



# CALSPRO PRESS

THE OFFICIAL QUARTERLY NEWS & OPINION MAGAZINE OF THE  
CALIFORNIA ASSOCIATION OF LEGAL SUPPORT PROFESSIONALS

Volume 5 / Issue 2 / Summer 2012



LEGISLATION

## ■ CALSPRO Legislative Program

We Are Making An Impact



MEMBERSHIP

## ■ CALSPRO MEMBERSHIP

Focus on Member Benefits



EDUCATION

## ■ Continuing Education

It's Important To Stay Current



CONFERENCE

## ■ We're Going To Disneyland!

Business, Education, Networking & Some  
Time For Family Fun



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## CALSPRO 44<sup>th</sup> Conference

Get ready for CALSPRO Conference 2012 and bring along the family to enjoy **Disneyland**. The CALSPRO Conference returns to its usual date of Columbus Day weekend – October 5-7 and will be held in Anaheim next year.

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## CALENDAR Of Events...

### 2012 BOARD OF DIRECTORS MEETINGS

June 23, 2012 - Sacramento, CA  
October 5, 2012 - Anaheim, CA



# PRESIDENT'S MESSAGE

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**CHAD BARGER**

In recent months, I've read several articles that portray process servers in a bad light. You may have noticed an increase in bad press directed at process servers; especially in the context of unlawful detainer and debt collection serves. One article claimed that all process servers are dishonest and heavy marijuana users. Another stated it's very common for process servers to simply drop paperwork at the door of the debtor when there was no answer; or lie and claim to have properly served the debtor paperwork for a lawsuit even after being advised by the current resident that the party no longer lives there. I could provide more examples but I think I've already made my point. I don't dispute that there are some unprofessional process servers out there who make mistakes from time to time, but the vast majority are professionals who follow the law. We've all heard the old saying, "One bad apple can spoil the whole bunch". Unfortunately in our profession, thousands of good serves can be undermined by one "bad apple" that receives notoriety in the press. Is this a good representation of our entire profession? I should say NOT!!! But, there is nothing newsworthy about the millions of serves completed accurately and diligently every year. The rare foibles exemplifying the doings of a wayward server steal the spotlight and draw attention to a situation that is easily mistaken as "the common practice". This is then reinforced when used as a tool by defense attorneys challenging a serve, or by a firm exploiting the occurrence as a scare tactic to drum up business for their firm. In my experience, the bad press is

usually attributed to the serves done by debt collectors serving their own papers, and not by a professional process server. I, like other professional process servers, believe that properly serving process ensures a person's right to due process. I'm proud to be a process server and an integral part of our legal system.

Over the past several years I've had the distinct privilege of working very closely with the CALSPro Continuing Education Committee and the CALSPro Certified Process Server (CCPS) program; most specifically in raising the quality of the materials, presentation of the workshop, relevance of the certification exam and the overall training experience. The program, which was really good a few years ago, has steadily improved to heights previously unimagined, due to the fastidious attention of the committee. The CCPS program is excellent at providing current information regarding our profession, including case law that explains why we do what we do. Every time I teach the class, I'm amazed to hear some of the things that a few process servers believe to be the legal right of a process server. I was recently told that as a process server we have the right to cut a lock on a locked gate to gain access to the property to serve process. Another server told me process servers could jump any fence and go through anyone's mail box in order to get the information needed to get the papers served. When I asked where they learned this or what the civil code / case law was that gave them that authority, they didn't have an answer. I explained to them that Penal Code 602(n)

and 602.8 (c)(3) give process servers "limited" exemption to trespass while driving or walking to effect service, but in no way allow us to cut locks or jump fences. When I address going through someone's mail box and the federal charges that could arise, they seem to be shocked. If left misinformed, these servers would have continued doing things the same old way, giving us all a bad name.

