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Continuing Education Services for the Professional

15 February 2024

Aaron Nash
Director, Certification & Licensing Division
Arizona Supreme Court and Administrative Office of the Courts
1501 W. Washington St., Ste. 104
Phoenix, AZ 85007

Response to proposed changes to ACJA §7-204(F)(7) and (L)(2); ACJA §7-204(L)(4)(n); ACJA §7-204(L)(4)(e)

The undersigned is an Arizona Certified Process Server and also a Legal Document Preparer and Notary Public, as well as an educational provider to process servers. This response will be limited to that of continuing education requirements and related issues.

Never in my 36 years of professional experience as a process server have I seen a regulatory body attempt to relax continuing education requirements to the point where they become inconsequential or detrimental to the professional body and the public.

The undersigned objects to changes proposed in ACJA §7-204(F)(7) and (L)(2).

To reduce mandated process server continuing education hours from 10 hours to three hours is to the point of ridiculousness. There are numerous things that change each year that new and experienced process servers are unaware of. Many new and experienced process servers often receive their only training through mandated continuing education. This is where good continuing education comes in.

Three hours of continuing education is insufficient to cover the requirements of ACJA §7-204(L)(4)(e), including: "...the areas of proficiency, competency, and performance; impart knowledge and understanding of the service of process, the Arizona judiciary, and the legal process; and must increase the participants' understanding of the responsibilities of a certified private process server and the process server's impact on the judicial process", as well as any substantive discussion of "Ethics for private process servers and court employees, including cooperation with lawyers, judges, and fellow private process servers; professional attire; courtesy and impartiality to all litigants; information vs. legal advice; and public relations; The Arizona

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court system, including the state and federal constitution, branches of government, Arizona court jurisdiction and responsibilities, Arizona tribal court system; resource materials including Arizona Revised Statutes, Arizona Rules of Court, case law, and administrative orders; and current issues in the Arizona court system; and Role and responsibilities of the certified private process server including this section.”

Reducing the minimum of mandated continuing education from 10 hours to three hours makes that learning experience deficient as to the needs of the process server and the public. The study guide published by the courts does not come close to helping the process server understand the complexities of serving legal process. Process servers need more education, not less.

Lessening, as opposed to retaining the mandated 10 hours of continuing education each year diminishes professional education and opportunities for the process server. It also is harmful to the public. A less educated process server is one who is apt to improperly serve documents, resulting in misfeasance of justice.

The undersigned supports changes proposed to ACJA §7-204(L)(4)(n):

Self-Study. A process server may receive all continuing education ~~credit credits for through~~ self-study activities, including taking correspondence courses, reviewing procedure manuals, watching video presentations, listening to audio materials, attending online seminars, and other methods of independent learning. ~~The maximum hours of continuing education credits earned in a self study format may not exceed 50 percent of the total number of continuing education hours required during the certification period. The remaining hours must be obtained through live training, meaning training or education provided by one or more faculty or facilitators to an individual or a group using real time interaction.~~

The undersigned objects to changes proposed in ACJA §7-204(L)(4)(e):

“Continuing education credit will be granted for the actual presentation time, plus actual preparation time up to ~~two 2~~ two 2 hours for each hour of presentation time. A maximum of ~~five 3~~ three 3 hours of continuing education credit will be granted for serving as faculty in any renewal period and a private process server may not receive credit for presenting a program repeatedly throughout the renewal period...”

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The proposed rule changes are harmful to education providers and process servers who wish to share their experience. Those education providers who are still servicing Arizona process servers will likely not find it worthwhile to stay in business if changes proposed in ACJA §7-204(F)(7) and (L)(2) are approved. Projections are that diminishing returns to the provider will be substantial and not make process server continuing education a lucrative business to any degree if the proposed changes are passed.

Reducing the continuing educational benefits for faculty and presenters gives them no impetus to share their knowledge. As it stands now, a faculty member (instructor, speaker, or panel member) may receive up to 50% of the annual continuing education requirement credit hours – up to five hours for presenting process server continuing education in a renewal period. Where we usually see in other professions regulated under the ACJA, “...actual presentation time and up to two hours of preparation time for each hour of presentation”, we do not see in this proposal.

Under the proposed rule change(s), course development will suffer. Reducing the mandated continuing education hours requirement for process servers and limiting presentation and preparation time severely limits the expertise and variety from which a provider and process server may choose. A lessening of professional education and opportunities for the process server diminishes the ability to perform the job in a professional manner.

