

NEW YORK CITY

DEPARTMENT OF CONSUMER AND WORKER PROTECTION

Proposed Rules to Amend the Rules
Applicable for Process Servers that are licensed
by DCWP to Implement Chapter 189 of the Laws of 2022,
which amended General Business Law 89-CC as well as
to make additional clarifications for
consistency and clarity throughout the Rules

Hearing via Zoom Call

August 10, 2022

INDEX

	PAGE
Charlie Driver, Hearing Officer for DCWP	4
Paula Parrino, Second Vice President, New York State Professional Process Services Association	7
Bob Musser, FAPPS President	10
Jason Tallman, President, New York State Professional Process Servers Association	14
Marcus Niro, Brand Manager of Cert Manager	16
Cheryl Poccia, former Process Server	19
Gail Kagan, past President, New York State Professional Process Servers Association	21
Michele Squitieri, Individual Process Server, New York City	23
Lawrence Yellon, Former Process Server and Instructor for Process Servers and Adult Education for the Board of Cooperative Education Services	28
Jason Tallman, speaking on behalf of Servable Legal Support	30
Ross Mallor, PM Legal	31
Rosemary Lamana, Former Process Server And Agency Owner	35
Jack Douglas, Former Process Server	37

	PAGE
Tina Vazquez, Process Server	40
Andrew Mega, Process Server	41

1 MR. CHARLIE DRIVER, HEARING OFFICER,
2 DEPARTMENT OF CONSUMER AND WORKER PROTECTION: Hi, as
3 new people are joining, if you're interested in
4 offering testimony please send me a private message on
5 Zoom with your name and your e-mail address so I can
6 make sure that you're on the list and have an
7 opportunity to speak. We're going to get started in a
8 few, in a few minutes. Please, please mute yourself
9 if you're not, if you're not actively talking, thank
10 you. Once again, please, please send me a private
11 message if you are interested in testifying. If you
12 don't, that's not stopping you from testifying later
13 on, it will just, you know, make sure that you're in
14 the order and don't necessarily have to wait until the
15 end. Hold on. All right, we're going to get started
16 in just a minute more. Again, if you're interested in
17 offering testimony orally, please, please send me a
18 private message to let me know. Thank you. All
19 right, we're going to get started here.

20 Good morning, everyone. My name is Charlie
21 Driver and I have been designated as the Hearing
22 Officer for this public hearing of the Department of
23 Consumer and Worker Protection on Proposed Rules to
24 Amend the Rules Applicable for Process Servers that
25 are licensed by DCWP to Implement Chapter 189 of the

1 Laws of 2022, which amended General Business Law 89-CC
2 as well as to make additional clarifications for
3 consistency and clarity throughout the rules. This
4 hearing is being on a Zoom call, it is now 11:04 a.m.
5 on Wednesday, August 10, 2022 and I am hereby
6 convening the public hearing on this proposed rule.
7 Proposed rule was published in the city record on July
8 11, 2022. Published notice and rules are available
9 online on the New York City Rules Website as well as
10 on the Department's website. The Department has
11 proposed these rules pursuant to the authority vested
12 in the Commissioner of the Department of Consumer and
13 Worker Protection by Sections 1043, 2203-F and 2203-
14 H(1) of the New York City Charter and Sections 20-104
15 of the New York City Administrative Code.

16 This hearing affords the public the
17 opportunity to comment on all aspects of the rules the
18 Department has proposed. The Department will
19 carefully review all testimony and written testimony
20 received at this hearing and will give due weight and
21 consideration to proposals and recommendations that
22 are submitted for the record at this hearing. To
23 ensure that everyone seeking to testify will have an
24 opportunity to do so; I ask that we all follow a few
25 ground rules during the hearing. Please give due

1 respect and consideration to everyone offering their
2 testimony and please make sure that you are muted when
3 you're talking. I've muted everyone to start, but if
4 you do unmute to speak, please make sure that you mute
5 yourself after that point. We have a time limit; each
6 witness will have a maximum of three minutes to
7 provide oral testimony. I will not cut you off
8 directly at three minutes, but if you do start going,
9 you know, aggressively over I will mute you. I will
10 also try to provide a one minute warning when you hit
11 that two minute point. Unlike the limit on time for
12 oral testimony, again, three minutes. There is no
13 limit on the number of pages you can submit as written
14 testimony or as documents for the record. The written
15 testimony represents an equal part of the public
16 record. Your oral testimony does not get weighed any
17 differently than what you provide in writing. Now I'm
18 just going to double check everyone's muted. Again,
19 if you're interested in testifying and you have not
20 let me know yet that you are interested in offering
21 testimony, please send me a message on Zoom and I will
22 make that you are added to the list. And let me just
23 mute everyone again. Okay, so I will now begin by
24 calling the first witness, Paula Parrino. If you want
25 to unmute you can start your comments whenever and

1 I'll start the clock when you begin to speak.

2 MS. PAULA PARRINO, SECOND VICE PRESIDENT,
3 NEW YORK STATE PROFESSIONAL PROCESS SERVICES
4 ASSOCIATION: Thank you. I'm the Second Vice
5 President of the New York State Professional Process
6 Services Association and we represent a group of
7 professionals who operate everyday working with law
8 firms and other local agencies to ensure that legal
9 papers entrusted to us are served correctly in order
10 to provide notice to litigants as is their right under
11 the United States Constitution. Your proposed
12 amendment seeks to make additional clarifications for
13 consistency and clarify throughout after the amendment
14 to the general business law. While many of the
15 proposals do seek to provide some clarification, some
16 of the items are big and create more confusion from a
17 process server standpoint. There have been many
18 comments added to the website regarding the proposal
19 as well as submission via e-mail with concerns about
20 rules. To highlight some of the concerns, deleting a
21 requirement for a two month timeframe and adding that
22 the audit timeframe can be any date range is a
23 detriment, if the intended to allow for reduction of
24 timeframe, can't there be an amendment to the wording
25 to delineate a minimum and maximum timeframe? The

