

Deposition Officers, Process Servers, & Private Investigators: What You Need To Know, To Stay Out Of Trouble!

Presented by:

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INVESTIGATIONS

PROCESS SERVING

RECORD RETRIEVAL

COURT FILING

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What is a DEPOSITION OFFICER...

A deposition officer = **professional photocopier** registered under Chapter 20 of Division 8 of the Business & Professions Code (commencing with Section 22450)

OR

A person exempted from the registration requirements of that chapter under Section 22451 of the Business & Professions Code



Are There Any Exemptions?

Yes....



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- CCP 2020.420 states... a depo officer “shall not be financially interested in the action or a relative or employee of any attorney of the parties.”
 - *What does BOSCO stand for anyways?*
 - Depo officers CAN be called to testify as to the authenticity of the records and the State Bar Rules of Professional Conduct 5-210 restrict attorney’s from appearing as witnesses in most cases.

What Are The Statutory Obligations That Govern What Depo Officers Do?

CCP 2020.430 & 2020.440 lay out all the requirements.

Some of the most important have to do with proper storage & proper notifications to opposing parties.

Often records obtained are either Medical, Financial, or Employment related... all of which are protected under their own set of government regulations. One violation of HIPPA regulations could result in a **\$10,000 fine!** (Enforce by Health and Human Services & prosecuted by Attorney General)



MOST IMPORTANTLY

What is your time worth???



Process Servers



It is the ethical obligation of the law firm to make sure that the process server or process serving company they use is knowledgeable and professional.

- Slaughter v. Legal Process
- Ramos v. Homeward Residential Inc.



Who Knows What The Requirements Are For Someone To Become A Registered Process Server?

- Be 18 years old
- Pay the fees
- Have a bond
- Not be a felon



No experience or understanding required!



Important Things To Know / FAQ's

- Can someone refuse to accept service?
 - Speaking distance, general nature, close proximity
- Who can serve UD paperwork?
 - Rejected default
- Can someone be served by social media?
 - Woodland Hills case
- Can a general receptionist refuse access into a building?
 - Ludka v. Memory
- Can I set a “fake” appointment to serve someone?



PRIVATE INVESTIGATORS

“I don’t care how you do it, just get it done and leave me in the dark... ?!?!”



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PRIVATE INVESTIGATORS

Both ABA Model Rule 5-3 & California Rule of Professional Conduct 3-110 require an attorney to supervise non-attorney investigators to ensure compliance with ethical standards for attorneys. The Model Rules make attorneys liable for acts of the investigator that violate the rules, if the attorney knows of or ratifies those acts.

- There is plenty of case law that says “don’t ask, don’t tell” doesn’t work.
- California Penal Code § 638 subjects any person who attempts to procure telephone calling records through fraud or deceit to a penalty of a \$10,000 fine and up to one year of jail time (pretexting).



Important Things To Know / FAQ's

Can we put a tracker on a vehicle?

- Attempted murder story

What is a reasonable expectation of privacy?

- Using the smell test

Can you really “ping” a cell phone?

- Child abduction story

Can you find bank account information?





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