Reducing mandated continuing education hours and opportunities will have a detrimental effect in reducing the pool of available continuing education providers. Consequently, with process servers unable to find acceptable continuing education opportunities, an increase in delinquency of the required educational requirements is projected to be seen at renewal time. Thus, disciplinary cases against process servers will increase. This proposal has a negative chain effect.

The undersigned finds the current proposed rule changes are substantially inconsistent and inequitable as compared with other professions regulated under the Arizona Code of Judicial Administration.

In a comparison of the professions regulated under the Arizona Code of Judicial Administration and others, it was found that:

- Fiduciaries [ACJA §7-202]
 - Minimum Continuing Education required -- ACJA §7-202(L)(2)(a): are mandated to take 10 hours continuing education required each year.

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- Serving as Faculty -- ACJA §7-202(L)(4)(h): The fiduciary may receive credit for the actual presentation time, plus up to two hours of actual preparation time for each hour of presentation time. (10 hours max.)
- Confidential Intermediary [ACJA §7-203]
 - Minimum Continuing Education required -- ACJA §7-203(G)(3): are mandated to take six (6) hours per year.
 - Serving as Faculty -- ACJA §7-203(L)(4)(g): Continuing education credit is allowed for the presentation time plus up to two hours of actual preparation time for each hour of presentation. (50% max.)
- Process Servers [ACJA §7-204] (current rules)
 - Minimum Continuing Education required -- 7-204(L)(2): are mandated to take 10 hours annually.
 - Serving as Faculty -- 7-204(L)(4)(e): A maximum of five hours of CE credit will be granted for serving as faculty in any renewal period. (50% max.)
- Defensive Driving Instructors [ACJA §7-205]¹
 - Minimum Continuing Education required -- AJCA §7-205(L)(2)(b): are mandated to take three hours of continuing education every year.
 - Serving as Faculty -- ACJA §7-205(L)(4)(g): actual presentation time and up to two hours of preparation time for each hour of presentation. (50% max.)
- Certified Reporters [ACJA §7-206]
 - Minimum Continuing Education required -- ACJA §7-206(G)(3) are mandated to take ten hours annually.
 - Serving as Faculty -- ACJA §7-206(L)(4)(f): actual presentation time and up to two hours of preparation time for each hour of presentation. (50% max.)
- Legal Document Preparer [ACJA §7-208]
 - Minimum Continuing Education required -- ACJA §7-208(G) are mandated to take 10 hours per year.
 - Serving as Faculty -- ACJA §7-208(L)(4)(e): A legal document preparer may receive continuing education credit for the presentation time and up to two hours of preparation time for each hour of presentation. (50% max.)

¹ Many Defensive Driving Instructors are peace officers and must attend 16 hours of POST approved continuing education.

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- Legal Paraprofessionals [ACJA §7-210]
 - Minimum Continuing Education required – consistent with Rule 45 of the Rules of the Supreme Court of Arizona: 15 hours each year; three hours mandated in professional responsibility.
- Constables, Sheriffs, and their deputies (who also serve legal process), are required to take 16 hours of mandatory continued education each year to maintain their POST certification.
- Full-time judges and court personnel -- Under ACJA §1-302(H)(1), 16 hours of education and training are required of judges and clerks: All full-time judges and court personnel governed by these standards shall complete at least sixteen credit hours of judicial education each year, including ethics training, computer security/network security training, and six hours of live training.

Considering that process servers physically deliver legal process from various courts in several ways and under varied circumstances, reducing the required minimum continuing education hours is a disservice to not only the professional process server, but also to the courts, attorneys, and the public, whether they are involved in litigation or not. There are nuances in serving process that the individual process server must be made aware of, to which three hours per year would not satisfy.

As stated, satisfying the mandated subject matter in ACJA §7-204(L)(4)(e) over three hours in a year, or even nine hours in three years (the renewal period) including all of the current issues, as well as procedural, case law, statute, rules, regulations, and other changes affecting service of process is, in the least, is insufficient to cover the requirements.

These changes set the process server and the educational providers up for failure.

This proposal is a bad rewrite of the existing rules and should not be approved by the Arizona Judicial Council.

Very truly yours,

/S/

BARRY R. GOLDMAN
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