

Traverse Hearing Transcript

Case Details and Price List

TRANSCRIPT #1 (51 Pages)

Issues:

- Validity of CPLR 308(2) substituted service.
- Validity of CPLR 308(4) affix-and-mail service.
- Whether affix-and-mail ("nail and mail") service impracticable.
- Whether court order for publication (CPLR 308(5)) procured by plaintiff's fraud.
- Whether process server exercised due diligence prior to resorting to CPLR 308(5) court-ordered service by publication.
- Conflicting affidavits of service, one averring affix-and-mail service and the other stating that subject address vacant. Use of latter affidavit to procure order authorizing service by publication.
- Cross-examination of process server re:
 - (i) failure to ascertain defendant's place of employment prior to resorting to affix-and-mail service; and
 - (ii) second, conflicting affidavit of service alleging subject address vacant.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination; redirect examination)
- Voir dire examination of process server re his Affidavit of Service
- Second process server (direct examination; cross-examination; redirect examination)
- Defendant (direct examination; cross-examination)

PRICE LIST

Complete Transcript -- \$599.99

Process server -- \$499.99 (includes both process servers)

Defendant -- \$199.99

Traverse Hearing Transcript

Case Details and Price List

TRANSCRIPT #2 (48 Pages)

Issues:

- Validity of CPLR 308(2) substituted service.
- Whether delivery of process to person of suitable age/discretion followed by mailing.
- Process server cross-examined on failure to check box on affidavit of service re: follow-up mailing.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination; redirect examination; recross-examination)
- Voir dire examination of process server re his Affidavit of Service
- Defendant (direct examination; cross-examination)

PRICE LIST

Complete Transcript -- \$599.99

Process server -- \$499.99

Defendant -- \$199.99

Traverse Hearing Transcript

Case Details and Price List

TRANSCRIPT #3

Issues:

- Validity of CPLR 308(2) substituted service.
- Process server's testimony re:
 - (i) log book and field sheet as business records;
 - (ii) NYC Dept. of Consumer Affairs recordkeeping requirements for process servers;
 - (iii) GPS photos as part of process server's proof.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination)
- Defendant (direct examination; cross-examination)

PRICE LIST

Complete Transcript -- \$599.99

Process server -- \$499.99

Defendant -- \$199.99

Traverse Hearing Transcript

Case Details and Price List

TRANSCRIPT #4 (89 Pages)

Issues:

- Validity of CPLR 308(2) substituted service.
- Process server's testimony re: log book, GPS and Independent Server Record of Service as business records required by NYC Department of Consumer Affairs for process servers.
- Process server claims he delivered process to defendant's father. Defendant testifies that his father was out of the jurisdiction at the time of alleged service and no one else in the home fit his father's physical description.
- Admissibility of father's Affidavit attesting to his absence from the jurisdiction at the time of alleged service.
- Admissibility of photocopies of pages of defendant's father's passport indicating dates of travel between defendant's home and India.
- Court's observations re demeanor and veracity of process server, defendant, as witnesses.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination)
- Defendant (direct examination; cross-examination)
- Extensive colloquy among judge and counsel re demeanor and veracity of witnesses.

PRICE LIST

Complete Transcript -- \$599.99
Process server -- \$499.99
Defendant -- \$199.99

Traverse Hearing Transcript

Case Details and Price List

TRANSCRIPT #5 (69 Pages)

Issues:

- Validity of CPLR 308(2) substituted service.
- NY General Business Law section 89-ee provision that “it shall be unlawful” for process server to fail to comply with all legal requirements for service of process.
- 22 NYCRR Section 208.29 provision requiring process server to bring license to Traverse Hearing.
- Process server cross-examined on failure to produce license at Hearing.
- Process server’s testimony re field sheet, GPS photo, and log book as business records required by NYC Dept. of Consumer Affairs to be kept by process servers.
- Defendant’s motion to strike process server’s testimony for failure to comply with General Business Law Section 89-ee and 22 NYCRR Section 208.29.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination)
- Defendant (direct examination; cross-examination; redirect examination)

