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## What to *really* look for in a process server

There's a lot of self-aggrandizing 'information' out there authored by self-proclaimed experts touting their own organization's superiority in serving legal process, often in the guise of some neutral, instructional "How To" or "What Makes a Good Process Server" Guide. Mostly promotional garbage.

Here's some helpful, unbiased information.

You should get these eight (8) things from your process server.

**1. Diligence/effort.** Make sure your server is trying to serve at different times of the day, especially when serving a resident. Three times and out isn't good enough when those attempts are all somewhere between 9 and 5 on weekdays.

**2. Customer Service that doesn't drive you crazy.** Things don't always go right in serving people or businesses. You should be kept up to date; ideally you should have online access to your work. When you do need to deal with the process service agency, your case should be important to them. And you deserve and should get answers. And if they screwed up, they should both make good and not bill you. On the other side, it helps not to scream at process service company personnel. If you're not getting to where you need to, move up the managerial chain. A good process service agency will accommodate this.

**3. Validation.** The affidavit of service is the proof, but it helps for the process service agency to do a little more: maybe capture/compare GPS coordinates of the serve with the address the server claimed to serve it at. Just to be sure. It's even better if as a matter of course the server takes a picture of the location at the time of service attempt, and has that available to you as added proof. Certainly stops the "I was home and nobody ever tried to serve me that day" familiar line.



Location photo, time, GPS coord.

**4. Compliance.** Process servers are known to take liberties with certain pain in the tookus requirements like getting affidavits signed in front of real live notaries. It's hard to know whether your server is legit; but

1. if you have asked for a 24 hour rush job and
2. need the affidavit back within that period of time and
3. it's an out of state serve and
4. somehow they're getting you back the original affidavit of service ...

... kind of logistically impossible, unless someone else is signing off on it. That happens.

While the affidavit of service/notarization is, in fact, a bit of an outdated procedure and certainly adds time to the serve cycle, it still is the Court Rule in NJ. If the other side challenges the "Did you really sign it in front of a notary?" your server may fess up. Goodbye service. Depending on time constraints, goodbye lawsuit.

Good process server agencies keep track of their affidavits, and limit the time between serve and signing the proof of serve. They also have security measures in place to protect client and client's client information.

**5. Smarts.** There are process service agencies that do nothing but push paper to independent servers. They're not in the business of serving process. They're in the business of getting their cut. The agency you use should have people in it that can answer questions on Court Rules; on how to do (and can do) service by publication; advising on the sometimes weird and wacky common law on evasion, posting, jurisdictional issues and out of state/out of country (out of mind!) serves.

**6. Fair pricing.** Prices are all over the place. In New Jersey, you can pay anywhere from \$45 to \$85 for a standard serve – 3 days. Prices for rush serves and same day serves also vary, and out of state can get expensive. If you have multiple serves going to the same location – say, a pharmaceutical company, look at the 'second serve/bulk serve' rate. Some firms will charge you less for the first serve to an 'easy' serve on a pharma (say, \$35)...**but charge \$35 for each additional serve at the same pharma company.** Others may charge \$50 for the first serve, and \$15 for each additional one. If you're dumping 20 serves on that pharma, that \$35/each adds up.

If you use a server that only charges for 'successful' serves be aware you are *unlikely* to get the full reasons it *wasn't* a success, though, without paying for the privilege. **Flat price servers predominate, because (1) a server exercises more effort on something that eventually doesn't end up being served than a simple business serve, and (b) if it is a no-serve, you will get a fully detailed Affidavit of Inquiry you can use for alternate service.**

*The no-serve/no-fee process service agency doesn't get paid for all that effort, so it doesn't pay the actual process server for it.* If it's going to be a difficult serve, the actual process server might decide it really *isn't* worth the bother. The no-serve/no-fee practice is generally frowned on by those companies (and their legal firms) pursuing debt. And frowned on by New York courts.

Ask about charges for waiting time, and if your server offers it, for filing the affidavit of service. Lots of variation.

**7. A reputation worth protecting.** Just because a server has been around a long time, or hasn't, or is huge, or is small, is no reason to use them or not use them. But they should have a reputation that is important to them to protect. They should be members of the National Association of Professional Process Servers.

**8. Breadth of service.** Nobody – *nobody* – covers the earth with their own service force. Make sure, though, that your process service agency relies on its own servers in the prime area they service, and are members of a professional service organization (state or national) elsewhere. Those organizations do exercise some scrutiny over members, and have a code of ethics and good practices that must be adhered to.

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