The training provided to process servers and related legal support professionals positively impacts their professionalism and expertise; and enhances their "in the field" practices. This has the potential to sway the perception of our profession in a more positive light; especially amongst lawyers, their personnel, the general public, and hopefully the press. I applaud the effort made by the committee to raise the bar and level of professionalism of process serving on all fronts. From the many CALSPro members and even nonmembers that have taken the CCPS workshop (many of whom have earned their CCPS designation), to the lawyers and legal secretaries, paralegals, legal assistants etc. that have made it a point to get trained, or to seek out and use certified servers, to the legal support companies that see the value of having staff and independent contractors CCPS trained. As a community of legal support professionals we can all be committed to ensuring that all of our servers in the field possess the most current knowledge

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# CAPITOL REPORT

**MICHAEL D. BELOTE, ESQ.**  
CALIFORNIA ADVOCATES, INC.



## Making A Difference

**T**he epic recession may be loosening its grip on California, but the impact on state and local governments is still real and substantial. Legislators struggle to decide where to allocate the pain of necessary budget cuts, and there are simply no good options. Courts have been forced to endure a proportionate share of reductions, which hurts more given the small percentage of the state budget dedicated to the judicial branch.

The branch is looking to cobble together approximately \$300 million in new and diverted revenue to help keep courts open. The intention is to obtain at least \$50 million of this total from increased civil filing fees. While the various categories and increases are still being worked out, CALSPro members should expect to see some combination of increases in first paper fees, motion fees, complex case designation fees, fees for jury deposits, and potentially some fees in the probate area.

The dilemma in the filing fee area is to somehow prevent the state from simply reducing appropriations to the courts by amounts which equal the filing fee increases, thereby essentially diverting the money to the state general fund. This has happened in the past. It is tricky to somehow put the filing fee revenue aside in some sort of lock box, to prevent raids

in the state budget process. CALSPro members should expect to see the increases adopted as part of the state budget this summer, and we will keep members apprised of the changes.

Even while the state budget, the economy, and looming primary and general elections are the biggest issues facing the legislature, action continues on the approximately 2000 new bills introduced for 2012. A surprising number relate to process and photocopying. CALSPro's electronic bill folder currently contains almost 30 pieces of legislation, and some would impact substantially the activities of members. The good news is that CALSPro already has made a difference in the content and outcome of a number of important bills.

### **A snapshot of bills currently affecting CALSPro is as follows:**

- **AB 1720 (Torres):** This bill would permit licensed private investigators to access guard gated communities for the purpose of serving process. The bill would amend Code of Civil Procedure Section 415.21, enacted under CALSPro sponsorship many years ago. CALSPro has worked cooperatively with the California Association of Licensed Investigators (CALI), the sponsor of AB 1720, to make sure that the bill applies only to the investigator personally, only

for the purpose of serving process, and that no attempts will be made to expand upon this narrow issue in the future;

- **AB 2044 (Wagner):** Proposed to permit anyone authorized to serve process to serve prejudgment claims to right of possession in unlawful detainer matters. CALSPro obtained an agreement with the sponsor and author of AB 2044 not to pursue enactment of this measure;
- **AB 2372 (Hill):** Originally would have permitted any service of any kind upon an attorney to be accomplished by mailing the process to the attorney's address of record on the State Bar website. Working with CALSPro and the Assembly Judiciary Committee, the bill was amended to instead require attorneys to provide actual addresses upon request, post-judgment, to help effectuate service of process;

*Continued on page 17*

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# GO TO A HAPPY PLACE!

*by Stephanie Saylor*

*2012 Conference Chairperson*



**A**re you ready for more fun and magic in your life? Do you believe roller coasters are just for kids? Have you forgotten how it feels to get the giggles? Don't miss out on an opportunity to have fun with business associates, and to spend an entertaining weekend with your family!

The 44th Annual CALSPro Conference will be held at the Sheraton Park Hotel in Anaheim this October 5-7.

The electronic age quickens the pace of change and you will benefit from the knowledge you gain at conference. Learning how to optimize your website for better marketing results and staying on top of Internet trends are invaluable.

Knowledge and success are common partners, so enjoy learning about past and present case law that affects the process serving industry. Help your clients with the tools they need to support the work you perform.