1 addition of the requirement that a process server can
2 no longer correct their records, but now contact the
3 independent third party to amend the record, there are
4 several issues with this, which in practice will have
5 unintended results. The point of having an
6 independent third parties that they're independent and
7 have no interest in the data other than ensuring it is
8 tamper resistant. If the independent third party is
9 now tasked with making corrections now they hold some
10 liability and it negates the meaning of being
11 independent and disinterested in the process. There
12 is currently no statutory language that requires a
13 process server to complete a work order or routing
14 sheet. It would seem that the DCWP having the ability
15 to audit said sheets, including what might contain
16 attorney/client directives seems to be beyond the scope
17 of what is intended. One of the main reasons for the
18 choice of logbook usage was because it was difficult
19 for servers to fill out the logbook contemporaneously.
20 To require that a work order should be filled out in
21 its entirety and be the subject of an audit almost
22 seems to duplicate the logbook. Also, the uploads of
23 images being in chronological order might cause a
24 concern for servers who serve many documents at one
25 location. There are many other items to be addressed

1 and discussed; however, since the commentary on the
2 site seems to include a lot of information I will end
3 here with the list items as I know time is short.
4 Audits generally have an objective and are driven by
5 the goal to comply with sections of the law as it
6 relates to the process service industry. The goal of
7 your agency was expanded under the de Blasio
8 administration to include a focus on equitable
9 enforcement coupled with business education, and now
10 the newly evolved mission is to protect and enhance
11 the daily economic lives of New Yorker's to create
12 drive-in communities. Process servers want to be
13 further educated in order to provide the best service
14 possible for their clients and litigants involved in
15 actions. Equitable enforcement is a key phrase.
16 Unfortunately, the way the current audit system works
17 rather than being an opportunity for a process server
18 or agency to enhance their services skills, it is more
19 of a punitive measure. Equitable enforcement is
20 something that our industry hopes we can accomplish as
21 with the fine issue that still looms for every server
22 there is a concern that the word equitable possesses a
23 different definition when it comes to process servers.
24 Please also keep in mind that the evolved mission of
25 the DCWP to enhance the daily economic lives of New

1 Yorker's to create thriving communities include in its
2 very statement that process servers who play a pivotal
3 role in a functioning judicial society and are part of
4 the thriving community so referenced. Thank you for
5 the opportunity to be heard today.

6 MR. DRIVER: Okay, thank you very much,
7 Paula. A reminder that you can also submit your
8 comments in full electronically either to or e-mail,
9 which I am dropping in the chat now, or alternatively
10 to the NYC Rules Website, and the deadline for
11 comments is 11:59 p.m. tonight. Next up on my list we
12 have Bob Musser; Bob whenever you're ready I'll let
13 you know when you have one minute remaining.

14 MR. BOB MUSSER, FAPPS PRESIDENT: I
15 appreciate the opportunity to speak. I need to give
16 you a little bit of my background so you'll know where
17 I'm coming from. I'm not in New York. I am the
18 President of the Florida Association Professional
19 Process Servers. I'm a long term serving board member
20 on the National Association of Professional Process
21 Servers and in my 34 years working to keep private
22 process servers in business, I have a lot of
23 experience across the nation as to what kinds of
24 requirements different government entities place on
25 process servers and process server agencies and I'll

1 have to tell you that nobody is putting the kinds of
2 requirements on process servers that New York City is;
3 not another county, not another state. New York City
4 is asking process servers to jump through a lot of
5 hoops and they are asking, they're assuming that
6 process servers need to have every act audited and
7 everywhere else you have a process server review board
8 or you have a complaint system, you have an
9 investigative system when things go wrong. You're
10 approach is completely different. I know you're
11 trying to protect the consumers of New York City, but
12 you're, your complete set of requirements is creating
13 a shortage of process servers in New York City. You
14 have about 20 percent of the process servers that you
15 have back when DCA started with their requirements and
16 the costs have gone up. Independent process servers
17 now have to have -- they have to pay somebody. I
18 also, I wear another hat. I'm also president of Dream
19 Build Software. We provide, we're one of the three
20 that provides software for the individual process
21 servers to have their electronic records submitted.
22 So I know you're driving costs up for the process
23 servers. You're driving costs up for the consumers
24 you're trying to protect and you're, you're approach
25 is unique and it is considerably more detailed than

1 anything else across the United States. The third
2 party edit requirement, if you want companies like my
3 company to manually take input from individual process
4 servers and go in and make edits to their records,
5 we're not going to be charging them \$25.00 a month
6 anymore. It's, the price will have to go up. I'll
7 have to add staff to do that kind of manually entry.
8 The current system, the process servers use an app on
9 a phone and they submit their comments and they submit
10 attempts at service electronically through this app on
11 the phone. If they want to change or make an edit to
12 something they've already submitted, our system and I
13 think all the other systems simply take the new
14 changed comment or attempt and write it down after the
15 first comment or attempts so that when you request a
16 records dump, you get to see what they wrote the first
17 time, you can see what they wrote the second time.
18 They can't manual, they can't actually change what
19 they said, they write a second copy of it. It's write
20 once, read as many times as you want. So have,
21 introducing the third party into manually make those
22 changes, you're not going to get better information,
23 you're going to change how the information is, is
24 written and submitted. And then the requirement to
25 submit things in a chronological order because they're

1 using that phone system, the comments come up whenever
2 they've got good data single. If they've worked on
3 four different jobs, the jobs will come up, the
4 comments will come up, the attempts will come up, they
5 may not come up at exact chronological order, but they
6 will come up, they will be presented to you and your
7 audit in chronological order because the different
8 attempts and comments go to the different records.
9 I'd be happy to answer any all questions when you get
10 done with this, but I'm just going to listen to
11 everybody else for now. Thank you for the opportunity
12 to speak.

13 MR. DRIVER: Thank you so much, Bob, for
14 participating. Again, if you wanted to share the full
15 text of either comments you can feel free to do so.
16 It's the e-mail in the chat, but we will also create a
17 transcript of this hearing, will be posted publically.
18 Next up, I have Jason Tallman. Jason, whenever you
19 are ready I'll start the timer and I'll give you
20 warning about time, when you're getting close to the
21 three minutes.

