ADMINISTRATIVE ORDER
NO. 2014-23

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

EMERGENCY TEMPORARY ORDER GOVERNING CERTIFICATION AND REGULATION OF GRANDFATHERED SPECIAL PROCESS SERVERS, ORANGE COUNTY

WHEREAS, pursuant to Article V, section 2(d) of the Florida Constitution and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice; and

WHEREAS, pursuant to the chief judge's constitutional and statutory responsibility for administrative supervision of the courts within the circuit and to create and maintain an organization capable of effecting the efficient, prompt, and proper administration of justice for the citizens of this State, the chief judge is required to exercise direction, *see* Fla. R. Jud. Admin. 2.215(b)(2), (b)(3); and

WHEREAS, sections 48.25 through 48.31, Florida Statutes, the Florida Certified Process Server Act ("Process Server Act"), expressly vests in the Chief Judge the authority to establish an approved list of Certified Process Servers who have met the requirements for certification under the Process Server Act and the requirements set forth by the Ninth Judicial Circuit of Florida; and

WHEREAS, the Sheriff of Orange County has discontinued, effective December 31, 2014, the Special Process Server Program created by the Sheriff under the provisions of section 48.021, Florida Statutes, and will not renew any appointments that lapse prior to said date; and

WHEREAS, as a result of the actions of the Sheriff of Orange County, a group of specially appointed process servers in and for Orange County, Florida, will have their

appointments lapse on September 30, 2014; and

WHEREAS, it is necessary for the Chief Judge to establish an emergency administrative process for certification and regulation of Grandfathered Special Process Servers meeting the necessary requirements to be certified as Grandfathered Process Servers empowered to serve process as established by the Act throughout Orange County;

WHEREAS, this Emergency Administrative Order for certification and regulation of Grandfathered Special Process Servers will not affect and will leave in place the special appointments of process servers made by the Sheriff of Orange County under the provisions of section 48.021, Florida Statutes, which appointments will remain valid until December 31, 2014; and

WHEREAS, it is the intent of the Chief Judge to issue a more comprehensive Administrative Order before December 31, 2014, to establish a process for renewal, review, approval, certification, and regulation of individuals meeting the necessary requirements under the Act to be certified as process servers empowered to serve process throughout Orange County; and

WHEREAS, the actions of the Sheriff of Orange County affects Orange County only and not Osceola County;

NOW, THEREFORE, I, Frederick J. Lauten, pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.215, do hereby order that the following standards, requirements and procedures shall be established for individuals to be eligible for inclusion on the approved list of Certified Process Servers for Orange County, Florida, **effective immediately** and to continue until further order:

I.   DEFINITIONS:

A.   The *Act* shall mean the Florida Certified Process Server Act, sections 48.25 through 48.31, Florida Statutes.

B.   The *Emergency Administrative Order* or *EAO* shall mean this Order.

C.   The *Designee* shall mean one or more members of court administration staff, as assigned to assist with the ministerial operational aspects of the Certified Process Server Program and shall be referred to herein in the gender neutral plural ("its").

D.   The *Program* is the emergency process for certification of process servers in Orange County as provided by the Act and this EAO to allow them to serve process as authorized by section 48.27, Florida Statutes, throughout Orange County, Florida.

E.   *Grandfathered Special Process Server* or *GSPS* means every natural person appointed by the Sheriff of Orange County as a Special Process Server under the provisions of section 48.021, Florida Statutes, whose appointment is current and valid as of the date of this EAO but expires on September 30, 2014.

F.   The *Certified Process Server List* or *CPSL* shall mean the list of Grandfathered Certified Process Servers maintained by this Circuit's Court Administration, and also available from The Orange County Clerk of the Court, of those natural persons who have been approved pursuant to this EAO and who are therefore authorized to serve process as established by the Act throughout Orange County, Florida.

G.   *Grandfathered Certified Process Server* or *GCPS* means every GSPS who is approved and placed on the CPSL.

H.   *Grandfathered Applicant* or *GA* is a GSPS who qualifies as a GCPS under the provisions of this EAO, and who applies for certification as provided in section 48.29, Florida Statutes, under the Program established by this EAO.

I.   The *CPS Identification Card* shall mean the identification card to be issued by the Designee as required by section 48.29(5)(b), Florida Statutes. The CPS Identification Card shall expire midnight, December 31, 2014. The CPS Identification Card is the property of the Ninth Judicial Circuit and must be immediately surrendered upon request of the Chief Judge or the Designee. It is the responsibility of the Applicant to safeguard the CPS Identification Card issued pursuant to the guidelines contained herein. There is a $20.00 replacement fee if the CPS Identification Card is lost or stolen.