The copy industry may be fast approaching its rubicon, so CALSPro is here and active to assist our industry in addressing the most current legislation. It's not just the movement towards the electronic storage and transmission of records that threatens this industry. Come to Conference and learn more about the activities of our Legislative Committee and the hard fights they wage to try to protect its members. Don't miss out on the educational presentation focused on the copy industry.

Our Conference provides information on serious industry topics, but it is also a forum

with many benefits. Networking with comrades, learning innovating marketing techniques and staying educated on trends and changes in our industry are vital to the health of your company. Please join us in October and take advantage of what your association can do for you.

And don't forget your family! I'm personally looking forward to "Soarin' Over California" and the "Twilight Zone Tower of Terror". Get ready for a mouse adventure and a nice balance of work and play! 🐭



# MEMBERSHIP Has Its PRIVILEGES

*by Larry Kirlin*

*Membership Committee Chairman*

## 2012 MEMBERSHIP CAMPAIGN

### RENEWAL

The 2012 renewal drive has concluded and as of March 14, 2012, 138 companies and 113 individuals have renewed; 4% more than this time last year. During the renewal drive, the membership committee keeps track of the reasons given for not renewing. The most common reasons for not renewing are:

- Out of business
- Dropping Individual membership to save money but keeping their Company membership
- Dropping Company, membership not enough business from other members
- Not renewing Individual membership, no business
- Getting more benefit from NAPPS

It appears that the economy is still affecting many people in our industry. Business is down for many of the people who haven't renewed. Long payment cycles are hurting cash flow. On the positive side, people are aware of the new pouch pricing and expressed interest in upgrading to Company membership. Interest in the membership upgrade discounts was also expressed.

### NEW MEMBER DRIVE

This year, the CALSPro Membership Committee is making a focused effort to recruit professional photocopiers. A Photocopy Ad Hoc Committee was formed in late 2011 and the membership committee will work with the ad hoc committee to contact professional photocopy companies for potential membership. As it turns out, the timing couldn't be better. SB 1453, introduced in February 2012, amends the evidence codes

and, if passed, could have a catastrophic impact on the photocopy industry. In the words of industry veteran, Mick Isbell "This (bill) threatens the entire industry. Those that are not members need to join for us to have an effective voice. I have testified before judiciary committees in Sacramento before and one of the questions that will be asked prior to the meeting is how large a segment of the industry does this entity represent. I assure you that our opposition represents the entire medical community. We need firepower in addition to logical arguments."

### MEMBER BENEFITS

During the renewal campaign I personally spoke to many members who were struggling with the cost of membership. They expressed concerns that they weren't getting enough return on their investment. Clearly, we all know why we must continue to support our Association, and that is legislation. However, we understand the real life concerns members have relating to economics. In response to



these concerns, a conference call was held on March 14, 2012, with Chad Barger, Wendy Bowman, Mike Kern, Cliff Jacobs and myself. We decided the best course of action was to form a temporary ad hoc committee to develop ideas for additional member benefits. The board approved the formation of a temporary "member benefit" committee. Members include myself, Wendy Bowman, Cliff Jacobs, and Jeremiah Jones. If you have any ideas for new member benefits, please contact one of the committee members. We will present our report at the next board meeting. If you would like to join the committee, contact me directly at [l.kirlin@attorneysdiversified.com](mailto:l.kirlin@attorneysdiversified.com).

**Each issue, Continuing Education will provide a relevant case law cite to use as a resource:**

**Ludka vs. Memory (25 Cal. App. 3d 316) held that leaving the summons with the receptionist was OK. Google the cite, or try:**

<http://login.findlaw.com/scripts/callaw?dest=ca/calapp3d/25/316.html>



# YOUR HISTORIAN NEEDS YOUR HELP

by Jerry Topolos



Your newly appointed CALSPRO Historian needs information. We are collecting information that relates to our Association's past. What are we looking for, you ask?

- **Photographs**
- **Correspondence**
- **Newsletters**
- **Conference Programs**
- **Advertisements**
- **Promotional Items**
- **Trinkets From Our Past**
- **Any Other Old Stuff We Should Have In Our Archives**

Please send to me by any means that works for you: Mail, Email, Fax, Pouch or Overnight Service. Please address to: Jerry Topolos, Preferred Legal Service, 601 Van Ness, #J, San Francisco, CA 94102.