22 MR. JASON TALLMAN, PRESIDENT, NEW YORK STATE
23 PROFESSIONAL PROCESS SERVERS ASSOCIATION: All right,
24 thank you, Charlie. Good morning, my name is Jason
25 Tallman. I am the current president of the New York

1 State Professional Process Servers Association. I'd
2 like to start by addressing 2-233 records, integrity
3 of records. This is similar to what Paula brought up
4 and what Bob brought up as well. So the DCWP is
5 proposing a change in the way in which a process
6 server amended records stored by a third party
7 provider. Currently, if process server needs to amend
8 a record stored by the third party, they simply log
9 into an interface, search for a given record, they
10 then click amend, which at that point the third party
11 software makes a duplicate record that mimics the old
12 paper logbook method. They are never allowed to
13 modify the originally submitted record. This process
14 has worked flawlessly since the requirement for a
15 third party provider was introduced approximately 10
16 years ago. If the new rules are proved as is, the
17 DCWP would effectively be endorsing the modification
18 of a process server's digital record by an individual
19 who was not a DCWP licensed process server who is
20 employed by the third party provider. Next, I'd like
21 to address 2-240 audits. The DCWP is proposing
22 changing the timeframe from which it can request
23 records. Currently, they can only request up to two
24 months of records. They're proposing to remove that
25 limitation, thereby allowing them to request an

1 unlimited amount of records. Preparing records for an
2 audit is a time consuming process for both the process
3 server and the process serving agency. Each
4 additional month of data that is requested
5 exponentially increases the time involved with
6 preparing the data for that audit request. If the
7 DCWP is looking for more flexibility than I would
8 recommend changing the wording to say "period
9 identified by the Department not to exceed two
10 months," thereby giving the Department enough
11 flexibility to request less than or up to two months
12 of records. Now I have to wrap up because of the
13 three minute limitation on speaking. In closing, I
14 would like to mention one last thing. Many process
15 servers were afraid to speak today. I have spoken to
16 a number of process servers, a number of process
17 serving agency owners and they are all afraid of
18 retaliation by the DCWP. Now despite what the DCWP
19 has told our members in the past that they would never
20 retaliate against speaking up, that fear is warranted
21 based on the behavior we have seen by officials at the
22 DCWP. Last year NYSPPSA met with the DCWP a number of
23 times to discuss problems we had with various
24 subpoenas that had been sent to our members. Many
25 times the DCWP would then send that member a

1 notification telling them that the subpoena was being
2 withdrawn. We would receive calls from the effected
3 members thanking us for helping them. To their
4 dismay, the DCWP would then reissue a new subpoena
5 fixing the errors that we had pointed out to them.
6 Sometimes, this would happen multiple times. Imagine
7 the stress that this puts on a process server. One
8 day they receive a subpoena, a few days later they
9 receive a letter saying the subpoena was withdrawn,
10 then a few days later they receive a new subpoena and
11 this happens over and over and over again. Now tell
12 me how are they not supposed to feel like they're
13 being attacked. Do not misjudge their silence today
14 for weakness, they are afraid of losing their ability
15 to pay for their family's needs and that is why many
16 of them are silent. Thank you.

17 MR. DRIVER: Thank you for sharing your
18 testimony, Jason. Next up, I have Marcus Niro, Marcus
19 whenever you're ready, I'll let you know when you have
20 a minute remaining.

21 MR. MARCUS NIRO: All right, thanks Charlie.
22 Good morning, everyone, my name is Marcus Niro and I'm
23 the brand manager of Cert Manager. I know time's
24 limited, but I wanted to say thank you for hosting the
25 meeting and allowing everyone the opportunity to voice

1 their opinions on this matter. Speaking on behalf of
2 Cert Manager, our focus is from the software companies
3 with a third party contractors as they're referred to,
4 as opposed to the process servers and in line with
5 what Bob and Jason had mentioned already. Our concern
6 is mainly with Rule 33D to electronic records with the
7 third party contractor and some of the unintended
8 consequences that maybe coming with that. So I
9 understand the DCWP wanting to preserve each attempt
10 as a record, but doing this will require some changes
11 to the functionality of the software. There would
12 really be a specific to New York only. I don't
13 believe this was written with the perspective of the
14 software companies in minds, in mind when it comes to
15 this and the three concerns that we have with this are
16 the significant development effort that would go into
17 this; the locking of these fields. And also in
18 addition to that we have the next year development
19 work mapped out already if we're going to be changing
20 this that's a significant setback to our company and
21 again, it's only targeted to those New York customers.
22 A representative from the DCWP yesterday said this
23 could it's effect as soon as 60 days from now, so
24 again, that just adds to the urgency which would
25 really derail some of current plans for the

1 development team. In addition to that, as Bob noted
2 the effort to the support team, if there's going to
3 be, I mean our company receives a significant amount
4 of jobs every month in New York and, and if we're
5 going to have to go in there and make individual
6 changes to each of these attempts any time there's
7 some spelling or any error whatsoever, maybe a zero is
8 left off, to handle this work well that's going to
9 require bringing on additional employees, which it's
10 an expense that again, it's going to, could have
11 ramifications for our customers as well, something
12 that we don't want to have to incur there. The last
13 point I want to make is the liability component of
14 this. We're a software company essentially. Our
15 purpose is to increase efficiency and productivity for
16 our customers and having to manually go in and change
17 and edit customer data is quite the opposite of what
18 we're set out to do. We're trying to make it as
19 automated as possible and now we're opening ourselves
20 up to an issue given that, to liability if we're
21 making these changes on behalf of our customers. So
22 going forward I would, I'm just hoping that we can be
23 included in the conversations on these proposals so we
24 can have back and forth. I think a lot of these
25 issues could have been resolved beforehand, before

1 this was put into a formal proposal just by simple
2 conversation here, but I'm hoping that we can resolve
3 some of these, some of these concerns.

4 MR. DRIVER: Thank you, Marcus, appreciate
5 it. Next up we have Cheryl, I apologize if I'm
6 mispronouncing your last name, Cheryl Portier.
7 Cheryl, whenever you're ready I'll start the timer and
8 let you know when you have a minute remaining.

