

**PROFESSIONAL CIVIL PROCESS  
OF TEXAS, INC.  
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January 24, 2002

Chris Griesel  
Supreme Court Rules Committee

Re: Proposed Change to Rule 103 & Rule 536

Dear Chris Griesel

I have received a copy of the Proposed changes to Rule 103 & Rule 536 and have sent a copy to Lee Russell, President of the Texas Process Servers Association allowing him to have the board members review and make comments. I have given your E-Mail address to him and was advised that he will respond back with the board's comments.

I want to commend the committee for the proposed requirements, which will ensure the public that persons serving civil process on behalf of the Courts in Texas will not be convicted felons. Requiring individuals to have training is good public policy and having persons insured will help protect the public and the clients they represent. This will raise the level of professionalism in the industry and set a statewide standard across the courts in Texas that will be good for our justice system.

I have two issues that I would like the committee to consider. The first issue is providing a person a way of producing the requirements under the proposed Rule to one Presiding Judge for approval to serve process issued out of any Courts in the State of Texas instead of having to produce the proof to each court in the State. There are over 900 different courts and I think the current proposed Rule change would still require a person to have to provided proof of the requirements to all 900 courts. If that is the case the other concern is that we still have all of these written orders across the state that would expire at the discretion of the judge. Trying to keep up with the administrative issues of renewing 900 orders is currently one of the reasons we approached the Supreme Court in the first place. I have attached a revised Proposed Rule 103 with some new language, which would address the above issues for the committee's consideration.

Also, since our last meeting I received notice from Nueces County that effective January 31, 2002 in order to continue to serve process issued out of Nueces County we would be required to obtain a copy of a criminal history check on each of our servers and also pay a \$20.00 licensing fee per person as well as a \$10.00 fee for an I.D. Card on all of our servers who will be serving process in Nueces County. The current practice of each county requiring criminal history checks, licensing fees, is continually growing and there will be no end in sight unless we can get

help from the Supreme Court. On the average it will cost about \$ 750.00 per server per year to meet the current licensing procedures in Texas under Rule 103. We have about 90 servers statewide which will cost us about \$67,500.00 to have them authorized to serve in all courts in Texas.

I hope that the committee can help bring some common sense to this problem.

Sincerely,

Rick Keeney  
President

REVISED PROPOSED CHANGE TO RULE 103

Rule 103. PERSONS WHO MAY SERVE CITATIONS AND NOTICES[Who May Serve]

(1) Citation and other notices may be served anywhere by:

(a) [(1)] any sheriff or constable or other person authorized by law; or[, ]

(b)[(2)] by any person authorized by law or by written order of the court who is not less than eighteen years of age.

(2) A person [No person] who is a party to or interested in the outcome of a suit may not [shall] serve any process.

(3) Service by registered or certified mail and citation by publication shall, if requested, be made by the clerk of the court in which the case is pending.

(4) An [The] order authorizing a person to serve process under Subsection (1)(b) may be made without written motion. A [and no] fee may not [shall] be imposed for the issuance of the [such] order.

(5) A court shall issue a written order of the court allowing a person to serve citation or other notices only if:

(a) the person complies with any requirements of the court for issuance of a written order of the court under this rule; or

(b) the person:

(i) is 18 years old or older;

(ii) is a United States citizen;

(iii) has not been convicted in any jurisdiction of a felony or misdemeanor involving moral turpitude;

(iv) has had a Department of Public Safety verified finger print criminal history record check performed in the previous 12 months; and

(v) has attended a seven or more hours of continuing education on the service of civil process approved by a presiding district or county judge or the judge's designee;

(vi) submits proof of a current errors & omissions insurance policy and a current general liability insurance policy for the person in an amount of at least \$300,000 and that is directed to the presiding district or county judge of the county in which the order is being sought or the judge's designee.

(6) A court or the court's designee may issue a identification card to a person indicating that the requirements of Subsection (5)(b) have been met.

Additional Suggestions of the Civil Process Servers

(7) A person authorized by written order of the court under subsection (1)(b):

(a) may serve citation or other notices issued by any state court in the state.

(b) is an officer of the court when the person is serving citation or other notices;

(8) A person authorized by written order of the court under subsection (1)(b) may not serve any writ or other notice that require the person to take control of, possession of, or seize any person or property.

#### PROPOSED CHANGES TO RULE 536

##### RULE 536. WHO MAY SERVE [AND METHOD OF SERVICE]

(1) Citation and other notices may be served anywhere by:

(a) any sheriff or constable or other person authorized by law; or

(b) by any person authorized by law or by written order of the court who is not less than eighteen years of age.

(2) A person who is a party to or interested in the outcome of a suit may not serve any process.

(3) Service by registered or certified mail and citation by publication shall, if requested, be made by the clerk of the court in which the case is pending.

