

JUDGE COTE

14 CV 1266

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

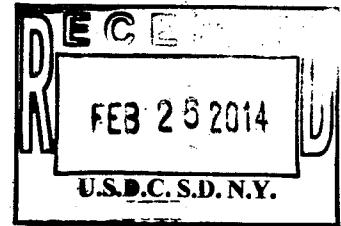
Civil Action No.

COMPLAINT

New York State Professional Process Servers Association, Inc.
on behalf of itself and aggrieved members, and Howard D.
Clarke, and Stephen J. Boyko, Inc. d/b/a Consolidated Claims
Service, Individually, and as Representatives for all similarly
situated Process Server Individuals and Process Serving
Agencies as defined by the New York City Administrative Code,
Title 20, Chapter 2, Section 20-404,

Plaintiffs,

Against



City of New York, and Michael T. Bloomberg, Bill deBlasio,
Jonathan E. Mintz, Alba Pico, Marla Tepper, Esq., Sanford
Cohen, Esq., Nancy J. Schindler, Esq., Bruce Dennis, Esq., James
M. Plotkin, Esq., Nicholas J. Minella, Esq., Alvin Liu, Esq.,
Shannon Bermingham, Jordan Cohen, Esq., Philip Kimball, Esq.,
Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred
R. Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico,
Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera,
G. Pikulina, P. Kumar, Michele Mirro, Esq., Mitchell B. Nisonoff,
Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty,
Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq.,
Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott
Paul, Esq., Shanet Viruet, Esq., and Judith Gould, Esq., all
Individually and in their capacities as officials and employees
of the City of New York,

Defendants.

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CITY OF N.Y. LAW DEPT.
OFFICE OF CORP. COUNSEL
COMMUNICATIONS UNIT

Plaintiffs, by their attorney, TRACY J. HARKINS, ESQ. as and for their Complaint
against Defendants hereby alleges as follows:

JURISDICTION

1. This Court has jurisdiction over the controversies in this action under 28 U.S.C.
1331, 42 U.S.C. 1983, 18 U.S.C. 1964(c), and 15 U.S.C. 15. Venue is based on Defendants'
principal place of business.

PARTIES

2. At all times hereafter mentioned, Plaintiff New York State Professional Process Servers' Association, Inc. is an association duly organized and existing under the laws of the State of New York, and includes members engaged in the business of process serving individuals and process serving agencies in the City of New York.

3. At all times hereafter mentioned, Plaintiffs and putative class members under F.R.C.P. 23(1), (2), and (3) were individuals and business entities, or representatives thereof, engaged in the business of process servers and/or process serving agencies in the City of New York.

4. Defendant City of New York is a municipal corporation duly organized and operating pursuant to the Laws of the State of New York and the New York City Charter.

5. At all times hereafter mentioned, Defendant Michael Bloomberg was the Mayor and Chief Executive Officer of the City of New York, and Defendant Bill deBlasio was the successor Mayor, charged with the duty to establish and maintain such policies and procedures as necessary for the effectiveness and integrity of the City government operations, including the implementation of effective systems of internal control by City agencies and units under the jurisdiction of the Mayor pursuant to the New York City Charter.

6. At all times hereafter mentioned, Defendant Jonathan Mintz was an individual and the Commissioner of the New York City Department of Consumer Affairs, and Defendant Alba Pico was the First Deputy Commissioner, and acting-Commissioner, with duties and powers governed by the New York City Charter, Chapter 64; the New York City Administrative Code, Title 20; and, the Rules of the City of New York, Title 6.