9 MS. CHERYL POCCIA: Hi, sorry. I don't have
10 any prepared notes. I wasn't planning on testifying,
11 but I'm a former process server. I don't, I no longer
12 serve process in New York City for the reason that I
13 don't want to work with DCWP. You made it so
14 complicated that process servers like me don't feel
15 comfortable serving in the city anymore. I mean,
16 we're not lawyers, we are trying to break into that
17 industry and do what's right as far as protecting
18 people's constitutional right to due process, but
19 you're making it so that it's so stressful that I
20 don't feel comfortable in serving process, and I'm
21 also doing it as a part time revenue stream. So when
22 I'm looking at subpoenas or potentially like some
23 process servers getting fees of tens of thousands of
24 dollars, it's no longer lucrative to me. It's not
25 worth the risk and I think that's, that's really

1 hindering the amount of process servers that we're
2 going to be able to have in New York City. That's all
3 I wanted to say, thank you.

4 MR. DRIVER: Great, thank you for your
5 comments. Next, everyone who I kindly have registered
6 to testify if you are interested in testifying please
7 send me a message, otherwise, what we'll do is the
8 Zoom will remain open until noon. I'm just going to
9 mute and turn my video off and I will unmute and
10 facilitate and testimony further out. We do have
11 someone else, MB, not sure what your name is, if you
12 could, oh okay. So we have someone who wants to
13 testify, but their -- yep, okay, so, so we have no one
14 else planning to testify just in this moment. I
15 expect we'll have one other recent testimony
16 potentially in 15ish minutes. Again, if you don't
17 want to testify orally you can always feel free to
18 send us any, anything or, sorry. I'm getting some
19 DM's. We actually have one more, Gail Kagan
20 [phonetic]. Gail, I did not see your request to
21 testify, apologies for missing that. Whenever you're
22 ready, you can unmute and testify.

23 MS. GAIL KAGAN: Good morning, my name is
24 Gail Kagan. I'm a past president of the New York
25 State Professional Process Server's Association and

1 I've been on the legislative committee for the past
2 four years. I have over 50 years actually serving
3 process and working with service in New York State,
4 and I found that the laws sometimes are
5 [unintelligible] [00:26:04] who try to unify the
6 [unintelligible] [00:26:07] courts [unintelligible]
7 [00:26:08] for many years. Although, we're supposed
8 to have a unified court system, we do not. Each
9 jurisdiction and there are 62 with the state and
10 sometimes individual judges have their own measuring
11 stick as to what is acceptable document facing in
12 court. Trying to try a uniform code for cases mandate
13 and mandating of certain fields information the
14 process server is often better left to the requirement
15 of the case or the attorney then to lay that burden on
16 a process server. Insisting that process servers
17 input information not to indicate captions does not
18 lead to quick direction. The process server would be
19 [unintelligible] [00:26:45] to litigation. These
20 proposals that are [unintelligible] [00:26:49] it's
21 simply not practical. In that they're
22 counterintuitive to the service of process with
23 marking down while the service [unintelligible]
24 [00:26:58] position with the recipient of the process.
25 [unintelligible] [00:27:05] are now adhering to strict

1 city regulations that you're able to [unintelligible]
2 [00:27:10] over 10 years ago. And it took a long time
3 for the service to understand or become accustomed to
4 the rule changes. Judging by the fines in record
5 keeping that we've noted over the years, there's still
6 some areas of miscommunication with the server the
7 state laws can defeat the [unintelligible] [00:27:26].
8 The changes that the [unintelligible] [00:27:28] is
9 promising seem to exasperate the problem that being
10 unclear and by mixing up certain rules and comments
11 that we heard of people make. We believe in your role
12 of [unintelligible] [00:27:40] to make the process
13 server's job, learn as we said, the process server and
14 agencies are intimidated by you trying to put service,
15 over [unintelligible] [00:27:51] that's not, in fact,
16 service. In fact, as others have spoken then people
17 we will let them forward. [unintelligible] [00:28:01]
18 hearing you wanted and the time --

19 MR. DRIVER: One minute time.

20 MS. KAGAN: -- in taxable funds. We believe
21 these fines are equal the errors. When I spoke to the
22 city council, a Mr. Fernagi [phonetic]
23 [unintelligible] [00:28:14] hearings regarding the DCA
24 in the [unintelligible] [00:28:15] surface to regulate
25 license as a service and they are safely in place, who

1 would define any proper service, but said when the
2 DCWP does not find bad service, unless you
3 [unintelligible] [00:28:28] Your proposal to open the
4 time period ought to be especially when a
5 [unintelligible] [00:28:36] When this was discussed at
6 the size of the five particular agencies, you
7 [unintelligible] [00:28:43] and speak to the city
8 council, they tell us to speak to DCWP. Where is the
9 mandate to set these fines so high? I keep asking the
10 question, where there's no service in the city of New
11 York, who takes an upgrade? You changed your name
12 from the Department of, Department of Consumer Affairs
13 to Department of Workers, of Consumer Protection, plus
14 the service of both. Thank you for your time.

15 MR. DRIVER: All right, thank you for your
16 comments, Gail; apologies again for missing your
17 request to testify. If anyone else is interested in
18 testifying please, okay -- Michele Squitieri, whenever
19 you're ready you can, you can start your testimony.

20 MS. MICHELE SQUITIERI: Good morning, can
21 you hear me?

22 MR. DRIVER: Yes, yes, we can.

23 MS. SQUITIERI: Back in 2018, I had actually
24 sent a letter to the Commissioner at the time was
25 Loreli Salis [phonetic] at the New York State

1 Department of Consumer Affairs, with regard to the
2 process server individual license. I'm going to, I'd
3 like to read the letter that I wrote that I never
4 received, I received an acknowledgement, I've never
5 received a response in regard to the issues that I had
6 brought to the table. I'm a New York City individual
7 process server and the license afforded me the
8 opportunity to provide for my family according to our
9 personal needs, which I feel is a blessed luxury in
10 this day and age. Through my career the struct-, the
11 structure of process service has changed significantly
12 with regard to the issuance of licenses. The method
13 of process service has been fine-tuned and it
14 functions very well; however, the increase in duties
15 and responsibilities of the process server have grown
16 tremendously. There were so many steps that a process
17 server must take to properly complete services in it's
18 entirety. Put this in mind, I'm writing to you in the
19 hope of reconsidering some of the process. To begin,
20 I would like to address the following topics that are
21 of concern; educational materials; the exam; updates
22 and communication and the manual logbook. I'm not
23 going to go through the manual logbook now because it
24 was addresses very clearly at the beginning of this
25 meeting, but the educational materials provided by the