II.   PURPOSE:

The purpose of this EAO is to establish a Program for the certification of process servers in Orange County, Florida, and to authorize them to serve process, as established by section 48.27, Florida Statutes, throughout Orange County, Florida.

III.   MAINTENANCE OF THE CERTIFIED PROCESS SERVER LIST:

The Designee shall maintain a CPSL of process servers meeting the requirements of the Act and this EAO. The CPSL may be amended at any time. The Designee and the Clerk shall make the CPSL available on the Court and Clerk's websites, respectively, and upon request.

IV.   THE DESIGNEE:

A.   The Designee shall supervise the operation of the Program, recommend certification or removal of process servers from the CPSL, review any allegation of non-compliance and recommend disciplinary action relating to GCPS, and perform such other responsibilities as assigned.

B.   Subject to approval by the Chief Judge, the Designee may prescribe rules, regulations and requirements regarding the eligibility of individuals for addition to or removal from the CPSL.

C.   The Designee shall maintain records and minutes of any meetings, hearings, and

all other official actions.

D.   The name and contact information to reach the Designee is:

Helene Welch
Court Operations Consultant
Phone: (407) 836-0471
Email: ctadhw1@ocnjcc.org

V.   CERTIFICATION OF PROCESS SERVERS:

Any natural person seeking certification as a GCPS shall be at least eighteen years of age,

be a permanent resident of the State of Florida, have no mental or legal disability, and meet the

requirements of the Act and this EAO.

VI.   APPLICATION PROCESS FOR CERTIFICATION OF GRANDFATHERED SPECIAL PROCESS SERVERS AS GRANDFATHERED CERTIFIED PROCESS SERVERS:

A.   The Applicant seeking certification as a GCPS must present to the Designee a

current and valid identification card issued by the Sheriff of Orange County pursuant to section

48.021(d), Florida Statutes.

B.   The GA must submit a Grandfathered Special Process Server Application, along

with a non-refundable application fee via personal check, cashier's check, or money order made

payable to the State of Florida in the amount of $62.50, to the Designee. See Exhibit "A" to this

EAO.

C.   The GA must file with the Designee evidence of a performance bond in the

amount of $5,000.00 with a surety company authorized to do business within the State of

Florida, which bond must be maintained at all times during the certification period. See Exhibit

"B" to this EAO.

D.   A GA who successfully completes the application process shall take an oath that

he or she will honestly, diligently and faithfully exercise the duties of a Certified Process Server.

E.   Upon meeting the requirements of part VI of this EAO, the Designee shall issue a

CPS Identification Card, as required by section 48.29(5)(b), Florida Statutes. The CPS

Identification Card shall expire midnight December 31, 2014.

F.   A GA who meets the requirements of the Act and this EAO shall be placed on the

CPSL and shall be authorized to serve process as prescribed by section 48.27, Florida Statutes, in

Orange County, Florida, until expiration of his or her CPS Identification Card.

G.   The GA's submission of a Grandfathered Special Process Server Application,

issuance of a CPS Identification Card, and acceptance of the CPS Identification Card by the GA,

with an expiration date of December 31, 2014, shall be deemed to constitute a waiver of any

claim or cause of action by the GA to assert a right to an annual term or renewal as a Certified

Process Server.

VII.   APPLICATION FEE:

As provided by section 48.29(2), Florida Statutes, the Designee may charge a reasonable

fee for processing an application filed pursuant to the Act and this EAO. The fee is $62.50 for

processing an application filed pursuant to the Act and this EAO. This amount may be changed

by the Chief Judge at any time and without notice but any changes will apply only to

applications filed with the Designee after the effective date of the change.

VIII. GCPS's DUTIES AND CODE OF CONDUCT:

A.   Servers on the CPSL shall comply and keep current with all applicable rules,

regulations, administrative orders, including this EAO, and statutes (to include Florida and other

Federal, foreign or domestic jurisdictions) pertaining to service of process.

B.   Servers on the CPSL shall serve only non-enforceable process.

C.   While serving process, Servers on the CPSL shall present their CPS Identification

Card upon request.

D.   Servers on the CPSL shall charge a reasonable fee for the service of process. There is no minimum or maximum amount that must be charged.

