entered in two fields (last name, first name)
- the license number of the individual process server to whom service was assigned, entered as a seven digit number, where the first number is zero if the process server's license number is less than seven digits
- the title of the action or proceeding, if any
- the name of the individual, company or organization served, if known
- the date that service was effected, entered as MM/DD/YYYY
- the time that service was effected, entered as military time
- the address where service was effected, 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
- the nature of the papers served
- the court in which the action was commenced, 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
- the full index number, 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
- if service was effected pursuant to subdivisions (1) through (3) of CPLR §308, a description of the person served, consisting of six fields, including sex, hair color, approximate age, height, weight, and any other identifying features provided by the process server
- whether service was delivered, as indicated by a Y or N
- the type of service effected, entered as a P for personal service, an S for substitute service, a C for conspicuous service, or a CO for corporate service
- 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

GPS Records Review:

Who is the process server's third party GPS contractor? _____

Do the process server's GPS records include all of the following information for **every** entry? [check each one for which the answer is yes]

- plaintiff or petitioner
- defendant or respondent
- docket number
- the date that service was attempted or effected **according to the device**, entered as MM/DD/YYYY
- the time that service was attempted or effected **according to the device**, entered as military time
- the date that service was attempted or effected **according to GPS or cellular signals**, entered as MM/DD/YYYY
- the time that service was attempted or effected **according to GPS or cellular signals**, entered as military time
- the address where service was attempted or effected
- the name of the individual, company or organization that is the intended recipient of the process
- the name of the individual, company or organization to whom process was delivered

E. Process Server Records

State the agency's basis for hiring the process server (BE SPECIFIC): _____

CERTIFICATION BY PROCESS SERVING AGENCY

I, _____, certify under the pains and penalty of
(print name of person conducting screening)

perjury that the information contained in this document is truthful, complete and
accurate.

Signature: _____

Title: _____

Date: _____

ATTACHMENT B

2. Review all logbooks for the month and every entry in those logbooks to ensure that:

- the logbooks are bound volumes

"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.

- the logbooks are 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.

- the logbooks contain separate entries for every attempted and effected service of process (i.e., entries for attempted and effected services cannot be combined on the same line.)

- the entries in the logbooks are in chronological order

*"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.*

- the handwriting in the logbooks is 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.

- corrections in the logbooks were made in the appropriate manner

Corrections may 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.

3. Review all logbooks for the month and every entry in those logbooks to ensure that the following information is contained in the logbooks:

- the name **and** license number of the process serving agency from whom the process served was received, or, if not received from a process serving agency, of such other person or organization from whom the process served was received
- the title of the action (if there is one) or a reasonable abbreviation thereof
- the name of the individual, company or organization served, if known
- the date and approximate time service was attempted or effected
- the address where service was attempted or effected
- the nature of the papers served
- the court in which the action has been commenced
- the index number of the action, if known
- the description of the individual served, if applicable
- the type of service effected (personal, substituted, conspicuous, or corporate)
- for service of process effected by conspicuous service, the color **and** composition of hallway walls adjacent to the door to which process was affixed
- for service of process effected by conspicuous service, the color **and** composition of the hallway floor or doorstep
- for service of process effected by conspicuous service, the location of the premises in relation to stairs, elevators or entranceways
- for service of process made pursuant to RPAPL § 735(1) using registered or certified mail, the postal receipt number of the registered or certified mail

4. Ask the process server if he/she made logbook records contemporaneously.

"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.

5. Ask to see the process server's copies of all the affidavits of service that he/she signed during the month, including affidavits of service relating to service performed on behalf of other process serving agencies.

Both the PSA and PSI must maintain copies of affidavits of service.

6. **Review the process server's affidavits of service to check if the affidavits contain the process server's name and license number and the process serving agency's name, license number and address.**
7. **Ensure that the process server maintains 233a records¹ in one of the following methods:**
 - Method 1: Scans logbooks into image files and backs up to a portable media device in accordance with 6 RCNY § 2-233a(a)(1)
 - Method 2: Inputs information into the DCA-created Excel spreadsheet and backs up to portable media devices in accordance with 6 RCNY § 2-233a(b)(1).
 - Method 3: Uploads data to a third party service provider in accordance with 6 RCNY § 2-233a(b)(1).
8. **If the process server uses Methods 2 or 3 to maintain 233a records, review every entry in the process server's 233a records to ensure that the following information is contained:**
 - the name of the individual process server to whom service was assigned, entered in two fields (last name, first name)
 - the license number of the individual process server to whom service was assigned, entered as a seven digit number, where the first number is zero if the process server's license number is less than seven digits
 - the title of the action or proceeding, if any
 - the name of the individual, company or organization served, if known
 - the date that service was effected, entered as MM/DD/YYYY
 - the time that service was effected, entered as military time
 - the address where service was effected, 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
 - the nature of the papers served
 - the court in which the action was commenced, 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
 - the full index number, 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
 - if service was effected pursuant to subdivisions (1) through (3) of CPLR §308, a description of the person served, consisting of six fields, including sex, hair color,