1 Department to prepare the process server exam provide
2 relevant and updated city and state laws and rules.
3 It's a useful study guide needed for the process
4 server's exam. With regard to how the materials are
5 presented is a different story. It's understood that
6 the information reflect how final city law and rules
7 are published in the city record. The material that
8 is in brackets, deleted and then underlined added
9 makes the study guide so difficult to follow. It's
10 almost like the guy has been established to sabotage
11 the process server from passing the exam. I'll
12 explain why and give examples. Example one was a
13 legible record. On page five the section lists all
14 the information necessary to be recorded in the
15 handwritten logbook, but on page six the process
16 server retains each paperwork record for two years.
17 Number six says it adds from a data service. Page 15
18 and 16 say it has to be retained for seven years and
19 page 26 and 27 say it has to be retained for three
20 years. Page 15 includes another field, type of
21 service, whether it's personal, substitute or
22 conspicuous and page 26 and 27 include an additional
23 field for corporate. The book is in a nutshell all
24 over the place, that was just a very small example,
25 but this should really be only one section for that

1 subject and why add all the additional information in
2 a study guide on different pages even though there
3 were several revisions, the study guide could be used
4 as a valuable reference guide in addition to a study
5 guide and each specific subject to include the
6 amendments if necessary should be altogether; or just
7 make the amendments prior to distributing the exam
8 packet. I can go through the same examples for
9 traverse hearings where there's chan-, different
10 changes on page 7, page 20, page 24, page 31, page 26.
11 The revisions should override the original
12 instructions and have one clear, concise rule in its
13 own category, not broken up on different pages. As
14 far as the exam is concerned, from my experience the
15 download rules and regulations with regard to process
16 servers in general do not change all that frequently.
17 Yet the license term is two years with the exam, in
18 essence, why such a challenge for the process server,
19 who in retrospect, are not taking a position to take a
20 life in their hands as opposed to a MTA driver, a
21 taxicab driver, an airline pilot, a truck driver; who
22 for the most part pay for their license renewals with
23 no exam to confirm their knowledge of their profession
24 or the current laws. How many --

25 MR. DRIVER: All right, Michele, I'm going

1 to ask you to wrap up, please.

2 MS. SQUITIERI: Well, I'd like to say to
3 consider it a four-year test renewal for this
4 profession and to have, instead of taking it every two
5 years. In essence, we're messengers of papers.

6 MR. DRIVER: Thank you, for offering that
7 testimony. If, Michele, if you had longer, more stuff
8 that you were hoping to read, I invite you to submit
9 it in writing. That does not have the same --

10 MS. SQUITIERI: Okay.

11 MR. DRIVER: -- limit that we have for the
12 oral testimony.

13 MS. SQUITIERI: I appreciate it. I didn't
14 realize it was that long, but it's -- thank you.

15 MR. DRIVER: It's one of those things, you
16 know, sometimes you think it will go quicker than it
17 necessarily does, but please if you want to include it
18 all submit it to iputtherulecomments@dcwp.nyc.gov e-
19 mail in the chat, that would be a good place to submit
20 it some point today before the comment period closes.
21 Thank you.

22 MS. SQUITIERI: Thank you.

23 MR. DRIVER: Next up we have Lawrence
24 Yellon; Lawrence whenever you're ready.

25 MR. LAWRENCE YELLON: Thank you very much

1 for the opportunity. A little background, I've been
2 serving process and being involved with service
3 process for 44 years. I own an agency on Long Island,
4 Westchester and New York City and I've been an
5 instructor at the Hofstra University Law School for 18
6 years serving for a, lecturing for a second department
7 judge in the appellate division. My concerns here and
8 furthermore, I'm also first vice president of the
9 National Association 6th time past president of the
10 State Association and currently on the Board of
11 Directors of the State Association. In addition to
12 that, I am a certified by the State of New York as an
13 instructor for process servers and adult education for
14 the Board of Cooperative Education Services with a
15 curriculum that is approved by the State of New York.
16 My comments here have nothing to do with the
17 recording, which have been more adequately commented
18 on by Bob and Jason and [unintelligible] [00:36:00].
19 My concern is that some of the issues that were raised
20 in this address, particularly, methods of service,
21 which I object to. In particular, the method of
22 personal service, which is my education and how I
23 educate as an umbrella term that includes both
24 personal delivery, suitable aid service and affixed,
25 mail service is addressed as just personal delivery

1 and I further object to the descriptions on suitable
2 aid service, which has requirements in it that neither
3 the CPR doesn't have and appears to be a mixing
4 between the RPAPL and the Civil Practice Law. I
5 believe those issue should be addressed in addition to
6 everything else that previously commented on and
7 again, I appreciate the opportunity to comment.

8 MR. DRIVER: Great, thank you so much for
9 offering those comments. Please if you are interested
10 in commenting after this point, I don't have anyone
11 else on my list right now. Oh, excuse me, Jason, I
12 believe you're commenting on behalf of someone else?
13 You can, if you are, feel free to unmute and begin
14 that whenever you're ready.

15 MR. TALLMAN: I guess that was news to me,
16 hold on, let me, one second.

17 MR. DRIVER: Good, we can sort that out I
18 was just, I was just told of something. So I have
19 someone else to go.

20 MR. TALLMAN: Yeah, I can, yeah, I can read
21 this, that's right, I just got it.

22 MR. DRIVER: Okay.

23 MR. TALLMAN: Okay, so this is from Servable
24 Legal Support. They said, okay, a process server whom
25 I know to be of the upmost integrity based on

1 numerous, flawless diligence in each of their attempts
2 along with excellent communication, transparency and
3 reliability was fined \$1000.00 by the DCWP. Let us
4 break down how that fine was issued. First the
5 process server was provided with a subpoena via e-mail
6 in the wrong name addressed to someone else. The
7 process server replied to the DCWP that they were not,
8 in fact, the person who was being subpoenaed. The
9 DCWP then suspended the process server for
10 noncompliance not realizing they subpoenaed the wrong
11 person. The process server was in the middle of
12 serving that day and had to suspend serving, which
13 affected the agency, the attorneys, the pro se
14 litigants and so on, whom had cases out with the
15 server. What the DCWP did next was they let the
16 server serve and then issued him a subpoena to be
17 audited. After providing his records, the DCWP found
18 that on his very first serve ever in his career as a
19 process server while he served the document personally
20 upon the person and also had a photo evidence
21 provided, that he served the person properly, he did
22 not log into a third party provider. The process
23 server was working for a company, which I'm going to
24 leave out, at the time, which never told him the
25 requirements to take photos and store them with the

1 third party. The process server was fined \$1000.00
2 for serving someone properly, or yeah, was served --
3 was fined \$1000.00 for serving someone properly.
4 Every day and night we all go to sleep thinking about
5 the DCWP. This is too stressful and ridiculous.
6 Thank you for your time.