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# CALSPRO POUCH PROGRAM LOWERS PRICES



**T**he CALSPRO Board of Directors is pleased to announce new, much lower pricing and added benefits for the CALSPRO Pouch Service Program with our vendor, Top Priority/CFC effective February 1, 2012. Please note that service charge prices have been substantially reduced, the daily weight allowance has been increased, and the overweight charge has been slashed by over 50%.

The new rates and weight allowances are as follows:

- Twice a day (AM-PM) Service will be decreased to only \$375.00/month
- Once a day (Swap) will be only \$195.00/month
- There will be no charge for the first 10 pounds (up from 7 lbs. previously).
- The overweight fee is being reduced to only 64 cents per pound (down from \$1.32)
- In addition, the fuel surcharge has been zeroed for the current market price of regular unleaded up to \$3.85/gallon, and thereafter .0065 for every ten cent incremental increase.

This represents about a 35% savings over your current base price. A typical company with one office, daily swap and no overweight will save a minimum of \$1,000 per year. That is twice the cost of a CALSPRO Company Membership.

With this kind of savings, once a day participants can now consider shifting to twice a day, Company members can consider adding staff as Individual members and also enhancing their listing, and everyone can convert the savings into additional advertising for increased business in 2012. 🐾

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## Legislative Committee Update

**T**he budget battles rage on in Sacramento. Legislators still found time to introduce legislation that will affect us. A brief outline is described below.

- **AB1720** – This bill will allow private investigators to have access into a gated community for the sole purpose of service of process under §CCP 415.21. The CALSPRO Board of Directors voted to remain neutral on this bill.
- **AB2372** – CALSPRO is opposed to this bill which would allow service of process upon an attorney by a client, former client, or officer of the court by simply mailing to the address which appears on the state bar website. We are opposed to this bill because due process and proper notice are at the core of our Best Practices and we would each expect the same rights as individual citizens.
- **AB2044** – CALSPRO is opposed to this bill which would allow anyone over the age of 18 years to serve a Prejudgment Claim of Right to Possession. Service of a PJ is restricted to Registered Process Servers and Sheriff's because of the potential impact it has on unidentified occupants, the complexity of identifying unidentified occupants, and the posting and mailing requirements. We do not believe it to be in the public's best interest to allow an inexperienced person to serve a document that has so much impact on the occupants during an eviction.
- **AB2364** – the Legislative Committee is continuing to monitor and review this lengthy bill which would make changes to levies, attachments, and the service of related documents. This bill would require that any financial institution having 9 or more branches designate a centralized location for service of process.
- **AB2073** – This bill would expand the ability of courts to electronically file and serve documents by order and at the discretion of the presiding judge. We continue to monitor this bill and have not taken an official position as of now.
- **SB1543** – CALSPRO is opposed to this bill which would make numerous changes to the fees being charged by medical facilities and records management companies for the production of copies. This bill would tie future increases or decreases in fees to the Consumer Price Index. Part of this bill would eliminate copy services from being able to copy records when being obtained under a patient authorization. The bill states that only a Medical Records Management Company (contracted, in-house) can make those copies (effectively creating a monopoly). Many photocopy companies have been contacted and all agree that this bill must be opposed.

**Brett Peters**  
Legislative Committee Chair

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# TECHNOLOGY COMMITTEE REPORT

*by Jeremiah Jones, Technology Committee Chair*

Since our last newsletter article on portable scanners, the technology committee has been hard at work in our effort to provide CALSPro membership with useful technology related information. One of our main goals: To help CALSPro members succeed in the everyday operations of their business. Our committee currently consists of myself, Dennis Chaples from Tristar Software and Cliff Jacobs from One Legal. This month in the newsletter, Trent Carlyle from Serve-Now has helped us out by writing a very insightful article relating to ways we can use our websites to increase business. Trent provides us with a how-to list of ways we can make our sites more useful for our clients.