PRICE LIST

Complete Transcript -- \$599.99

Process server -- \$499.99

Defendant -- \$199.99

Traverse Hearing Transcript

Case Details and Price List

TRANSCRIPT #6 (44 Pages)

Issues:

- Validity of CPLR 308(4) substituted (affix-and-mail) service.
- Process server's failure to ascertain and attempt service at defendants' place of business.
- Defendants, husband and wife, unrepresented at Traverse Hearing.
- Process server's Field Sheet silent as to follow-up mailing.
- Unrepresented defendant wife cross-examines process server regarding no attempt to ascertain defendants' place of employment prior to resorting to affix-and-mail service.
- Unrepresented defendant wife cross-examines process server re absence of postal date stamp from documents submitted as proof of follow-up mailing.
- Both defendants elected not to testify or call any witnesses.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination)
- Both defendants did not testify or call any witnesses

PRICE LIST

Complete Transcript -- \$599.99

Process server -- \$499.99

Traverse Hearing Transcript

Case Details and Price List

TRANSCRIPT #7 (126 Pages)

Issues:

- Validity of CPLR 308(2) substituted service.
- Representative of mortgage loan servicer testifies as to residence address provided by defendant to mortgage lender in loan application, mortgage, and mortgage assistance request. Defendant denies having ever resided at that address.
- Substituted service effected on Jewish person of suitable age/discretion on a Saturday.
- Legal argument/submissions re Saturday/Sabbath service.
- Defendant's adult daughter testifies that process server inquired about defendant but did not leave papers, as she told him defendant did not live there.
- Testimony and legal submissions re CPLR 308(2) service when defendant has more than one address.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination; redirect examination)
- Representative of mortgage loan servicer (direct examination; cross-examination; redirect examination)
- Defendant (direct examination; cross-examination; redirect examination)
- Defendant's daughter (direct examination; cross-examination)

PRICE LIST

Complete Transcript -- \$599.99
Process server -- \$499.99
Defendant -- \$199.99

Traverse Hearing Transcript

Case Details and Price List

TRANSCRIPT #8 (132 Pages)

Issues:

- Validity of CPLR 308(2) substituted service.
- Process server barred by doorman from entering building to personally serve defendant or to affix papers to defendant's door. Process server returns to building minutes later and doorman partially opens door, whereupon server drops papers in partially open doorway.
- Admissibility of video footage from process server's button camera.
- Admissibility of video footage from private investigator's video camera.
- Process server cross-examined on his affidavit of service, which reflected checked boxes for mailing to both defendant's "last known residence" and "actual place of business" with defendant's address for each written in.
- Defendant elects not to testify or call any witnesses; argues that plaintiff failed to make out a *prima facie* case of valid substituted service.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination)
- Voir dire examination of process server re video footage from his button camera.
- Voir dire examination of process server re postal receipts evidencing follow-up mailing.
- Private investigator (direct examination; cross-examination; redirect examination)
- Voir dire examination of private investigator re footage from his video camera

PRICE LIST

Complete Transcript -- \$599.99
Process server -- \$499.99
Private Investigator -- \$299.99

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Case Details and Price List

TRANSCRIPT #9 (197 Pages)

Issues:

- Validity of CPLR 308(4) affix-and-mail service.
- Process server deceased.
- Foundation testimony for admission of Affidavit of Service into evidence (CPLR 4531).
- Whether deceased process server's Affidavit of Service demonstrated due diligence in attempting service pursuant to CPLR 308(1) and CPLR 308(2) prior to resorting to affix-and-mail service.
- Testimony of process service manager re investigation/searches conducted to ascertain defendant's actual place of business for purposes of complying with CPLR 308(4).
- Failure of Affidavit of Service to state name and/or address of neighbor who confirmed subject address as defendant's residence and who informed server of defendant's non-military service.
- Expert witness for defendant testifies as to standard in process serving community constituting due diligence sufficient to comply with CPLR 308(4).
- Defendant and his wife, son, and daughter deny service by affix-and-mail.
- Defendant's neighbor testifies in opposition to averments in Affidavit of Service regarding due diligence attempts to serve defendant.