7 MR. DRIVER: Great, thank you. I appreciate
8 that, Jason; sorry to spring it on you. Next up, Ross
9 Mallor, whenever you're ready, Ross.

10 MR. ROSS MALLOR: Hey, Charlie, how are you?

11 MR. DRIVER: Good, how are you?

12 MR. MALLOR: Good, thanks. So my name is
13 Ross Mallor. I'm with PM Legal. I work one of the
14 largest servers in New York. So we've had a lot of
15 conversations with the DCWP this year, especially
16 regarding the fines that were issued to process
17 servers and while we greatly appreciate the efforts of
18 the DCWP to make sure that all of the bad servers are
19 gone from our industry, which was really what the
20 outcome, the majority of the people you have on this
21 call is, we all have that in common. We want the bad
22 servers, the bad players out of our industry and we
23 want to thrive as an industry, but what's happening
24 is, instead of you guys just getting rid of the bad
25 servers, you guys are getting rid of the bad and the

1 good servers and you're forcing them to leave our
2 industry. And if you just look at the sheer numbers
3 of licensed process servers you could see how that
4 number has gone down tremendously over the years, and
5 it's not like we have a school where process servers
6 go to and we could see what, what's coming down the
7 pipeline of, you know, this year we're going to have
8 50 or 100 or 200 new servers. We don't see that and
9 we don't have that happening, we're just constantly
10 losing volume and when you lose a lot of good servers
11 you're putting extra stress on the servers that remain
12 to serve papers quicker. So it's really defeating the
13 purpose of what the DCWP claims to intend that they
14 want to do. So two things, one I feel like the DCWP
15 should have more conversations with the larger process
16 server organizations, not just from a serving
17 perspective, but also whether it's NAPS or the New
18 York City Process Servers Association, having
19 conversation so we can work together as opposed to
20 really working against each other, which is how as
21 process servers and process serving agencies feel
22 right now that the DCWP is just strictly against us.
23 And to give a good example, one of our better servers
24 who -- and I'm sure like, you know, I'm sure Larry
25 Yellon does it, I'm sure a lot of the other big

1 process servers do it in New York, retest our process
2 servers ourselves. We make sure that they're doing
3 things the right way and in making sure that they do
4 things the right way we know that we have good service
5 working for us. And if a server makes what the DCWP
6 considers a mistake that the court's might not
7 consider a mistake, that the court's might deem as
8 good service and you find a server for that mistake
9 that you perceive as a mistake that might not be a
10 mistake. I understand if they get fined once for that
11 mistake, but when they're making that same mistake
12 several times because the courts are ruling that it's
13 good service and everything is perceived as good
14 service and you have these servers that make \$50,000;
15 \$60,000; \$70,000 a year getting fined thousands and
16 thousands of dollars, I mean, some north of \$10,000,
17 you're really asking the servers to leave the industry
18 and that number is getting to a dangerously low level
19 where it's almost like, it's going to be hard to
20 sustain our industry for the next 10 or 20 years at
21 the pace that we're losing servers. So I ask and I've
22 had these conversations with the DCWP in the past, but
23 I ask that you guys reconsider the fines, formulate a
24 better structure that's more conducive to what the
25 process servers actually earn and to form some kind of

1 a committee where we're working with you to figure out
2 how to get the bad players out of our industry and not
3 just you guys are on this, this hunt to try to find
4 any possible mistake or clerical error as an
5 opportunity to fine these servers numbers that they
6 just cannot possibly afford and then driving the
7 number of servers out of this industry. So, Charlie,
8 thank you for hosting this today. I really hope that
9 all of our voices are heard and that we're able to
10 work close with the DCWP as an organization and as an
11 industry and making sure that things get better moving
12 forward.

13 MR. DRIVER: Great, thank you for offering
14 that testimony, Ross. All right, please let me know
15 if anyone else is interested in offering testimony at
16 this point. You can feel free to send me a message or
17 put your hand up, presume, which is in a reaction this
18 time. Okay, at this point, it doesn't look like we
19 have anyone else interested in offering testimony.
20 The Zoom will remain open until noon in case someone
21 either changes their mind or someone new joins who is
22 seeking to offer some testimony. So feel free to
23 just, you know, turn off your video and mute yourself;
24 and until that time I'll let you know when I'm going
25 to close the call. Oh, okay, yeah, Rosemary, I just

1 heard that you're interested in offering testimony.
2 You, you can start whenever.

3 MS. ROSEMARY LAMANA: Good morning, to
4 everyone. I've been serving process for 35 years. I
5 have an agency as well. DCWP has done a great job in
6 weeding out the bad apples. There were some and the
7 problem is now we look at the number of our process
8 servers, they're also weeding out our good servers.
9 I've been process serving mostly, during mostly
10 mortgage foreclosure work. What's happening is we're
11 going to need process servers. These process servers
12 that are walking away from the industry are going to
13 be needed for their testimony. Process servers are
14 scared. The new rules that are looking to be imposed,
15 especially with the housing court, in which housing
16 court that was a problem, it wasn't with licensed
17 process servers, it was process servers from the
18 building managers who didn't want to pay process
19 servers, that didn't want to go the legal route. They
20 had them sliding papers under the doors. I was with
21 Gail, I met with city council, I met with several city
22 council representatives. They weren't looking to hurt
23 the actual process server that is doing, that are out
24 there serving the papers in the letter of the law.
25 The fines that are coming out are strictly clerical,

