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Order 20. Private Civil Process Servers Appointment?Qualifications

(a) Authority to Appoint Persons to Serve Process in Civil Cases. The administrative judge of a judicial district, or any circuit judge(s) designated by the administrative judge, may issue an order appointing an individual to make service of process pursuant to Arkansas Rule of Civil Procedure 4(c)(2) in cases pending in each county of the district wherein approval has been granted. The appointment shall be effective for every division of circuit court, and for every district court, in the county.

(b) Minimum Qualifications to Serve Process. Each person appointed to serve process must have these minimum qualifications:

- (1) be not less than 18 years old and a citizen of the United States;
- (2) have a high school diploma or equivalent;
- (3) not have been convicted of a crime punishable by imprisonment for more than one year or a crime involving dishonesty or false statement, regardless of the punishment;
- (4) hold a valid driver's license from one of the United States; and
- (5) demonstrate familiarity with the various documents to be served.

Each judicial district may, with the concurrence of all the circuit judges in that district, prescribe additional qualifications.

(c) Appointment Procedure.

(1) A person seeking court appointment to serve process shall file an application with the circuit clerk. In a multi-county district, an applicant may file an application in one county seeking appointment in one or more counties of the district. The application shall be accompanied by an affidavit stating the applicant's name, address, occupation, and employer, and establishing the applicant's minimum qualifications pursuant to section (b) of this Administrative Order. Neither the application nor the affidavit shall require disclosure of the applicant's social security number. The General Assembly will set any application fee charged by the circuit court.

(2) The circuit judge shall determine from the application and affidavit, and from whatever other inquiry is needed, whether the applicant meets the minimum qualifications prescribed by this Administrative Order and any additional qualifications prescribed in that district. If the judge determines that the applicant is qualified, then the judge shall issue an order of appointment. The circuit clerk shall file the order, and provide a certified copy of it to the process server and to the sheriff of the county in which the person will serve process. The circuit clerk of each county shall maintain and post a list of appointed civil process servers. In multi-county districts, if the applicant has sought appointment in more than one county, then the order shall specify the counties in which the process server is qualified. In this instance, the circuit clerk shall also provide a certified copy of the order to the sheriff and circuit clerk of each county in which the person will serve process.

(d) Identification. When serving process, each process server shall carry a certified copy of his or her order of appointment and a valid driver's license. He or she shall, upon request or inquiry, present this

identification at the time service is made.

(e) Duration, Renewal, and Revocation.

A judge shall appoint process servers for a fixed term not to exceed three years. Appointments shall be renewable for additional three-year terms. A process server seeking a renewal appointment shall file an application for renewal and supporting affidavit demonstrating that he or she meets the minimum qualifications prescribed by this Administrative Order and the judicial district. The General Assembly shall set any renewal fee charged by the circuit court. Upon notice to the administrative judge, any circuit judge may revoke an appointment to serve process for his or her division for any of the following reasons: (1) making a false return of service; (2) serious and purposeful improper service of process; (3) failing to meet the minimum qualifications for serving process; (4) misrepresentation of authority, position, or duty; or (5) other good cause.

(f) Forms. Forms for the application, affidavit, order of appointment, and renewal of appointment are available at the Administrative Office of the Courts section of the Arkansas Judiciary website, <http://courts.state.ar.us>.

Comment Text:

Explanatory Note, 2008 Amendment: *The Administrative Order has been clarified in various respects. The change in subsection (a) confirms that the Order and Rule 4(c)(2) must be read in harmony. Moreover, the circuit court's authority extends to appointing process servers for the district courts within the judicial district. In subsection (b), the requirement of having Arkansas driver's license has been changed to having a valid driver's license from any state. In subsection (c), the procedure for appointment in multi-county districts has been spelled out: an applicant may seek a multi-county appointment by applying to any circuit court in a multi-county district. The circuit clerk in the county where the petition is filed must provide certified copies of any appointment order to the circuit clerks and sheriffs in all counties covered by the appointment. As amended, the Order prohibits requiring an applicant to disclose his or her social security number during the application process. Finally, the Order clarifies that any fee related to an application for appointment or renewal shall be set by the General Assembly.*

Explanatory Note: *This new Administrative Order imposes expanded minimum qualifications for private process servers in civil cases. Arkansas Rule of Civil Procedure 4(c)(2) formerly provided that the circuit court could appoint any person more than eighteen years old to serve process. Given the importance and effect of service of process, that qualification is insufficient. The expanded minimum qualifications imposed by this Administrative Order will help ensure the competence and character of private process servers. The Order establishes a floor, not a ceiling: the circuit judges in each judicial district may establish additional qualifications. Rule 4(c)(2) has been amended to incorporate this Order by reference. The Order also creates a uniform procedure for appointment and reappointment by the circuit court, as well as giving examples of the good cause which would justify revocation of the privilege of serving process. Finally, the Order requires process servers to carry a certified copy of their order of appointment, and their driver's license, to establish the server's legal authority.*

Associated Court Rules:

Administrative Orders

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