IN THIS TRANSCRIPT

Testimony of:

- Process service manager (direct examination; cross-examination; redirect examination)
- Defendant's wife (direct examination; cross-examination; redirect examination)
- Voir dire examination of defendant re written Hardship Relief application provided to plaintiff mortgage lender containing defendant's business address.
- Defendant's next-door neighbor (direct examination; cross-examination; redirect examination; recross-examination)
- Expert witness on due diligence in serving process in New York (direct examination; cross-examination; redirect examination; recross-examination)
- Voir dire examination of expert witness re qualification to testify as expert regarding standard of due diligence in service of process.
- Defendant's son (direct examination; cross-examination)

-Defendant's daughter (direct examination; cross-examination)

-Defendant (direct examination; cross-examination)

-Defendant's wife (recalled) (direct examination; cross-examination)

PRICE LIST

Complete Transcript -- \$599.99

Process Service Manager -- \$499.99

Expert witness for defendant re process service standards -- \$199.99

Defendant, defendant's wife, son, daughter, neighbor -- \$199.99

Traverse Hearing Transcript

Case Details and Price List

TRANSCRIPT #10 (42 Pages)

Issues:

- Validity of CPLR 308(4) affix-and-mail service.
- Process server testifies that he taped papers on defendant's door.
- Defendant denies seeing papers on his door; testifies that he found papers, without indicia of mailing, in his mailbox.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination; redirect examination)
- Defendant (direct examination; cross-examination)

PRICE LIST

Complete Transcript -- \$599.99

Process server -- \$499.99

Defendant -- \$199.99

Traverse Hearing Transcript

Case Details and Price List

TRANSCRIPT #11 (45 Pages)

Issues:

- Validity of CPLR 308(2) substituted service.
- Process served at address provided by defendant on mortgage documents.
- Defendant testifies that, prior to alleged service, he informed plaintiff mortgage lender by telephone that he had moved from that address.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination)
- Defendant (direct examination; cross-examination)

PRICE LIST

Complete Transcript -- \$599.99

Process server -- \$499.99

Defendant -- \$199.99

Traverse Hearing Transcript

Case Details and Price List

TRANSCRIPT #12 (185 Pages)

Issues:

- Validity of CPLR 308(2) substituted (deliver-and-mail) service.
- Validity of CPLR 308(4) substituted (affix-and-mail) service.
- Service at apartment building with doorman. Defendant's apartment on 29th floor.
- Process server unavailable. Admissibility of process server's affidavits of service under business records exception to hearsay rule.
- One affidavit avers 308(4) service by affixing papers to defendant's apartment door; second affidavit alleges deliver-and-mail service the next day via doorman in vestibule at defendant's building.
- Plaintiff's counsel produced two members of his law firm as fact witnesses re unavailability of process server and due diligence efforts undertaken to locate him.
- Whether production of two attorneys for plaintiff as fact witnesses violated advocate-witness rule. Whether advocate-witness prohibition applies in pretrial context of a Traverse Hearing.
- Original affidavits of service not produced at Traverse Hearing. Whether testimony of two attorneys from plaintiff's firm to authenticate photocopy of process server's affidavit barred as inadmissible hearsay. Colloquy: CPLR and case law requirements re admissibility of photocopy of affidavit of service; applicability of "best evidence" rule.
- Due diligence efforts undertaken by plaintiff's counsel to locate unavailable process server. Admissibility of evidence that process server unavailable due to criminal conviction/incarceration to impeach veracity of affidavits of service.
- Defendant testifies that he never saw any legal papers affixed to his apartment door; never received any papers from the building doorman. Point-by-point denial of averments in affidavits of service.
- Preclusion of defendant's witnesses. Two doormen from defendant's building appeared, intending to testify that they rejected papers, advising process server that management policy prohibited them from accepting service on defendant's behalf. Both doormen precluded from testifying due to defendant's failure to exchange their names per court's pre-hearing directive.
- Colloquy: Whether defendant waived defective service of process by serving Notice of Appearance without objecting to service (CPLR 320).