7. At all times hereafter mentioned, Defendant Nancy Schindler, Esq. was an individual and the Deputy Commissioner for the NYC Department of Consumer Affairs.
8. At all times hereafter mentioned, Defendant Bruce Dennis, Esq. was the Deputy Director of Adjudication for the New York City Department of Consumer Affairs.
9. At all times hereafter mentioned, Defendant James Plotkin, Esq. was the Deputy Director of Adjudication of the New York City Department of Consumer Affairs.
10. At all times hereafter mentioned, Defendants Marla Tepper, Esq., Sanford Cohen, Esq., Alvin Liu, Esq., Nicholas J. Minella, Esq., Shannon Bermingham, Jordan Cohen, Esq., Philip Kimball, Esq., Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera, G. Pikulina, P. Kumar, were Individuals and employees of the NYC Department of Consumer Affairs.
11. At all times hereafter mentioned, Defendants Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., Nancy Tumelty, Esq., and Judith Gould, Esq., were individuals and Administrative Law Judges employed by the City of New York, assigned to preside over adjudication proceedings commenced by the New York City Department of Consumer Affairs against Plaintiffs.

FACTUAL BACKGROUND

11. At all times hereafter mentioned, the rights and obligations of Plaintiffs and Defendants were subject to the laws of the United States of America, the State of New York, and the City of New York.

12. At all times hereafter mentioned and continuing to the present time, the New York City Administrative Code, Title 20, Chapter 2, Subchapter 23, and Title 6 of the Rules of the City of New York, Chapter 2, Subchapter W (hereafter the “New York City Codes and Rules Regulating Process Servers”) regulated the business of process server individuals and process serving agencies serving process in the City of New York.

13. At all times hereafter mentioned, the individual Defendants Jonathan Mintz, Alba Pico, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Marla Tepper, Esq., Sanford Cohen, Esq., Nicholas J. Minella, Esq., Alvin Liu, Esq., Shannon Bermingham, Esq., Jordan Cohen, Esq., Philip Kimball, Esq., Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera, G. Pikulina, P. Kumar were officials and employees of the City of New York, with “cognizance and control” over New York City licensed businesses, and were delegated final authority to promulgate policy, rules, and practice to implement New York City business licensing regulations, and manage and operate the day to day operations of the New York City Department of Consumer Affairs, whose powers and jurisdiction is governed by the New York City Charter and the New York City Administrative Code.

14. At all times hereafter mentioned, the individual Defendants Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan

Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., and Judith Gould, Esq. were individuals employed by the City of New York as administrative law judges pursuant to and subject to the provisions of the New York City Charter.

15. Upon information and belief, commencing on or about February 27, 2005, and continuing to the present, on at least two, and on up to 200 occasions, Defendants Jonathan Mintz, Alba Pico, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Marla Tepper, Esq., Sanford Cohen, Esq., Alvin Liu, Esq., Nicholas J. Minella, Esq., Shannon Bermingham, Jordan Cohen, Philip Kimball, Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera, G. Pikulina, and P. Kumar, knowingly and intentionally issued and delivered, or caused to be issued and delivered, Subpoenas directed to Plaintiffs.

16. Defendants' Subpoenas contained express directives prohibiting Plaintiffs from disclosing the existence of the Subpoenas with anyone.

17. Defendants' directives prohibiting Plaintiffs from disclosing the existence of the Subpoenas with anyone contained false statements or fraudulent representations that Defendants were empowered with the authority to prohibit Plaintiffs from disclosing the existence of the Subpoenas with anyone.

18. The individual Defendants caused the Subpoenas to be deposited and delivered through the United States Postal Service and/or private or commercial interstate carrier, and/or by wire in interstate commerce to Plaintiffs.

19. Commencing on or about February 27, 2005, and continuing to the present, on at least two, and on as many as 300 occasions, Defendants Jonathan Mintz, Alba Pico, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Marla Tepper, Esq., Sanford Cohen, Esq., Alvin Liu, Esq., Nicholas J. Minella, Esq., Shannon Bermingham, Jordan Cohen, Esq., Philip Kimball, Esq., Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera, G. Pikulina, and P. Kumar, knowingly and intentionally authored, or caused letters addressed to Plaintiffs to be authored, stating Plaintiffs violated the New York City Codes and Rules Regulating Process Servers.