We have also been actively posting to the blog on the CALSPro website <http://www.calspro.org/blog/> and we would encourage

you all to visit the website regularly. Dennis Chaples recently posted an excellent article he wrote about data integration and the role that it can play in the attorney service field.

We have also spent time following the developments in the Orange County Superior Court, as a second efilng vendor has been installed who is allowing attorney services to efile client documents through them. This is a new provision and important for our members to keep up to date on. We have also been contacted by a third prospective efilng vendor with a slightly different business model. This third vendor will potentially allow attorney services to efile through them at a significantly lower rate than what is currently being offered to attorney services who wish to efile on behalf of their clients.

As I mentioned, we are working to provide our members with value that they can use on a regular basis and are grateful for the people that have contributed their time and knowledge to help our committee move forward. Future topics that we are looking at include a review of process service/photocopy software providers, cloud computing, making an office out of your trunk, just to name a few. If you have any ideas for future articles or blogs (or if you are interested in helping out with the Technology Committee), please feel free to contact me. 🐾

## WWW.CALSPRO.ORG/BLOG/





## NEW LAWS YOUR SMALL BUSINESS NEEDS TO BE AWARE OF!

**Commission Contracts – AB 1396** passed (requires a written commission agreement). Employers must be in compliance no later than January 1, 2013 (safe harbor period for employers built into this bill on purpose by the author).

What does this mean to you if you pay commissions to your servers (or any other employees)? This law requires written agreements with employees who are paid commissions and the agreement must provide the method for computing and paying the commission. Employers must give a signed copy of the agreement to the employee, and obtain a signed receipt to prove the employee has received the agreement.

In the case of a contract that expires and where the parties nevertheless continue to work under the terms of the expired contract, the contract terms are presumed to remain in full force and effect until the contract is superseded or employment is terminated by either party.

### **Wage Theft Prevention Act – Labor Code Section 2810.5 – Effective Jan 1, 2012**

Employers are now required to give a NEW written notice to all non-exempt employees hired on or after January 1, 2012. This written notice includes the employee's regular and overtime rates of pay, payday, employer's legal address and many other bits of information. To be in compliance, you may download this form: [http://www.dir.ca.gov/dlse/LC\\_2810.5\\_Notice.pdf](http://www.dir.ca.gov/dlse/LC_2810.5_Notice.pdf).

### **Pregnancy Disability Leave – SB 299**

California law now requires an employer to maintain and pay for coverage under a group health plan for an employee who takes pregnancy disability leave at the same level and under the same conditions as if the employee had continued working and not taken the leave. California law provides for up to four months of pregnancy disability leave.

### **Aleman v. AirTouch Cellular – Reporting Time Pay**

In California, an employee who reports to work and is given less than half of his usual or scheduled hours must be paid the regular rate of pay for half of those usual or scheduled hours, with a minimum of 2 hours and a maximum of 4 hours pay for that day. 🐾



## PRESIDENT'S MESSAGE – continued from page 1

and highest level of training available. As an added benefit, this will assure your clients that your servers are knowledgeable and well trained in the laws regarding service of process. As we all know, just because you've paid your fees and are registered, it doesn't mean you know what you're doing or are a professional process server. It is up to us to change any negative perception of process serving by consistently demonstrating our knowledge and professionalism. 🐾

## CALL TO ORDER

In an effort to keep members well-informed of the day-to-day operations and activities of CALSPro, summaries of the meetings of the board of directors are now available to members via the CALSPro website. Members may access the meeting summaries in the Leadership area under the Board of Directors tab - <http://www.calspro.org/leadership/board-of-directors/>.

The next CALSPro Board of Directors meeting will be held on Saturday, June 23, 2012 beginning at 10:00 a.m. at the Embassy Suites Riverfront Hotel in Sacramento.



If you have any questions or suggestions, please e-mail them to CALSPro Administrator, Jennifer Blevins, [jennifer@camgmt.com](mailto:jennifer@camgmt.com).