E.   Although Servers on the CPSL are not employees, agents, officers or representatives of the Ninth Judicial Circuit, its Judges or employees, the Orange County Clerk of the Court, the State of Florida, Orange County or any municipality and any if its divisions, agencies or departments, because servers on the CPSL by virtue of their power and identification give the appearance that they represent the Ninth Judicial Circuit when serving process they shall:

1.   be competent, courteous, professional, properly groomed and appropriately attired,

2.   portray a professional appearance to the general public, and

3.   refrain from any act or statement that would impugn the Judiciary or Court Administration.

F.   Servers on the CPSL shall conduct themselves professionally and with dignity while on or in the premises of the Courthouse. Conduct with the Judges, Court Administration, Deputies, Deputy Clerks and other employees of the Judiciary, Designee or the Clerk shall be respectful at all times.

G.   Servers on the CPSL shall serve process in a timely manner.

H.   Servers on the CPSL shall not serve process in any cause of action in which they have an interest.

I.   Servers on the CPSL shall are required to type, legibly write, stamp, or by other printed methods, record the information required by section 48.21, Florida Statutes, plus insert the title "Certified Process Server" and the CPS Identification Card number on the original and all copies of process. The return of process shall be notarized.

J.   Any lawsuits brought against a server on the CPSL due to his or her actions as a Certified Process Server in any jurisdiction, foreign or domestic, shall be reported immediately to the Designee.

K.   Servers must immediately notify the Designee if the Server is arrested for any crime, including criminal traffic offenses, or is given a criminal Notice to Appear.

L.   Servers on the CPSL must report any change in home or work address or telephone number to the Designee within five (5) calendar days of the change.

M.   Servers on the CPSL must comply with any request made by the Chief Judge or the Designee within five (5) calendar days of the day of the request.

N.   Servers on the CPSL shall truthfully answer all questions and inquiries from the Chief Judge or the Designee.

O.   If any server on the CPSL has his or her appointment or certification suspended or revoked in another county or judicial circuit in Florida, or in any other Federal, domestic or foreign jurisdiction, his or her Orange County certification shall also be suspended or revoked.

P.   No server on the CPSL shall serve process or sub-contract with a natural person or business entity whose authority to serve process has been suspended or revoked in Orange County, in any other county or judicial circuit in Florida, or in any other Federal, domestic or foreign jurisdiction.

Q.   Servers on the CPSL shall comply with all rules, regulations and statutes pertaining to the service and return of service of process at all times.

IX.   DISCIPLINE:

A.   Any server on the CPSL may be removed from the CPSL for good cause. Good cause shall include malfeasance, misfeasance, neglect of duty or incompetence in connection with the duties of a Certified Process Server, violation of any of the provisions of this EAO,

section 48.31, Florida Statutes, or of any applicable rules, regulations, administrative orders and statutes (to include Florida and other Federal, foreign or domestic jurisdictions) pertaining to service of process.

B.   Any person aggrieved by the actions of a GCPS may file a complaint with the Designee.

C.   The Designee shall investigate and review the complaint. After a hearing in which the Certified Process Server has an opportunity to be heard and present evidence, the Designee shall forward its findings and recommendations to the Chief Judge. The Designee can request the Chief Judge issue subpoenas to compel the attendance of witnesses. The sanctions may include admonishment or suspension or revocation of certification.

E.   A complaint shall remain on the GCPS's file for a period of five (5) years. The GCPS's file shall be a public record.

F.   The standard of proof in disciplinary proceedings shall be preponderance of the evidence.

G.   Nothing herein shall limit the power of the Chief Judge or any other Judge in Florida or in any other Federal, foreign or domestic jurisdiction to take whatever action he or she deems appropriate without the necessity of referral to the Designee.

H.   The decision of the Chief Judge is final.

X.   NO WAIVER OF IMMUNITY:

No provision of this EAO is intended to waive, in whole or in part, judicial, sovereign, or other immunity held by the Courts of this Circuit as either a body or as an individual.

XI.   NO AGENCY RELATIONSHIP ESTABLISHED:

A.   Servers on the CPSL are not employees, agents, officers or representatives of the Ninth Judicial Circuit, its Judges or employees, the Orange County Clerk of the Court, the State

of Florida, Orange County or any municipality and any if its divisions, agencies or departments. Said servers are independent contractors hired by third parties to serve process within Orange County, Florida.