20. Defendants' Letters contained false statements and/or fraudulent representations of Defendants' authority to enforce and adjudicate alleged violations of New York City Codes and Rules Regulating Process Servers against Plaintiffs, and to impose fines in excess of statutory maximums, and to suspend, revoke or deny renewal of Plaintiffs' license based on Defendants' adjudication of the alleged violations.

21. Defendants' actions were knowingly, intentionally, and fraudulently undertaken to avoid the delays, uncertainty, participation of counsel, adherence to due process requirements, and likely plea bargains which occur in criminal proceedings.

22. Defendants' Letters to Plaintiffs solicited Plaintiffs to avoid maximum fines and the suspension, revocation, or non-renewal of Plaintiffs' process serving license by paying a lesser fine, and signing an "Assurance of Discontinuance" agreement and/or "Consent Order" containing injunctive directives and agreements to pay future fines in excess of statutory maximums.

23. Defendants caused said Letters to be deposited and delivered through the United States Postal Service and/or private or commercial interstate carrier, and/or by wire in interstate commerce.

24. Commencing on or about February 27, 2005, and continuing to the present, on at least 300 occasions, Defendants Jonathan Mintz, Alba Pico, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Marla Tepper, Esq., Sanford Cohen, Esq., Alvin Liu, Esq., Nicholas J. Minella, Esq., Shannon Bermingham, Jordan Cohen, Esq., Philip Kimball, Esq., Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera, G. Pikulina, and P. Kumar knowingly and intentionally authored or caused to be authored "Assurance of Discontinuance" agreements and/or "Consent Orders" providing for the payment of fines and/or civil penalties in excess of statutory maximums by Plaintiffs, containing unauthorized injunctive directives against Plaintiffs, and providing for the waiver of Plaintiffs' statutory and constitutional rights.

25. The Agreements prepared by Defendants contained false statements and/or fraudulent representations of Defendants' authority to prosecute and/or adjudicate alleged violations of the New York City Codes and Rules Regulating Process Servers against Plaintiffs, and to impose injunctive directives upon Plaintiffs, and to collect fines from Plaintiffs in excess of statutory maximums.

26. Defendants caused said Agreements to be deposited and delivered through the United States Postal Service and/or private or commercial interstate carrier, and/or transmitted by wire in interstate commerce.

27. Commencing on or about February 27, 2005, and continuing to the present, on at least 300 occasions, Defendants Michael T. Bloomberg, Jonathan Mintz, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Marla Tepper, Esq., Sanford Cohen, Esq., Alvin Liu, Esq., Nicholas J. Minella, Esq., Shannon Bermingham, Jordan Cohen, Esq., Philip Kimball, Esq., Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera, G. Pikulina, and P. Kumar knowingly and intentionally authored, or caused to be authored, Notices of Hearing and/or Notices of Violations alleging violations of the New York City Codes and Rules Regulating Process Servers, and violations of "Consent Orders" against Plaintiffs.

28. Defendants' "Notices of Hearing" and "Notices of Violation" directed Plaintiffs to appear before the New York City Department of Consumer Affairs Adjudication Tribunal to answer "charges" and show cause why Plaintiffs' licenses should not be suspended or revoked, and why monetary penalties should not be imposed upon Plaintiffs, and why Plaintiffs should not be disqualified from being granted any license issued by the New York City Department of Consumer Affairs, on the grounds of alleged violations of the New York City Codes and Rules regulating Process Servers, and/or violations of "Consent Orders.

29. Defendants' "Notices of Hearing" and "Notices of Violation" contained false statements and/or fraudulent representations of Defendants' authority to enforce and/or adjudicate alleged violations of the New York City Codes and Rules Regulating Process Servers, and violations of "Consent Orders" against Plaintiffs, and to impose monetary penalties on the basis of such adjudications, and to disqualify Plaintiffs from being granted

any license issued by the Department of Consumer Affairs on the grounds of alleged violations of the New York City Codes and Rules regulating Process Servers.