¹ 233a records are the electronic records that individual process servers are required to maintain pursuant to Title 6 of the Rules of the City of New York, Section 2-233a.

approximate age, height, weight, and any other identifying features provided by the process server

- whether service was delivered, as indicated by a Y or N
- the type of service effected, entered as a P for personal service, an S for substitute service, a C for conspicuous service, or a CO for corporate service
- 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

9. **Ensure that the process server created a GPS record for every instance in which the process server attempted or effected service of process in New York City on your behalf.**

10. **Review every entry in the process server's GPS records to ensure that the following information is contained in the records:**

- a unique file identifier of the process being served
- the process server's license number
- the process serving agency's license number
- plaintiff or petitioner
- defendant or respondent
- docket number
- the date that service was attempted or effected **according to the device**, entered as MM/DD/YYYY
- the time that service was attempted or effected **according to the device**, entered as military time
- the date that service was attempted or effected **according to GPS or cellular signals**, entered as MM/DD/YYYY
- the time that service was attempted or effected **according to GPS or cellular signals**, entered as military time
- the address where service was attempted or effected
- the name of the individual, company or organization that is the intended recipient of the process
- the name of the individual, company or organization to whom process was delivered

CERTIFICATION BY PROCESS SERVING AGENCY

I, _____, certify under the pains and
(print name of person conducting records review)

penalties of perjury that every item on the Process Server Monthly Record Review

Checklist for the month of _____ was completed for all
(month) *(year)*

individual process servers identified on the first page of this document.

Signature: _____

Title: _____

Date: _____

ATTACHMENT C

6	Is each logbook entry legible? <i>"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 discernible in all of its details, and in no way obscured.</i>							
7	Were corrections in the logbook made appropriately? <i>Corrections may 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, obscuring, obliterating, or redacting, are prohibited.</i>							
8	Does every logbook entry contain the name and license number of the process serving agency from whom the process served was received or such other person or firm from whom the process served was received?							
9	Does every logbook entry contain the title of the action (if there is one) or a reasonable abbreviation thereof?							
10	Does every logbook entry contain the name of the person or entity served or upon whom service was attempted?							

18	For service of process effected by conspicuous service, does every logbook entry include a description of the area adjacent to the door to which process was affixed (including the color and composition of the wall; walk, color and composition of hallway, floor or ebonstep, and location of premises in relation to stairs, elevator or entranceway)?																																
19	For all service made pursuant to R.P.A.P.L. § 733(1) using registered or certified mail, does every logbook entry include the postal receipt number of registered or certified mail?																																
20	Did the process server scan all of his or her logbook entries for the month into electronic image files?																																
21	Is there a separate electronic image file for every date that process was served? <i>For questions 21-26, check the NA box. If instead of scanning logbooks, the process server chose to enter records into an electronic record-keeping system or upload service data to a third party.</i>																																
22	Is every electronic image file named with the date of the service recorded in the logbook and the process server's license number?																																
23	Was every scan of the logbooks completed within one business day?																																

31	<p>On the Department's randomly-selected audit date, is the information contained in the process server's affidavits of service consistent with the GPS data provided by the process server's data storage contractor?</p> <p>* The Department's randomly-selected audit date will be posted on the Department's web site in the first week of the following month.</p>										
32	<p>On the Department's randomly-selected audit date, is the information contained in the process server's affidavits of service consistent with the process server's logbook entries?</p>										
33	<p>Please list all traverse hearings involving this process server which the Agency became aware of during the month.</p>										
34	<p>For all traverse hearings listed in response to Question 33, is the information contained in the process server's logbooks consistent with the GPS data provided by the process server's data storage contractor?</p>										