**Thank you for your continued membership and participation.**



# 10 WAYS TO TURN YOUR ATTORNEY SERVICES WEBSITE INTO A MARKETING MACHINE

*by Trent Carlyle*

**R**ecently, Jeremiah Jones (CALSPRO Technology Committee Chair) asked if we could help the association members by providing tips to improve online visibility and making a website more useful to your clients.

While best online marketing practices are constantly in flux, here are some simple ways you can start turning your website into a marketing machine.

## 1. CONTACT INFO ON EVERY PAGE

We'll start with an oldie but a goodie. If you walk away from this article and do nothing else, make sure your phone number and a link to your contact form is prominently located on every single page of your site. The ultimate goal of your website is to get clients to pick up the phone.

The easiest way to pull this off is to build this into a common header / navigation that is part of every page.

## 2. HAVE A "CONVERSION" GOAL FOR EVERY PAGE

A "conversion" is getting a visitor to do what you want on a particular page. Every single page should have a specific conversion goal. Conversions are usually achieved by including a call-to-action (CTA). CTAs tell your visitor exactly what you want them to do on a page. "Learn more!" or "Call

now!" are examples. When a visitor takes that action, you have a conversion.

## 3. COLLECT USER DATA WITH GREAT CONTENT

Chances are you know a lot more about serving papers and the rules associated with service of process in your area than most of your clients. Turning this knowledge into educational content such as a "White Paper" or a guide can serve two purposes.

First, by requiring users to fill out a contact form to access certain content, you are capturing their data and generating a lead for your business. Secondly, the content itself or even the presence of the content can validate your expertise in the field, hopefully resulting in a visitor choosing to hire you.

At the very least, you are now building a database of potential clients for follow-up calls, emails or marketing campaigns.

## 4. SIMPLIFY YOUR WEB FORMS

Let's say you have a "Request a Quote" form on your website. Which form are you most likely to fill out?

The purpose of your external web forms should be to collect the minimum amount of data on a lead to be able to follow up with

them. Each unnecessary field increases the likelihood a client will abandon your form. Studies show that reducing your forms fields by 50% can increase conversions by 5% or more.

## 5. INSTALL GOOGLE ANALYTICS

Google Analytics is a free tool that allows you to track how many visitors your site gets, how they are finding you and much more. If you haven't used a web analytics program in the past, it's a lot to absorb, but I can promise you'll get value from it, even if it's just from a high level.

For example, Google Analytics can reveal:

- If your pages are "converting"
- Your most effective marketing channels
- Your most visited content
- How much time visitors spend on your site
- Where your visitors are geographically located
- The percentage of visitors coming to your site from a mobile device

Already got analytics set-up? Introduce yourself to Google's webmaster tools for a whole new level of insights.

*Continued on page 14*

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## Access these tools at:

[www.google.com/analytics](http://www.google.com/analytics)

[www.google.com/webmaster/tools](http://www.google.com/webmaster/tools)

## 6. CONNECT YOUR SOCIAL MEDIA

There's evidence that website rankings are affected by social signals - such as Facebook "Likes" and "Tweets" on Twitter. Growing quickly in importance are Google's +1's.

As business owners, most of you don't have extra time to spend on social media, so at the very least make it easy for clients to connect with you on Twitter and Facebook by including these links on your site as well as your signature block of your emails.

## 7. OFFER ONLINE TRACKING

Ninety percent of what your site offers should target new customers as current clients are unlikely to need to return to your site after they've got your phone number and email address. That said, one thing you can do for current clients is to offer online status updates that are available with most popular process serving applications. Not all clients will use it, but it shows you are on the forefront of technology in a changing industry.

## 8. ANSWER COMMON QUESTIONS

Another way to keep your clients coming back to your site is by answering the most common questions they (and potential clients) have regarding SOP and your company. These can be questions on effectuating proper service or "How quickly can papers be served?".

Content like this can be posted to a page titled "FAQs" or "News" or "Blog" but these terms are so common that visitors are typically "blind" to them. Try to implement it in a way that's going to stand out. Title the section something like "Process Service Help Center" or "20 things you should know about Process Serving" - something unique that will catch their eye.

