



NEW YORK
CITY BAR

Contact: Maria Cilenti - Director of Legislative Affairs - mcilenti@nycbar.org - (212) 382-6655

March 24, 2010

Re: New York City Council Intro 6-A – Process Servers

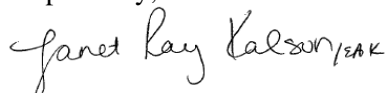
Dear Council Member:

On behalf of the Civil Court and Consumer Affairs Committees of the New York City Bar, we write to urge you to vote in support of City Council Intro 6-A, which amends the laws governing process servers. This legislation is vitally important in reforming the process serving industry, which is replete with problems that have devastating effects on New Yorkers. The victims of these cases are overwhelmingly low- and moderate- income New York debtors, many of whom are elderly or disabled and nearly all of whom are unrepresented by counsel. As a result, each year tens of thousands of New York City residents are deprived of their due process right to be heard before judgments are issued against them. The consequences are devastating as these New Yorkers are unable to support their families, secure housing, and obtain employment.

Based on our experience as practitioners in this forum, we believe the reason for the high rate of defaults is consumers' lack of notice of a lawsuit that has been commenced against them. The severity of the sewer service problem is underscored by the recent civil and criminal charges brought by the New York State Attorney General against a process service agency that allegedly failed to serve New Yorkers in tens of thousands of cases.

If passed into law, Intro 6-A would be instrumental in helping to ameliorate many of the problems inherent in the process serving industry in New York City. Requiring bonds to be posted by process server applicants and agencies will ensure the payment of fines or penalties levied by the New York City Department of Consumer Affairs ("DCA"), as well as the recovery of damages awarded to individuals who have been injured by improper service of process. The new global positioning system (GPS) provision of the bill will provide an important enhancement of the laws currently in place, including maintenance of log books. Other provisions of the bill will help improve the process service industry generally, which will only lead to better practices. These include the requirement that process servers take an examination to obtain a license; that process serving agencies be required to inform their employees of their rights pursuant to minimum wage, overtime and payroll deduction laws; that employment records be retained for three years and process serving records for seven years in electronic form; and that DCA produce educational materials for distribution to licensed process servers regarding process serving laws and regulations. All of these provisions will help ensure that consumers are no longer stripped of their due process rights by shoddy sewer service. For these reasons, we urge that the City Council pass this critical piece of legislation.

Respectfully,



Janet Ray Kalson
Chair
Civil Courts Committee



Anahide Ugurlayan
Chair
Consumer Affairs Committee