IN THIS TRANSCRIPT:

Testimony of:

- Plaintiff's counsel (direct examination; cross-examination; redirect exam; recross exam)
 - Plaintiff's co-counsel (direct examination; cross-examination)
- Voir dire examination of plaintiff's counsel re authenticity of copy of affidavit of service.
- Voir dire examination of plaintiff's co-counsel re authenticity of copy of affidavit of service
- Defendant (direct examination; cross-examination; redirect examination).

PRICE LIST

Complete Transcript -- \$599.99

Plaintiff's counsel and co-counsel -- \$499.99

Defendant -- \$199.99

Traverse Hearing Transcript

Case Details and Price

TRANSCRIPT #13 (317 Pages)

Issues:

- Validity of CPLR 308(1) personal service via in-hand delivery to defendant.
- Process server testified that she delivered Summons at Queens, New York, address to man who saw defendant's name on Summons and acknowledged that he was the named defendant.
- Process server's testimony regarding operation of GPS tracker in documenting date, time and location of service.
- Extensive legal argument on foundation required for admissibility, as business record, of photograph imprinted with date, time and coordinates generated by GPS tracker.
- Defendant testified that he was in Bronx, New York, at the time he was allegedly served with process in Queens, New York.
- Defendant produced GPS timeline from his cellular phone in support of his claim that he was in Bronx, not Queens, at time of alleged service.
- Defendant denied having met process server or being at the service location at time claimed by process server. Extensive testimony by defendant and his friend that defendant neither resided nor worked at the location described by process server and that defendant merely maintained a mailbox at premises, where his friend had an office.
- Defendant's business associate testified that he was with defendant in the Bronx at the time process server claimed she personally served defendant in Queens.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination)
- Defendant's friend (direct examination; cross-examination; redirect examination; recross examination)
- Defendant (direct examination; cross-examination; redirect examination; recross examination)
- Defendant's business associate (direct examination; cross-examination; redirect examination)

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Traverse Hearing Transcript

Case Details and Price

TRANSCRIPT #14 (54 Pages)

Issues:

- Validity of CPLR 308(2) substituted (deliver-and-mail) service.
- Process server testified, using his Affidavit of Service to refresh his recollection, that he served defendant at his place of employment by leaving the papers with a female who gave her first name and said she was the manager, followed by mailing. Affidavit of Service contained a detailed physical description of the female.
- Defendant's Affidavit in Support of his motion to dismiss for lack of personal jurisdiction averred that he neither received nor was informed about the papers. Defendant's motion papers averred that there was no one at his place of employment having the name or fitting the description of the female who was allegedly served.
- Defendant was out of the jurisdiction and did not appear at the Traverse hearing.
- Manager from defendant's place of employment, called on behalf of defendant, denied receiving the papers or knowing anyone by the name contained in the Affidavit of Service.
- Manager cross-examined on similarity of her physical features to those of the person described in Affidavit of Service as having been served.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination)
- Manager from defendant's place of employment (direct examination; cross-examination)

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Traverse Hearing Transcript

Case Details and Price

TRANSCRIPT #15 (63 Pages)

Issues:

- Validity of CPLR 308(2) substituted (deliver-and-mail) service.
- Retired process server testified based solely on his Affidavit of Service and recollection of his pre-retirement business practices.
- Legal argument regarding admissibility of Affidavit of Service as past recollection recorded where process server is available and testifying at Traverse hearing.
- Cross-examination of process server on alleged history of “sewer service” and being past target of N.Y Attorney General investigation alleging he filed fraudulent Affidavits of Service in previous cases.
- Process server testified that he served female who identified herself by name and confirmed that defendant resided at the service address; followed up with mailing to defendant at same address.
- Defendant testified that no one fitting name or physical description provided by process server was ever a co-tenant or roommate at the service address.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination)
- Defendant (direct examination; cross-examination)