30. Defendants caused the “Notices of Hearing” and “Notices of Violation” to be deposited and delivered to Plaintiffs through the United States Post Office and/or private or commercial interstate carrier, and/or by wire in interstate commerce.

31. Commencing on or about February 27, 2005, and continuing to the present, on at least 300 occasions, Defendants Marla Tepper, Esq., Sanford Cohen, Esq., Alvin Liu, Esq., Nicholas J. Minella, Esq., Shannon Bermingham, Jordan Cohen, Esq., Philip Kimball, Esq., Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera, G. Pikulina, and P. Kumar served as the contacts for inquiries from Plaintiffs regarding the Subpoenas, Letters, Notices of Hearing and/or Violation, Agreements, payment of fines, and surrender of licenses.

32. Commencing in February 27, 2005, and continuing to the present time, on at least 50 occasions Defendants Michael T. Bloomberg, Jonathan Mintz, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Marla Tepper, Esq., Sanford Cohen, Esq., Alvin Liu, Esq., Nicholas J. Minella, Esq., Shannon Bermingham, Jordan Cohen, Philip Kimball, Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera, G. Pikulina, P. Kumar, Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., and Judith Gould, Esq., knowingly and intentionally caused adjudication

hearings to be conducted by the New York City Department of Consumer Affairs Adjudication Division, to determine the legal rights, duties or privileges of Plaintiffs, by an agency, on a record, after an opportunity for a hearing, on Defendants' prosecution of alleged violations against Plaintiffs' of the New York City Codes and Rules Regulating Process Servers, and violations of "Consent Orders".

33. At all times hereafter mentioned, Defendants Michael T. Bloomberg, Jonathan Mintz, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Marla Tepper, Esq., Sanford Cohen, Esq., Alvin Liu, Esq., Nicholas J. Minella, Esq., Shannon Bermingham, Jordan Cohen, Philip Kimball, Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera, G. Pikulina, P. Kumar, Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., and Judith Gould, Esq. knew or should have known that the New York City Administrative Code, Title 20, Chapters 1 and 2 required alleged violations of chapter 2 or any regulation or rule promulgated under it to be adjudicated by a City of New York criminal court pursuant to the New York City Administrative Code, Chapter 1, Section 20-106, and Chapter 2, Section 20-409.1.

34. At all times hereafter mentioned, Defendants Michael T. Bloomberg, Jonathan Mintz, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Marla Tepper, Esq., Sanford Cohen, Esq., Alvin Liu, Esq., Nicholas J. Minella, Esq., Shannon Bermingham, Jordan Cohen, Philip Kimball, Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez,

Esq., Eunice Rivera, G. Pikulina, P. Kumar, Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., and Judith Gould, Esq. knew or should have known that the authority to conduct agency adjudicatory hearings was subject to the New York City Charter.

35. At all times hereafter mentioned, Defendants Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., Marla Tepper, Esq., Sanford Cohen, Esq., Nancy Schindler, Esq., Bruce Dennis, Esq., and James Plotkin, Esq. knew or should have known they did not have jurisdiction to adjudicate allegations of violations of the New York City Codes and Rules Regulating Process Servers, and violations of "Consent Orders".

36. Commencing in October, 2009, and continuing to the present, on at least 17 adjudications conducted by Defendants, Defendants Jonathan Mintz, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., Nancy Tumelty, Esq., and Judith Gould, Esq. knowingly and intentionally caused Plaintiffs to be fined for failure to appear for Department of Consumer Affairs adjudication hearings.

37. Commencing February 27, 2005 and continuing to the present time, on at least 50 occasions Defendants Michael T. Bloomberg, Bill deBlasio, Jonathan Mintz, Alba Pico, Nancy

Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Marla Tepper, Esq., Sanford Cohen, Esq., Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., and Judith Gould, Esq. knowingly and intentionally adjudicated, or caused the adjudication of Plaintiffs without jurisdiction in violation of the New York City Charter, Chapters 45 and 45-a, and the Administrative Code of the City of New York, Title 20, Chapters 1 and 2, and imposed fines in excess of statutory maximums and/or suspended or revoked Plaintiffs' process serving licenses, which adjudications were memorialized in Defendants' "Decisions and Orders".

