

Twentieth Judicial Circuit Certified Civil Process Server Review Board

MINUTES OF MEETING

March 25, 2008

9:00 a.m.

2072 Victoria Ave., Ft. Myers, FL 33901

In attendance:

Board Members: Lt. Kent Caldwell, Chair  
Ernie Averill, Vice-Chair  
Jennifer Scott, Board Member  
Andrew Paul Kelly, Board Member

Others: Suzanne Ederr, representative of the Chief Judge and Court Admin  
Jim Johnson, process server  
Tim Hahne, process server  
Sgt. Richard Barnes, Lee Co. Sheriff's Dept.  
Brian Johns, process server  
Janet Lowdermilk, process server

Board Members absent: Robert Tardif, Board Member

1. Quorum present.
2. Minutes of February 28, 2008 meeting were reviewed. A motion was made to accept minutes and motion was seconded. A vote was taken and the motion passed unanimously.
3. Suzanne Ederr reported that Lynette Young has accepted the appointment to replace Paul Kelly on the Board.
4. Lt. Caldwell reported that John Lambley of the Collier Co. School District would like to offer a Nonenforceable Process Server Course. The instructor would be Virginia Ortino. It was discussed that it would perhaps be desirable to have alternative training courses. Mr. Averill agreed to take the packet provided by Mr. Lambley and review it.
5. Lt Caldwell reported that he received a letter of complaint from Tom Van Wort. Lt. Caldwell read the letter to those in attendance. Mr. Van Wort was complaining about a female process server who rang the doorbell at 10:40 p.m. and began asking questions as to Alan Straith, the person named in the papers. Lt. Caldwell reported that he called Mr. Van Wort and explained that there was nothing improper about someone serving process at 10:40 p.m. and that there didn't seem to be anything improper about the manner in which the process server acted. Lt. Caldwell advised Mr. Van Wort that if he wanted more information as to the name of the attorney or process server, he'd need to contact the Plaintiff, Washington Mutual. The matter having been resolved informally by Lt. Caldwell required no further action on the part of the Board.
6. Lt. Caldwell reported that he had received no response from Chad or Laura Cook with regard to the complaint filed by Court Investigations, Inc. The 15 days to respond to the letter finding probable cause had passed and the Cooks had ignored all phone calls. A motion was made to

recommend revocation of both of their certifications, with a letter to the Cooks giving them 15 days to request a hearing. The motion passed. Lt. Caldwell will send the letter.

7. Brian Johns and Janet Lowdermilk both were in attendance for their disciplinary hearing. Ms. Lowdermilk advised she found the notice for the second certified letter from the Board stuck in her front door, which she does not use. If the notice for the first letter was also left at the front door, that would explain why she never received it. Lt. Caldwell proceeded to explain to Mr. Johns and Ms. Lowdermilk how this matter involving what appeared to be false signatures and improper notarizations arose. While posting a final eviction notice, Lt. Caldwell found a 5 day notice of Brian Johns and saw that there was no ID#. Lt. Caldwell pulled the return of service and then noticed that Mr. Johns' signature on his oath did not match the signature on the return of service. Lt. Caldwell then did a random audit and noticed that a lot of signatures from the company that employees Mr. Johns looked as if the same person had signed them. Also, in notarizing signatures, Janet Lowdermilk was using only initials, rather than signing her name, which is a notary violation, plus she seemed to be notarizing returns which it appears that Mr. Johns did not actually sign. Lt. Caldwell asked Ms. Lowdermilk who's signature it was that she notarized and she responded that it was Brian's. Mr. Johns then stated that he never signs his name the same way and asserted that it was his signature. Lt. Caldwell cautioned that this matter could become criminal if it involved forged signatures or notary violations. Sgt. Barnes of the Lee County Economic Crimes Unit further advised that this was intended to be an educational process, as opposed to criminal. Lt. Caldwell advised that Ms. Lowdermilk review the notary statute. Lt. Caldwell further advised that they make sure they sign their own returns, put their ID#s on the forms, and make sure that if their forms require a notary, that they commit no notary violations. It was reiterated that the goal is to make sure that everything is done correctly. Mr. Johns and Ms. Lowdermilk both agreed that they would be sure to do it properly. Lt. Caldwell advised that this is just a warning and the Sheriff's office will not pursue anything criminally as long as it doesn't happen again. Mr. Averill stated that he was satisfied with the process and it was discussed that it would be recommended to the Chief Judge that Mr. Johns and Ms. Lowdermilk be allowed to retain their certifications. A motion was made to send a letter to the Chief Judge advising that the matter has been reviewed and resolved and recommending that no further disciplinary action be taken. The motion was seconded and passed. Lt. Caldwell will send the letter.

8. Process server Tim Hahne raised the issue of it being unclear as to what requires a notary signature and what does not, i.e. return of service vs. affidavit of service. Apparently different judges require different things, and Mr. Hahne's company has actually increased the number of forms on which they require notaries. Plus, out-of-state process may have different requirements. Discussion was held, but no action taken.

9. Process server Jim Johnson raised the issue of gated communities and asked if process servers could get codes for gated communities that don't have guards. Lt. Caldwell advised that he is unaware of any way to get those codes and further advised that those gated communities don't even notify the Sheriff's office when they change their codes. Discussion was held, but no action taken.

10. Meeting Adjourned at 10:01 a.m.