Content like this keeps clients coming back, convinces new clients to contact you and will make the search engines love your site. It's also great stuff for social media.

## 9. POINT CLIENTS TO ONLINE REVIEWS

At ServeNow, we talk about the importance of "Local" quite a bit. When we use the term local, we are mostly talking about the map listings with the lettered balloons next to them when you do a Google search. These are called Google Places listings.

Assuming you have your places listing claimed and optimized, you'll want to find ways to get clients to review your company. Studies show that business with five or more reviews in Google places tend to rank higher. Make it easy for clients to review you on Google Places (or other review sites like Yelp) by linking to one or both off of your web site.

If you can find a way to incorporate an ongoing review strategy in your processes, it'll go a long way.

View this article for tips on developing a review strategy:

<http://blog.lawgical.com/articles/1114/create-a-review-strategy-for-local-optimization>

## 10. GET RELEVANT LISTINGS

Yes, even if you build a great client-friendly, optimized website you still need to go out and advertise it. Without getting into the details here, listings on relevant sites can improve both your Local (Google Places) rankings as well as your organic rankings.

**Relevant sites include, but are not limited to:**

- Process serving-related sites and Directories
- State and National Associations
- Associations for Clients (e.g. paralegal, attorney, etc)
- The Better Business Bureau
- Chamber's of Commerce
- General Legal Directories

Improving your online presence can and should be an ongoing process. It can be overwhelming, so don't try to take on too much at once. There are a lot of elements to consider and there's no one silver bullet to online success.



Similar to traditional marketing, you need to have a "mix" for your online strategy. These concepts might seem siloed but they all feed one another. Each of the above tips will have individual gains, but combining them will yield exponential value.

For more details and to join the conversation about these ideas, visit: [www.calspro.org/marketing-machine](http://www.calspro.org/marketing-machine)

## ABOUT THE AUTHOR

Trent Carlyle is the CTO and co-founder of Lawgical, the parent company of ServeNow. Trent works closely with the technology and marketing teams at Lawgical to create products that generate business and increase operational efficiencies in the process serving and investigation industries. **He can be contacted at [trent@lawgical.com](mailto:trent@lawgical.com).**





# Process Server Risk Management Bonding vs Insurance

*by H. Eric Vennes*

**T**he following answers to frequently asked questions illuminate exactly how General Liability and E&O Insurance works to protect the personal assets of Process Servers and Process Service Agencies alike.

## **Q** *What is E&O Insurance?*

**A** Errors and Omissions (E&O) is an insurance policy that protects your financial assets in the event of alleged financial harm to a third party, as a result of an error or omission by the process server. Most commonly, this would occur from alleged wrongful service, missed filing deadlines, blown statute of limitations, etc.

Process Servers, like other professionals such as lawyers, accountants, architects and doctors, have an exposure to liability for the services they perform. In the case of Process Servers, state statutes uniformly affirm that a Process Server has unlimited financial liability to the public harmed by an error or omission committed by him or her; OR in the case of the use of a subcontractor, the Agency from which the service order originated.

## **Q** *What does E&O Insurance cover?*

**A** E&O, as the name implies, covers both errors and omissions. Generally speaking, E&O Insurance covers a mistake made by a Process Server

that causes financial harm to a Defendant, Deponent or Client of the Server. A mistake can be an "error" – an act the Process Server should not have done. A mistake can also be an "omission" – an act left undone that the Process Server should have performed. Both can cause financial harm and the Notary should be protected against both.

It is important to note that E&O Insurance covers only unintentional or negligent errors and omissions; E&O Insurance will not cover intentional errors or acts.

A correctly written E&O policy will cover losses that must be paid to a party injured by the Process Servers error or omission, as well as defense costs incurred in investigating, defending or settling liability up to the policy limit.

## **Q** *What is my exposure to risk if I always follow the rules and never do anything wrong?*

**A** As the famous saying goes, "To err is human." No Process Server, however diligent and well-intended, is immune from making a mistake. And, the fact that you have not made an error or omission when serving until now doesn't mean that in the future you might not make one.