PRICE

Complete Transcript -- \$599.99

Traverse Hearing Transcript

Case Details and Price

TRANSCRIPT #16 (241 Pages)

Issues:

- Validity of CPLR 313 out-of-state service on defendant husband and wife in Oklahoma via CPLR 308(2) deliver-and-mail and CPLR 308(4) affix-and-mail.
- New York Supreme Court action against Oklahoma residents to foreclose mortgage on their New York real property.
- Whether Affidavit of Service of Oklahoma process server admissible pursuant to CPLR 4531 at Traverse Hearing in lieu of testimony without a showing of unsuccessful due diligence effort to secure his appearance to testify.
- Supervisor of process service agency testified as to skip tracing, Social Security Number verifier, and other methods utilized to locate defendants.
- Plaintiff rested on first day of Hearing after testimony of process service supervisor without any testimony or other evidence of due diligence effort to secure appearance of out-of-state process server.
- Legal argument as to whether plaintiff should be permitted on second day of Hearing, held after 40-day adjournment, to reopen case to adduce testimony of due diligence efforts made between first and second day of Hearing to secure appearance of out-of-state process server.
- Cross-examination of process service supervisor re due diligence efforts to secure appearance of out-of-state process server to testify, including, *inter alia*, adequacy of skip trace search.
- Cross-examination of process service supervisor re Amended Affidavit of Service containing additional information that person served confirmed (i) service address was defendants' residence and (ii) neither defendant was in military service.
- Cross-examination of process service supervisor re post office response to Change of Address and Box Holder Information Request.
- Admissibility of Affidavit from defendant wife's father, who was allegedly served in Oklahoma on behalf of defendants pursuant to CPLR 308(2) via deliver-and-mail, that he was unable to testify at Traverse Hearing due to illness and averring that he was never handed any legal papers as claimed by Oklahoma process server.
- Defendant wife's father testified via skype, after 40-day adjournment, that service address was his home and that neither defendant ever resided there. Further, contrary to the claim of in-hand delivery contained in the Oklahoma server's Affidavit of Service, he never met the server and the papers were found on his doorstep.
- Defendant wife testified that the service address was never her home.

IN THIS TRANSCRIPT

Testimony of:

- Process service supervisor (direct examination; cross-examination; redirect exam;

recross exam)

- Voir dire examination of process service supervisor re Affidavit of Non-Service initially received from Oklahoma process server.
- Voir dire examination of process service supervisor re due diligence email communications with Oklahoma process server during 40-day adjournment between first and second day of Traverse Hearing.
- Defendant wife's father (direct examination; cross-examination; redirect examination)
- Defendant wife (direct examination; cross-examination; redirect examination)

PRICE

Complete Transcript -- \$599.99

Traverse Hearing Transcript

Case Details and Price

TRANSCRIPT #17 (111 Pages)

Issues:

- Validity of CPLR 308(2) substituted service via deliver-and-mail.
- Methodical laying of foundation by plaintiff's counsel for admitting twelve exhibits into evidence.
- Process server testified, based on Affidavit of Service, that he served defendant by deliver-and-mail at Amboy Street address. He previously attempted service at Saratoga Avenue address but was told by a tenant that defendant did not reside there.
- Defendant testified that he never resided at Amboy Street address and always resided at Saratoga Avenue address.
- Defendant, in support of his claim of lack of personal jurisdiction, introduced into evidence income tax returns, correspondence from tax authorities, bank statements, and other documentary evidence.
- Defendant testified that his brother, who had the same surname, resided at the Amboy Street address at the time of alleged service.
- Defendant introduced into evidence pleadings and Affidavit of Service from a previous case in the same court in which he was a named defendant, was served at the Saratoga Avenue address, and did not contest service of process in that case.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination; redirect examination)
- Defendant (direct examination; cross-examination)