38. Commencing February 27, 2005, and continuing to the present time, on at least 50 occasions Defendants Michael T. Bloomberg, Jonathan Mintz, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Marla Tepper, Esq., Sanford Cohen, Esq., Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., and Judith Gould, Esq., knowingly and intentionally caused written "Decisions and Orders" after hearing to be authored and delivered to Plaintiffs by U.S. Mail, interstate carrier and/or interstate wire communication.

39. Defendants' "Decisions and Orders" contained false statements and/or fraudulent representations of Defendants' authority to adjudicate alleged violations of the New York City Codes and Rules Regulating Process Servers and "Consent Orders" against Plaintiffs, and, to revoke or suspend Plaintiffs' licenses in connection with those adjudications, and to impose fines in excess of statutory maximums and injunctive directives upon Plaintiffs.

40. Upon information and belief, commencing in September, 2008 and continuing to the present time, on at least 149 occasions, Defendants Michael T. Bloomberg, Jonathan Mintz, Alba Pico, Nancy Schindler, Esq., Bruce Dennis, Esq., and James Plotkin, Esq. knowingly and intentionally caused Administrative Law Judges to be pressured by written or verbal directives to exercise jurisdiction over alleged violations of the New York City Codes and Rules Regulating Process Servers, and "Consent Orders", and to find in favor of DCA in adjudication proceedings against Plaintiffs, and to impose excessive fines, under threat of adverse action against the Administrative Law Judges including disciplinary action and disqualification from promotion, and implementation of negative performance evaluations.

41. Commencing in October, 2009 and continuing to the present, on at least 149 occasions, Defendants Jonathan Mintz, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., and Judith Gould, Esq. knowingly and intentionally adjudicated Plaintiffs in violation of the New York City Codes and Rules Regulating Process Servers on the basis of unsworn testimony or otherwise without Defendant City of New York having not met the burden of proof against Plaintiffs, in violation of the New York City Charter, Chapters 45, 45-a, and 64.

42. Commencing on September, 2008, and continuing to the present time, on at least 134 occasions Defendants Jonathan Mintz, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., and

Judith Gould, Esq. knowingly and intentionally adjudicated, or caused Plaintiffs to be adjudicated in violation of two separate violations of the New York City Codes and Rules Regulating Process Servers for the same act and/or omission, and imposed two separate fines in excess of statutory maximums on Plaintiffs for the same act and/or omission.

43. Commencing in September, 2008, and continuing to the present, on at least 40 occasions, Defendants, Jonathan Mintz, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., and Judith Gould, Esq. knowingly and intentionally caused or imposed fines 50% - 1000% higher, and suspended and/or revoked Licenses against Plaintiffs who requested hearings as compared to Plaintiffs who either defaulted or signed "Assurance of Discontinuance" agreements or "Consent Orders".

44. Defendant Administrative Law Judges and adjudication officials do not have judicial immunity for judicial or adjudication action taken with a complete lack of jurisdiction.

45. Commencing February 15, 2011, and continuing to the present, on at least 11 occasions, Defendants Jonathan Mintz, Marla Tepper, Esq., Sanford Cohen, Esq., Alvin Liu, Esq., Nicholas J. Minella, Esq., Shannon Bermingham, Jordan Cohen, Philip Kimball, Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera, G. Pikulina, P. Kumar authored, or caused to be authored, letters to Plaintiffs informing Plaintiffs that Defendants determined to deny renewal of process serving licenses, without Defendants having afforded Plaintiffs a hearing, on that grounds that

Plaintiffs “failed to demonstrate... the integrity and honesty necessary to hold a process server license in the City of New York pursuant to 20-101 of the New York City Administrative Code”.