<p>35. For all traverse hearings filed in response to Question 31, is the information contained in the process server's affidavit of service consistent with the GPS data provided by the process server's data storage contractor?</p>																																																					
<p>36. For all traverse hearings filed in response to Question 31, is the information contained in the process server's affidavit of service consistent with the process server's logbook entries?</p>																																																					
<p>37. For process servers that maintained electronic records pursuant to Section 2-233a of Title 6 of the Rules of the City of New York, by entering records into an electronic record-keeping system or uploading service data to a third party, does every entry in the electronic records include the following information:</p> <ul style="list-style-type: none"> a) the name of the individual process server to whom service was assigned; b) the license number of the individual process server to whom service was assigned; c) the title of the action or proceeding, if any; d) the name of the individual, company or organization served, if known; e) the date that service was effected; f) the time that service was effected; g) the address where service was effected; h) the nature of the papers served; i) the court in which the action was commenced; j) the full index number; k) if service was effected pursuant to subdivisions (1) through (3) of CPLR §308, a description of the person served, consisting of six fields, including approximate age, height, weight, and any other identifying features provided by the process server; l) whether service was delivered, as indicated by a Y or N; m) the type of service effected; and n) if service was effected pursuant to subdivision (4) of CPLR §308 or subdivision one of RPAPL §731, a description of the door and the area adjacent. 																																																					

ATTACHMENT D

ATTACHMENT E

TRAINING ACKNOWLEDGEMENT FORM

I, _____, acknowledge that I attended a training
(name of process server)

conducted by _____ on _____
(process serving agency) (date)

During the training, I reviewed the "Process Server Records Review Checklist" that was completed with respect to the agency's review of my records for the following period:

_____. I also discussed with the agency every item on the Process Server Records Review Checklist.

Signature of Process Server

Date

Print Name of Process Server

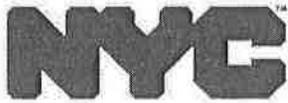
License Number of Process Server

Signature of Trainer

Name of Trainer

ATTACHMENT F

ATTACHMENT G



**Department of
Consumer Affairs**

TRAVERSE REPORT FORM FOR PROCESS SERVERS/AGENCIES

Under New York City law, licensed process servers and process serving agencies must report a scheduled traverse hearing (hearing contesting service) to the Department of Consumer Affairs (DCA) within 10 days of receiving oral or written notice. See Title 6, Rules of the City of New York § 2-236(a). Licensees may use Part I of this form to report the scheduled hearing. Please submit this form and any attachments to DCA by e-mailing TraverseReports@dca.nyc.gov.

Note: The licensed process server individual and the process serving agency for whom the individual serves process must each submit a completed Traverse Report Form.

PART I – REPORT OF HEARING

Date of Hearing	
Court	County
Part	Index No.
Judge	
Petitioner/Plaintiff	Petitioner/Plaintiff's Attorney (include firm's name)
Respondent/Defendant	Respondent/Defendant's Attorney (include firm's name)
Date of Service	
Process Server Name	DCA License No.
Process Serving Agency Assigning Service	
I am submitting this form as:	
<input type="checkbox"/> A process server individual <input type="checkbox"/> An authorized representative for the process serving agency	

Signature _____ Date _____

IMPORTANT: Licensed process servers and process serving agencies must report the result of the traverse hearing to DCA within 10 days of learning it. Licensees may use Part II of this form to report the result. See back.



**Department of
Consumer Affairs**

TRAVERSE REPORT FORM FOR PROCESS SERVERS/AGENCIES

PART II – REPORT OF RESULT

The licensed process server and the process serving agency must attempt to contact the petitioner/plaintiff or the petitioner/plaintiff's attorney by mail or e-mail to learn the result of the traverse hearing.

If the licensee does not receive a response within 60 days, the licensee must search the court records a minimum of two occasions for the result of the traverse hearing.

Within 100 days of the hearing date, the licensee must report to DCA either the result of the traverse hearing OR that he/she made the required attempt to learn the result without success. See Title 6, Rules of the City of New York § 2-236(c) (2011). Please submit this form and any attachments to DCA by e-mailing TraverseReports@dca.nyc.gov.

Result (Check ONE box only.)

Traverse was:

- Sustained (improper service)
- Overruled (proper service)
- Decision Reserved
- Settled
- Attempted to contact petitioner/plaintiff or petitioner/plaintiff's attorney to learn result and searched court file after 60 and 90 days but was unable to learn result

Comments

Signature _____

Date _____

ATTACHMENT H