PRICE

Complete Transcript -- \$599.99

Traverse Hearing Transcript

Case Details and Price

TRANSCRIPT #18 (50 Pages)

Issues:

- Validity of CPLR 308(1) service on defendant husband via in-hand delivery.
- Validity of CPLR 308(2) substituted service on defendant wife via delivery to husband and follow-up mailing to wife.
- Process server testified that he served defendants, husband and wife, at their Suffolk County residence.
- Process server, based in Suffolk County, testified that he was not required to be licensed to serve process in Suffolk County and that he maintained no logbook, GPS tracking records or photographs.
- Process server testified that defendant husband, whom he pointed out at the Traverse hearing, came to the door and confirmed the address but refused to acknowledge his identity or to accept the papers. Server testified that he walked across the street toward the neighbor's house to inquire about defendants' military status, whereupon defendant husband caught up with him and took two sets of the papers from him.
- Process Server followed up with a mailing to both defendants. Server erroneously addressed follow-up mail to Avenue instead of Drive; error reflected in his Affidavit of Service.
- Server cross-examined on discrepancy between his testimony and his Affidavit of Service regarding street number of defendants' residence.
- Defendant husband denied ever having met the process server prior to seeing him at the Traverse hearing.
- Defendant wife testified that she had no knowledge of process server's visit to the residence. Defendant wife admitted on cross-examination, as testified to by the process server, that at the time of alleged service there was a black Mercedes-Benz automobile with vanity plates and a white dog in the driveway.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination; redirect examination)
- Defendant husband (direct examination; cross-examination)
- Defendant wife (direct examination; cross-examination)

PRICE

Complete Transcript -- \$599.99

Traverse Hearing Transcript

Case Details and Price

TRANSCRIPT #19 (48 Pages)

Issues:

- Validity of CPLR 308(2) substituted service via delivery to building concierge and follow-up mailing to defendant.
- Process server had no independent recollection of service and relied upon his Affidavit of Service and his custom and practice.
- Process server testified, based on Affidavit of Service, that he left papers with concierge of defendant's building.
- Affidavit of Service did not state that concierge denied process server access to defendant's apartment.
- Process server testified regarding his policy and procedure for serving a defendant who resides in a doorman or concierge building.
- Process server testified that it was his practice not to deliver papers to a concierge without first seeking permission to go up to a defendant's apartment.
- Process Server testified that if, as was the case here, his Affidavit of Service stated that he left the papers with the concierge, he was either denied access to go to defendant's apartment or defendant authorized the doorman/concierge by phone to accept the papers. Since his Affidavit of Service stated that he left the papers with the concierge, he was denied access to defendant's apartment.
- Plaintiff subpoenaed defendant to testify regarding role of concierge in controlling access to his apartment; however, defendant did not appear or present any evidence.
- Building manager, subpoenaed by plaintiff, testified that building policy prohibited visitors from passing the lobby unless the concierge called the unit owner/resident and got permission to allow access to the apartment.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination)
- Building manager subpoenaed by plaintiff (direct examination; cross-examination)

PRICE

Complete Transcript -- \$599.99

Traverse Hearing Transcript

Case Details and Price

TRANSCRIPT #20 (61 Pages)

Issues:

- Validity of CPLR 308(2) substituted service on defendant by in-hand delivery to his wife and follow-up mailing to him.
- Process Server testified, based solely on Affidavit of Service, that he delivered papers to defendant's wife.
- Process server did not produce his license in effect at the time of service or his notes, field sheet or logbook.
- Legal argument re seemingly conflicting statutory requirements for recordkeeping and retention period.
- Plaintiff argued that statute required process server's field sheet, log book and notes to be retained for three years, whereas service in question occurred some nine years prior to Traverse hearing.
- Defendant argued that General Obligations Law requires process server, without qualification or limitation as to time, to produce records at Traverse hearing.
Defendant's counsel argued that failure to produce records impaired his ability to effectively cross-examine process server.
- Cross-examination of process server on statutory obligation to maintain/retain records.
- Defendant denied knowledge of service and testified to discrepancies between his wife's physical characteristics and those described in the Affidavit of Service as the person to whom papers were delivered.
- Defendant's wife testified that she never met the process server prior to seeing him at the Traverse hearing.