B.   Servers on the CPSL are not under the supervision, direction or control of the Ninth Judicial Circuit, its Judges or employees, the Orange County Clerk of the Court, the State of Florida, Orange County or any municipality and any if its divisions, agencies or departments. Said servers are independent contractors hired by third parties to serve process within Orange County, Florida.

XII.   MISCELLANEOUS:

A.   The Chief Judge may amend or expand the provisions or coverage of this EAO at any time and without notice.

B.   The Chief Judge may issue other or further administrative orders as he or she, in his or her discretion, may deem necessary.

C.   The Designee, subject to approval by the Chief Judge, may adopt rules and regulations to implement and carry out the provisions of the Act, this EAO or any part thereof, or any subsequent administrative order relating to the certification of process servers in the Ninth Judicial Circuit or in Orange County, Florida.

XIII.   APPLICABILITY:

A.   This EAO shall not apply to the Sheriffs of Orange or Osceola Counties or any of their divisions or departments.

B.   This EAO shall only apply to those natural persons seeking to serve process in Orange County, Florida, as GCPS.

C.   This EAO does not apply to those natural persons appointed by the Sheriff of Orange County as Special Process Servers under the provisions of section 48.021, Florida

Statutes, and whose appointments do not lapse on September 30, 2014.

D.   This EAO shall not apply to the Osceola County Clerk of the Court.

E.   Unless amended or superseded earlier by another administrative order or by

statute, this EAO shall lapse and no longer be enforceable or effective as of December 31, 2014.

DONE AND ORDERED at Orlando, Florida, this 29th day of September, 2014.

_____/s/_____
Frederick J. Lauten
Chief Judge

Copies provided to:

Clerk of Courts, Orange County
Clerk of Courts, Osceola County
General E-Mail Distribution List
http://www.ninthcircuit.org

GRANDFATHERED SPECIAL PROCESS SERVER APPLICATION

DATE: _____

LAST NAME: _____ FIRST NAME: _____MI: _____

HOME ADDRESS: _____

STATE: _____ ZIP CODE: _____ HOME PHONE: _____

SS#: _____ WEIGHT: _____ COLOR EYES: _____ HAIR COLOR: _____

BUSINESS NAME: _____

BUSINESS ADDRESS: _____

STATE: _____ ZIP CODE: _____ SUPERVISOR: _____

BUSINESS PHONE: _____ CELL #: _____

HAVE YOU EVER BEEN ARRESTED? _____ IF YES, CHARGE AND DATE: _____

_____
Attach statement with details and disposition of arrest(s)

LIST ALL COUNTIES IN WHICH YOU ARE CERTIFIED OR SPECIALLY APPOINTED
TO SERVE PROCESS AND THE DATE YOUR CERTIFICATION OR APPOINTMENT
EXPIRES:

_____

_____

Under the provisions of section 92.525, Florida Statutes, **under penalties of perjury**, I declare
that I have read the foregoing document and that the facts stated in it are true. I further
understand that any misinformation supplied herein shall result in an immediate forfeiture of any
opportunity to become or remain a Certified Process Server in Orange County, Florida.

_____ _____
Signature   Date

DO NOT WRITE BELOW THIS LINE – FOR OFFICE USE ONLY

ID#: _____ ISSUED: _____ RENEWAL DATE: _____

LAST TRAINING: _____

Exhibit "B"

PROCESS SERVER'S BOND

Bond No._____

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, as Principal, and _____, a corporation duly licensed for the purpose of making, guaranteeing or becoming a sole surety upon bonds, or undertakings, required by the laws of the State of Florida, as Surety, are held and firmly bound unto the State of Florida, Ninth Judicial Circuit, in the sum of $5,000, lawful money of the United States of America, for the payment whereof well and truly to be made, we bind ourselves, our heirs, executors, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH, THAT

WHEREAS, if the above bounded Principal shall well, truly and faithfully comply with the provisions of statutes in the State of Florida, then this obligation shall be null and void, otherwise to remain in full force and effect.

The Surety hereunder may relieve itself from liability to the extent and in the manner set forth in the provisions of the statutes governing the termination by the surety of liability under the bond provided; however, that in no event shall it be relieved from liability as respects transactions occurring before the date of termination.

If the Surety shall so elect this bond may be canceled by giving 30 days written notice to Obligee.

This bond shall be in effect from _____and expires on _____.

Signed and sealed this _____day of _____, _____.

_____   _____
Principal (print or type name)   Name of Surety

By:_____   _____
         Signature of Principal   Attorney in Fact

                                              _____
                                              Address of Surety

                                              _____