(4) An order authorizing a person to serve process under Subsection (1)(b) may be made without written motion. A fee may not be imposed for the issuance of the order.

(5) A court shall issue a written order of the court allowing a person to serve citation or other notices only if:

(a) the person complies with any requirements of the court for issuance of a written order of the court under this rule; or

(b) the person:

(i) is 18 years old or older;

(ii) is a United States citizen;

(iii) has not been convicted in any jurisdiction of a felony or misdemeanor involving moral turpitude;

(iv) has had a Department of Public Safety verified finger print criminal history record check performed in the previous 12 months; and

(v) has attended a seven or more hours of continuing education on the service of civil process approved by a judge or the judge's designee;

(vi) submits proof of a current errors & omissions insurance policy and a current general liability insurance policy for the person in an amount of at least \$300,000 and that is directed to the judge in which the order is being sought or the judge's designee.

(6) A court or the court's designee may issue a identification card to a person indicating that the requirements of Subsection (5)(b) have been met.

#### Additional Suggestions of the Civil Process Servers

(7) A person authorized by written order of the court under subsection (1)(b):

(a) may serve citation or other notices issued by any state court in the state.

(b) is an officer of the court when the person is serving citation or other notices;

(8) A person authorized by written order of the court under subsection (1)(b) may not serve any writ or other notice that require the person to take control of, possession of, or seize any person or property.

[(a) Citation and other notices may be served anywhere by (1) any sheriff or constable or other person authorized by law or, (2) any person authorized by law or by written order of the court who is not less than eighteen years of age. No person who is a party to or interested in the outcome of a suit shall serve any process. Service by registered or certified mail and citation by publication shall, if requested, be made by the clerk of the court in which the case is pending. The order authorizing a person to serve process may be made without written motion and no fee shall be imposed for issuance of such order.]

#### RULE 536.1 METHOD OF SERVICE

(a)[(b)] Unless the citation or an order of the court otherwise directs, the citation shall be served by any person authorized by this rule by:

(1) delivering to the defendant, in person, a true copy of the citation with the date of delivery endorsed thereon with a copy of the petition attached thereto, or

(2) mailing to the defendant by registered or certified mail, return receipt requested, a true copy of the citation with a copy of the petition attached thereto if any is filed.

(b)[(c)] Upon motion supported by affidavit stating the location of the defendant's usual place of business or usual place of abode or other place where the defendant can probably be found and stating specifically the facts showing that service has been attempted under either (a)(1) or (a)(2) at the location named in such affidavit but has not been successful, the court may authorize service:

(1) by leaving a true copy of the citation, with a copy of the petition attached, with anyone over sixteen years of age at the location specified in such affidavit, or

(2) in any other manner that the affidavit or other evidence before the court shows will be reasonably effective to give the defendant notice of the suit.

## APPENDIX C-CURRENT RULE 103/536

### Rule 103. Who May Serve

Citation and other notices may be served anywhere by (1) any sheriff or constable or other person authorized by law or, (2) by any person authorized by law or by written order of the court who is not less than eighteen years of age. No person who is a party to or interested in the outcome of a suit shall serve any process. Service by registered or certified mail and citation by publication shall, if requested, be made by the clerk of the court in which the case is pending. The order authorizing a person to serve process may be made without written motion and no fee shall be imposed for issuance of such order.

### Rule 536. Who May Serve and Method of Service

(a) Citation and other notices may be served anywhere by (1) any sheriff or constable or other person authorized by law or, (2) any person authorized by law or by written order of the court who is not less than eighteen years of age. No person who is a party to or interested in the outcome of a suit shall serve any process. Service by registered or certified mail and citation by publication shall, if requested, be made by the clerk of the court in which the case is pending. The order authorizing a person to serve process may be made without written motion and no fee shall be imposed for issuance of such order.

(b) Unless the citation or an order of the court otherwise directs, the citation shall be served by any person authorized by this rule by:

(1) delivering to the defendant, in person, a true copy of the citation with the date of delivery endorsed thereon with a copy of the petition attached thereto, or

(2) mailing to the defendant by registered or certified mail, return receipt requested, a true copy of the citation with a copy of the petition attached thereto if any is filed.

(c) Upon motion supported by affidavit stating the location of the defendant's usual place of business or usual place of abode or other place where the defendant can probably be found and stating specifically the facts showing that service has been attempted under either (a)(1) or (a)(2) at the location named in such affidavit but has not been successful, the court may authorize service:

(1) by leaving a true copy of the citation, with a copy of the petition attached, with anyone over sixteen years of age at the location specified in such affidavit, or

(2) in any other manner that the affidavit or other evidence before the court shows will be reasonably effective to give the defendant notice of the suit.