IN THIS TRANSCRIPT

Testimony of:

- Process server (direct examination; cross-examination)
- Defendant (direct examination; cross-examination; redirect examination; recross exam)
- Defendant's wife (direct examination; cross-examination; redirect examination)

PRICE

Complete Transcript -- \$599.99

Traverse Hearing Transcript

Case Details and Price

TRANSCRIPT #21 (42 Pages)

Issues:

- Validity of CPLR 308(1) service by in-hand delivery to defendant wife.
- Validity of CPLR 308(2) substituted service on defendant husband by delivery to his wife followed by mailing to defendant husband.
- Process Server failed to comply with subpoena to appear for Traverse hearing (see also, Transcript #16).
- Plaintiff made application, pursuant to CPLR 4531 and over defendant's objection, to introduce process server's Affidavit of Service into evidence as *prima facie* proof of proper service of Summons.
- Plaintiff's further application, also pursuant to CPLR 4531 and over defendant's objection, to introduce Affidavit of Service of subpoena on process server to appear for Traverse hearing as proof of due diligence effort to secure process server's appearance.
- Plaintiff rests without calling any witnesses.
- Defendant wife testified that she never met a process server and was never served with legal papers.
- Defendant husband testified that he was never served and never received any legal papers from his wife.

IN THIS TRANSCRIPT

Testimony of:

- Defendant wife (direct examination; cross-examination; redirect examination; recross exam)
- Defendant husband (direct examination; cross-examination; redirect examination)

PRICE

Complete Transcript -- \$599.99

Traverse Hearing Transcript

Case Details and Price

TRANSCRIPT #22 (291 Pages)

Issues:

- Validity of CPLR 308(1) service by in-hand delivery to defendant wife at marital home.
- Validity of CPLR 308(2) substituted service on defendant husband by delivery to his wife followed by mailing to defendant husband.
- Validity of CPLR 308(1) service by in-hand delivery to defendant husband at marital home.
- First of three process server witnesses testified regarding skip trace procedure and field sheets.
- First process server testified that she announced her purpose when defendant wife came to the door, whereupon defendant wife denied that she was the defendant named on the Summons and became belligerent. Server placed papers through partially open door just before defendant wife slammed it shut.
- Second process server testified that defendant husband was handed the Summons after denying that he was the defendant named on the Summons but acknowledged having the same name.
- Cross-examination of second process server regarding defendant husband's physical characteristics contained in Affidavit of Service.
- Third process server testified that he served defendant husband by in-hand delivery after defendant husband denied being the person named on the Summons.
- Defendant husband failed to appear; produced an alibi witness who testified that defendant husband was with him at a pizzeria discussing business at the time defendant husband was allegedly handed the papers by the second process server.
- Defendant wife, estranged from defendant husband, testified that she was at a charity event 45 minutes' drive away at the time of alleged in-hand delivery of process to her at her home. Defendant wife introduced photographs of herself at the event which she claimed substantiated her testimony.
- Cross-examination of defendant wife on discrepancies between averments in her Affidavit in Support of motion challenging personal jurisdiction and her testimony at the Traverse Hearing.

IN THIS TRANSCRIPT

Testimony of:

- First process server (direct examination; cross-examination; redirect examination; recross exam; further direct examination; further cross-examination)
- Second process server (direct examination; cross-examination; redirect examination; recross exam)

-Third process server (direct examination; cross-examination)

-Defendant husband's alibi witness (direct examination; cross-examination)

-Defendant wife (direct examination; cross-examination; redirect examination)

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