1 they're may be a few, but what industry doesn't have a
2 few problems. Right now you're asking the process
3 servers include a certified number for the housing
4 court services. You're asking them to attest to
5 something they couldn't have possibly done. They're
6 out in the field, mailing has to be done within 24
7 hours. They're asking them to attest to their
8 certified number. They're supposed to upload their
9 record at the time of service, sort of setting them up
10 failure and several fines. I will not allow my
11 process servers to insert a certified number if they
12 have not gone to the post office and mailed that
13 envelope with the Clerk of the U.S. Post Office, they
14 can't attest to something that has not been done. I
15 would also like to, I made comment online, you're
16 requesting that index numbers be put in, in a certain
17 format. You're looking at housing court, perhaps
18 speak with the folks at NYSIF, if you go on NYSIF
19 being that we have 62 counties, every index number is
20 assigned differently. Our city process servers cannot
21 comply with the DCA with the way the index number is
22 assigned. I mean where a process server have been
23 fined for errors in their formatting of the index
24 number. That comes from the attorney. The process
25 servers are not putting those index numbers, they're

1 not purchasing those matters, it's coming from the law
2 firm. Are you asking the process servers to change
3 the document of the lawyer? We're going far out of
4 the scope of process serving. I thank you for your
5 time and I would really like to possibly meet with
6 your office or maybe ask that your office meet with
7 several agency owners to understand the daily process
8 of a process server. Thank you for your time.

9 MR. DRIVER: Great, thank you for, for
10 sharing your testimony, Rosemary, I appreciate it.
11 Jack are you, if you're looking to testify feel free
12 to unmute and begin offering testimony whenever.

13 MR. JACK DOUGLAS: Thank you very much. Do
14 you hear me okay?

15 MR. DRIVER: Yes.

16 MR. DOUGLAS: Okay. I've been a, in the
17 field of process serving like Larry for over 40 years
18 and I've heard a lot of testimony and a lot of, I
19 agree with a lot of things that people are saying.
20 Mainly, you really look at the hurt people in the
21 business for a long time and legitimate people. The
22 fines are, are way, way too steep for something that
23 is just a; something that's written down in a logbook.
24 You're punishing people for serving papers the wrong
25 way, you know, that's something that should be looked

1 at. If somebody does something wrong egregiously,
2 that's one thing, but if somebody makes a mistake they
3 shouldn't be able to be fined for thousands of
4 dollars. Maybe they should be taught training, how to
5 write in the logbook before they get fined, and if
6 they do it a second or third time then go after them,
7 that's the only suggestion that I have. Do you, like
8 I, like other people have said a lot of people are
9 dropping out of this industry and soon you're going to
10 have less than 100 process servers for thousands upon
11 thousands of papers; it's going to be impossible. I
12 second the thought about, what somebody said before
13 about the process serving license being renewed every
14 four years. The laws don't change that much where the
15 tests have to be done every two years. It's the same
16 thing over and over again and it's one thing if there
17 was a big, big change that people had to be
18 knowledgeable about. I just think that, you know,
19 governing these things over and over again the wrong
20 way, will really hurt everybody and the people that
21 are legitimate in this business. I think it should be
22 looked at and the fines are not as such to like make
23 somebody in place, it's really just to put them out of
24 business. Again, I think that a warning should be in
25 place if they're looking at the logbook, especially,

1 if they're serving papers the right way; why punish
2 them for a simple mistake that they could have made in
3 their logbook or in their, you know, GPS coordinates
4 or how they send in electronically. You know, correct
5 them if it's a mistake that's made. There shouldn't
6 be something that puts somebody out of business. You
7 know, how they put food on the table, you know, are
8 they going to walk away from it. Thank you for your
9 time. Have a good day.

10 MR. DRIVER: Great, thank you Jack,
11 appreciate it. Is anyone else looking to offer
12 testimony at this moment, at this point? Feel free to
13 either raise your hand or send me a message. Okay,
14 Tina Vazquez, whenever you're ready you can, you can
15 offer testimony. You're currently muted, Tina.

16 MS. TINA VAZQUEZ: The gentleman, do you
17 hear me?

18 MR. DRIVER: Yes, I can hear you now.

19 MS. VAZQUEZ: Okay, the gentleman that just
20 spoke had mentioned the logbook quite a few times, but
21 it's my understanding that Governor Hochel said that
22 we know as of June mandated that we no longer have to
23 use the logbook. Is that correct?

24 MR. DRIVER: I'm not equipped personally to
25 speak to --

1 MR. TALLMAN: That is, that's correct, Tina.

2 MS. VAZQUEZ: So getting back to that,
3 getting back to my statement what other types of
4 backups do process servers have so that that there are
5 no legal problems because a process server should not
6 be responsible for the legal documentation that's put
7 out there or is it our responsibility to check whether
8 the index number is right or whatever, the format is
9 correct. Whose responsibility is that because I work
10 with a lot of attorneys and in my mind when I, when I
11 read over a document that I'm ready to serve, I'll
12 contact my, the attorney and let them know that. Is
13 that correct?

14 MR. DRIVER: All right, Tina. This is not,
15 I'm not equipped to answer, you know, substantive
16 questions about the process server regulations.

17 MS. VAZQUEZ: Okay.

18 MR. DRIVER: That's just not, you know, in
19 my, in my area of expertise and that's not really
20 what, what a rules hearing is for.

21 MS. VAZQUEZ: But how do we cover ourselves?
22 How do we cover ourselves?

23 MR. DRIVER: You can ask, hold on. So you
24 can feel free to ask these questions rhetorically and
25 they will be incorporated into the review --

1 MS. VASQUEZ: Okay.

2 MR. DRIVER: -- of the rules and that,
3 that's what this session will be able to provide.

4 MS. VASQUEZ: All right, that's fine.
5 That's fine, thank you.

6 MR. DRIVER: Sorry, sorry for any confusion.
7 Anyone else is looking to offer testimony, please,
8 please let me know, again raise your hand, send a
9 message. Great, Andrew, whenever you're ready.

