

How Well Do You Know Your Process Server?

By Scott Gray

I recently met a fellow who coincidentally mentioned that he was in the process serving business and handed me his card. I had never heard of him before, and therefore took the opportunity to interrogate him. He explained that he had been a courier until he received one too many tickets, the result of which caused him to be uninsurable to his employer. Consequently, by having a friend who was a legal assistant at a local law firm, he began serving some legal process for her, some of her co-workers, and other acquaintances she had in the legal community. Did he have any training I asked? No. Did he carry commercial auto insurance? Couldn't qualify. Errors and omission insurance? What is that? Liability insurance? Too expensive. Had he ever read the rules of civil procedure? Never heard of them. How did he know what to do when asked to serve various types of documents? As far as he was aware he just had to deliver them and get a name.

As I'm in my 33rd year in the industry, be certain that this story isn't unique. I have watched dozens of operators like this come and go. Why? Because at first glance, process service seems like a really easy way to make money. Just drive over there, deliver some papers, sign some form, and I get \$50.00?! The dream turnkey business, sign me up! That is until it becomes clear that they don't understand rules, procedures, and requirements. That is until they have too much to do and can't meet the deadlines. That is until they make mistakes, losing customers. That is until they make a giant mistake and not only lose the customer, but are sued as well. Then, they are gone. Succeeding as a process server is difficult. It requires consistent quality, coverage, and competitive pricing, of course. Knowledge, integrity, and honesty, most certainly. Yet it also requires support staff, an array of insurance products, brick and mortar facilities, employees, benefits, continuing training, and competence.

If you look at various process server websites, you will find that everyone is the biggest, everyone is the most experienced, everyone is the most professional, is the fastest, the cheapest, and the best. How can that be? We believe that it is important to be an informed consumer when choosing a process server to assist you in commencing an action on behalf of your client. It is important to learn if your server is a reliable resource that you

can count on for 40 plus years, or a fragile façade that in the face of liability shuts down, files bankruptcy, disconnects its phone, and reopens a week later under a different name. Same owner, same business model, same uninsured contractors, new mail drop, new letterhead, new website. Good to go.

We once ran ads that said "Ask your process server about their E&O Insurance, then call us." We know our ads were effective because one of our competitors promptly ran a counter-ad proudly proclaiming:

"We don't have insurance, but we promise not to make mistakes." Really?

There is more to being a professional process server than having business cards — in fact the one I got from the fellow in the first paragraph was really nice. So the next time a process server with really nice cards solicits your business, here are some questions to ask:

1. Do they have an office, or use a mail drop and work out of their car?
 2. Do they carry errors and omissions insurance?
 3. How many people work there?
 4. Are their workers employees or independent contractors?
 5. If they have E&O, does it cover errors made by contractors? Most don't.
 6. How long have they been in business?
 7. What experience do they have, and how were they trained?
 8. What other work have they done?
 9. Ask them to explain the rules of service for various pleadings to you.
 10. Ask them for a list of their clients.
- Were their answers confidence inspiring?

Scott Gray is the vice president and operations manager for Metro Legal Services with over 30 years of process service experience. Metro Legal Services, in its 43rd year of operation, is the leader in the upper Midwest in providing ancillary services to the legal community. Questions/comments welcome at 612.349.9512, or visit www.metrolegal.com.