Even if you never make a mistake, parties related to the service(s) you performed may allege that

you made an error or mistake that harmed them. They could still file a claim with your insurance company or name you in a lawsuit. At the end of the claim process or lawsuit you may be found to have done nothing wrong, but you may be left with defense costs and legal expenses that you incurred in representing and defending yourself in the case. E&O Insurance will cover these legal expenses, even if a claim is denied or a jury acquits you of liability.

## **Q** *Do I need insurance if I have a bond?*

**A** Yes, you need insurance precisely because you do have a bond. A bond is a form of consumer protection; it protects those harmed by your actions, but it does not protect you. If a claim is paid out of your bond, your surety company will come after you for reimbursement.

However, if you have E&O Insurance, your insurance will reimburse the surety company for any claims paid on the bond resulting from the unintentional error or omission. E&O Insurance is true protection for the Process Server.

*Continued on page 17*

# Process Server's Toolbox

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**Q How much E&O Insurance do I need?**

**A** The answer to this question is based on each individual Server's personal situation and assessment of personal risk. Other factors to be considered when determining how much insurance you need are how often and what types of documents you serve.

Generally speaking, E&O policy limits that provide increased protection are available at very affordable rates.

**Q When do I pay the premium for E&O Insurance?**

**A** Yes. Most Carriers will require 25% of the pure premium, along with all tax and fee as a down payment; which is typically non-refundable. The balance can be financed over a period of up to 10 months at reasonable interest rates.

**Q Will E&O Insurance cover me when I'm no longer a Process Server?**

**A** Yes, if you had an **OCCURRENCE** form policy in force at the time you committed the error or omission, then your policy will cover you even if you are no longer a Server or have terminated your insurance policy, provided the action against your policy is commenced within the applicable statute of limitations period.

Some E&O policies offered are on a "claims-made" form. This means that in order to remain covered, you must continue to purchase and hold insurance, paying for a "tail" policy well after the time you are no longer serving civil process. The minute you terminate your policy, you are no longer covered even if you had a policy at the time the act or omission was committed. The Author does NOT typically recommend Claims-Made insurance policies for Process Servers.

**Q Are defense costs covered inside or outside of the policy limit?**

**A** With most E&O Insurance policies, defense costs are covered inside of the policy limit. This means that the total sum the insurer will cover is the stated policy limit. So, if you have a \$25,000 policy, \$25,000 is the most the insurer will pay for all losses related to the claim or all claims.

**Q Is there a deductible to pay before my E&O policy kicks in?**

**A** Possibly, dependent upon the policy purchased. I write a policy that does not have any deductible requirement; meaning unlike car insurance, there is no deductible that must be satisfied before insurance pays on a claim. Unlike medical insurance, there are no co-pays to cover. The only payment you make is the policy premium to activate the policy at the beginning of the policy term.

**Purchasing E&O Insurance is an important safety measure that protects you from a mistake or an outright false claim; and choosing the right coverage is the most important step. If you have questions or want more options, please give us a call at 1-855-356-0875 x1008 – H. Eric Vennes.**

**MAKING A DIFFERENCE**

*continued from page 3*

- **SB 1543 (Emmerson):** This bill proposed very substantial changes to laws relating to photocopying of records. For example, the bill would have given doctors and hospitals the absolute right to have their own agents photocopy records. CALSPro worked with the sponsor of SB 1543 to not pursue enactment of SB 1543 this year, but instead to participate in a discussion over the balance of the year, seeking common ground, with the possibility of a new bill to be introduced in the 2013-2014 session.

Hearings on these and other bills of interest to CALSPro are in full swing, and outcomes will be reported in the next issue.



**Congratulations To The Latest C.C.P.S Holders**



The CALSPro Certified Process Server (CCPS) designation was established to acknowledge those process servers who have extended their professional education and successfully passed the CALSPro process server certification examination. The CCPS examination is administered by the CALSPro Continuing Education Committee and consists of a series of questions relating to the law. The CCPS Exam is traditionally preceded by a workshop and the workshop and exam are offered throughout the year, throughout the state.

**Congratulations!**

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