10 MR. ANDREW MEGA: All right, thank you. My
11 name is Andrew Mega, I've been an individual process
12 server since 2011 and that whole time I have been
13 nervous about the DCA and now the DCWP. It always
14 felt adversarial to me and, and frankly, frightened.
15 Truly, I feel like the, the mission has been not to
16 build up the industry, but to tear it down and
17 starting with the educational aspect. I never really
18 felt that I had any assistance from the DCA to learn
19 how to be a good process server on my own. I would
20 encourage that DCWP to live up to this new name of
21 Consumer and Worker Protection and I'm hoping that
22 they do incorporate this mission of also building up
23 workers. Specifically, with, with new amendments, I
24 would like to just say that I hope the third party
25 request to amend records is reviewed and I hope that

1 the people that spoke that are actually part of the
2 software companies are listened to. I can just
3 explain I use Serve Manager as my, my electronic
4 program and if I want to amend a record that I've
5 already entered in Serve Manager, I hit amend and
6 Serve Manager will simply amend by putting a line
7 through my previous entry and will put another entry
8 in. So my original records are never deleted. So if
9 the DCWP is worried that process servers may erase
10 prior entries that's not the case right now and,
11 therefore, I don't think that any change really needs
12 to be made. Again, costs are going to go up if you
13 require this sort of amendment and secondly I, I hope
14 the DCWP sets a specific time with respect to
15 auditing. I'll just say from my own perspective that
16 some of these fines, you know, \$750.00 or more per
17 clerical error if they're found on me, they're going
18 to put me out of business and I think that's all I
19 have to say. I mean, I just want to say that
20 sometimes, you know, process service is dehumanizing
21 work sometimes. I would encourage you or anybody else
22 to knock on a strangers door at 8:30 and try to serve
23 a child and custody petition. I would hope that some
24 compassion is lent to our industry and that it's a
25 hard role to fill and you know, the courts already

1 have their remedial abilities through traverse
2 hearings to regulate us and on top of that to add
3 these sort of punitive fines is frightening to say the
4 least and I really do appreciate you letting me speak
5 here. Thank you.

6 MR. DRIVER: Great, thank you for offering
7 your testimony. Anyone else looking to speak at this
8 point? Again, feel free to raise your hand or send a
9 message. So it doesn't seem like anyone else is
10 looking to testify at the moment. Again, I will keep
11 the option open until noon. So feel free to change
12 your mind. I'm also dropping in the chat your two
13 main options for submitting written testimony so you
14 can submit written testimony through the end of the
15 day today. Either the rules of the City of New York
16 website, which is the first link that I just put into
17 the chat, or directly submit them to the agency
18 atrulecomments@dcwp.nyc.gov again, there's no limit on
19 the length of any written comments that you submit. I
20 know here you are restricted to three minutes, but if
21 you submit something electronically, then you do not
22 have to worry about a specific length.

23 MR. TALLMAN: Charlie?

24 MR. DRIVER: Yes?

25 MR. TALLMAN: I just have a quick question

1 just from, what are the next steps in this process.

2 MR. DRIVER: Sure.

3 MR. TALLMAN: So, you know, we have a
4 hearing today and then what happens after today?

5 MR. DRIVER: Sure. So, so just as a broad
6 overview, the, we followed the CAPA process, that's
7 the name of the law that dictates that way that the
8 rule making marks in the city of New York, the
9 Department will compile all of the comments that we
10 received both in writing and orally today. We will
11 post those on our website so they're publically
12 available. There may be a slight lag in that because
13 we have to turn around a transcript for today's
14 hearing just, just as a disclosure there. Once we
15 have everything from that, we will go and review that,
16 and review it with the law department and other parts
17 of city government as well. So then figure out a
18 final rule. The final rule will then be posted on the
19 city record in the same way that that this was posted
20 initially in the city record and you will have a
21 notification of that for participating today. If you
22 did not receive the initial notice of hearing, say if
23 you're not a licensed process server, but still have
24 skin in the game of some kind, please send me your e-
25 mail and I can make sure that you are receiving end of

1 that. When the notice of adoption is posted in the
2 city record it will come with an effective date, that
3 effective date is usually 30 days after it is
4 published. So that's what a due process.

5 MR. TALLMAN: Okay, so just a question. So
6 let's, for example, that the, the DCWP hears one of
7 our complaints and they say, okay, instead of making
8 the logbook or the audit period unlimited, we're going
9 to limit it to five years, let's hypothetically say
10 that; so we have no recourse if we have concern with
11 what they decide to change the rule to after the
12 feedback they've taken from the hearing today?

13 MR. DRIVER: So I would say generally, you
14 can always change rules after they're adopted.
15 Additionally, you can take legal recourse, not that
16 I'm necessarily recommending that as the optimal
17 strategy and other sort of advocate, advocacy options
18 are also available. So there's no -- and there is a
19 chance if the changes we're applying to make a
20 substantive that it could be listed for a second
21 hearing, but that's really out of my hands. I'm not -
22 -

23 MR. TALLMAN: Okay.

24 MR. DRIVER: -- you know, one of the
25 lawyers.

1 MT. TALLMAN: And is there something in that
2 you said, what was it called, you said it was COPA or?

3 MR. DRIVER: So it's CAPA, it's the Citywide
4 Administrative Procedures Act --

5 MR. TALLMAN: Is there anything in there
6 that determines what like, what the trigger point is
7 for having another hearing or is that just up to the -
8 -

9 MR. DRIVER: I'm not so familiar with the
10 sort of "in the weeds" details of, of the bill, but --

11 MR. TALLMAN: Okay.

12 MR. DRIVER: -- I will say that it's, it's
13 available in full on the NYC Rules website.

14 MR. TALLMAN: Okay. Thank you.

15 MR. DRIVER: Yep. So final call now for
16 anyone else looking to testify? All right, and as a
17 reminder if you change your mind and do want to send
18 in some comments the link or rulecomments@dcwp.nyc.gov
19 are the way you'll be able to do that before the
20 comment period ends at the end of the day. I'd like
21 to thank everyone for taking an hour out of their day
22 to join this hearing. And a special thank you
23 additionally for anyone who's offering written or oral
24 testimony on these rules it's always good to, to have
25 feedback on what we're proposing here, and yeah, thank

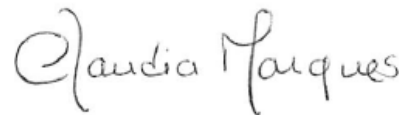
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

you everyone and I hope everyone has a great day.

CERTIFICATE OF ACCURACY

I, Claudia Marques, certify that the foregoing transcript of Public Hearing To Amend Rules for Process Servers on August 22, 2022 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

Certified By



Date: September 7, 2022

GENEVAWORLDWIDE, INC

256 West 38th Street - 10th Floor

New York, NY 10018