

THE CERTIFIED CIVIL PROCESS SERVERS ASSOCIATION OF TEXAS

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Greeting- Committee Members, Debt Collection Roundtable

As you meet to discuss the issue of service of civil process in the face of the recent "New York" matter, our association would like to provide some comments for your consideration.

The physical job of actually serving process is very simple and straightforward; a disinterested adult makes a delivery to a specific person. That information is then entered into a court's record. Except for the swearing under oath to the facts, this physical action and recording of the event is exactly what thousands of messengers and couriers do everyday. We make this most basic of points because we would ask the committee to maintain a certain perspective while considering the role of the private process server.

Notwithstanding the importance of proper service, the physical act is so simple that virtually any adult qualifies. This minimal qualification demands an increased reliance upon the veracity and aptitude of each individual process server. This in turn speaks to credibility which is now being questioned.

The effects of increased regulation on any industry are limited. Regulation can often be an unnecessary knee-jerk reaction. As we understand the concepts of lawful and fair occupational regulation, the following questions must be asked and answered:

Is regulation, or increased regulation, necessary to protect the health, safety and welfare of the public?

If so determined, what form of regulation would be the least restrictive to accomplish this goal?

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Taking into consideration what has become known as the New York matter, would regulatory proposals currently being considered have prevented acts like those alleged in the NY matter? Would any form of regulation have prevented it?

Are arguments for increased regulation or other changes supported by evidence? Is the evidence substantial, compelling and industry-wide or is it restricted to exceptional incidents?

Because regulation is limited in its effects in the areas of personal responsibility, careful consideration must be made to reach decisions that do not create superfluous change. It is our belief that the nature of some individuals in our society cannot be regulated out of existence. There are already laws in place in all states, both civil and criminal, that address any infraction a private process server could commit. It is also our belief that as alarming as the NY matter may be, the existing civil and criminal courts will address adequately all the allegations.

Finally, we contend that those in our industry, and they are few, who would intentionally defraud another are apparently not afraid of going to prison for what they know full well is a felony offense. No amount of government regulation will ever deter their misdeeds.

Please maintain a common sense approach and disregard the scare tactics and hypothetical scenarios that some provide in support of regulation. The occupation of the private process server is one of the most crime-free of all occupations. We are confident the statistics will be of great assistance in your deliberations. If you demand credible and confirmable evidence you will be better able to make an informed assessment.

Here are the Texas numbers:

Little existed of the private process service industry in Texas prior to 1988. With a Texas Supreme Court rule change, the industry took off. Over the next 17 years, the industry grew at a normal rate controlled by the natural mechanisms of free enterprise. Without any government oversight or mandatory training, private process service in Texas became a respected and reliable alternative to service by constables. The only problem was the lack of statewide authority.

In 2005, the Texas Supreme Court created a certification program designed to provide the statewide authority servers in Texas had needed for years. Unfortunately, the program created an undesired side effect; it drew thousands of new individuals into the industry. Beginning with about 1600 "certified" process servers in 2005, the number now approaches 5000. It is unknown how many non-certified process servers there are in Texas, but it is certainly much less than those certified. Still, both before and after 2005, Texas has had virtually no process service related crimes in twenty years. This low statistic has remained relatively unchanged even with the recent influx of new servers.

Any consideration of regulation and rule changes should be responsive to the facts industry-wide; and not based on isolated incidents.

Sincerely,

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