46. Commencing in October, 2009, and continuing to the present, on at least 300 occasions, Defendants Jonathan Mintz, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Marla Tepper, Esq., Sanford Cohen, Esq., Alvin Liu, Esq., Nicholas J. Minella, Esq., Shannon Bermingham, Jordan Cohen, Philip Kimball, Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera, G. Pikulina, P. Kumar, Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., and Judith Gould, Esq. knowingly and intentionally published or caused to be published at least 300 records of “Assurance of Discontinuance” agreements, “Consent Orders”, “Notice of Hearing”, “Notice of Violation”, “Decision and Order”, and determination to deny license renewal documents issued and rendered by Defendants against Plaintiffs on Defendants’ publicly accessible website and on other publicly accessible web portals.

**PLAINTIFFS’ CLAIMS UNDER 42 U.S.C. 1983,
THE NEW YORK STATE CONSTITUTION,
THE NEW YORK CITY CHARTER, and
THE NEW YORK CITY ADMINISTRATIVE CODE**

47. At all times herein mentioned, a license to serve process in the City of New York is a property right.

48. The New York City Administrative Code, Title 20, Chapter 2, Subchapter 23, Section 20-406(c), and Rules of the City of New York, Title 6, Chapter 2, Subchapter W, Section 2-232d, applicable to Plaintiff individual process server license applicants, requires “each such applicant for a process server license or renewal thereof...to pass an examination satisfactorily; under the supervision of the commissioner, and shall test the knowledge of the applicant concerning proper service of process within the city of New York and familiarity with relevant laws and rules”.

49. Business licensees similarly situated as Plaintiff individual process servers are not required to pass an examination testing the knowledge of the applicant concerning proper conduct of their businesses within the city of New York, and “familiarity with relevant laws and rules” as a condition of licensing or license renewal.

50. The requirement that individual process servers pass an examination as a condition of licensing and renewal unfairly discriminates against individual process server licensees.

51. That any rational basis to require satisfactory completion of an examination as a condition of licensing and license renewal for Plaintiffs would likewise apply to all other business licensees in the City of New York.

52. There is no rational basis for Defendant City of New York to require satisfactory completion of an examination for individual process server Plaintiffs as a condition for licensing and renewal to demonstrate knowledge of the conduct of the licensed business within the City of New York, and familiarity with relevant laws and rules, and not have the same requirement for other New York City business licensees.

53. The regulations applicable to the Plaintiff individual process servers are discriminatory and deny the individual process server Plaintiffs equal protection under the laws in violation of the United States Constitution, and the New York State Constitution.

54. The actions of all Defendants against Plaintiffs were performed pursuant to policies and practices promulgated and implemented by Defendants as officials of the New York City Department of Consumer Affairs, or otherwise under color of law.

55. Defendants' directives prohibiting Plaintiffs from disclosing the existence of the Subpoenas authored by Defendants and delivered to Plaintiffs violated Plaintiffs' rights to free speech and right to counsel under the United States Constitution, the New York State Constitution, and the New York City Charter.

56. Defendants' Letters delivered to Plaintiffs adjudicating Plaintiffs in violation of law and demanding payment of fines under threat of suspension or revocation of licenses and imposition of unconscionable fines, violated Plaintiffs' rights to substantive due process under the United States Constitution; the New York State Constitution Article I, Section 6, and Article IX, Section 2(b); and, the New York City Charter and the New York City Administrative Code.

57. Defendants' Notices of Hearing and/or Notices of Violations charging Plaintiffs with violations of the New York City Codes and Rules Regulating Process Servers, and "Consent Orders" violated Plaintiffs' rights to substantive and procedural due process under the U.S. Constitution, the New York State Constitution, the New York City Charter, and the New York City Administrative Code, and the Rules of the City of New York.

58. Defendants' "Assurance of Discontinuance" agreements and/or "Consent Orders", imposing injunctive directives upon Plaintiffs and requiring that Plaintiffs pay excessive

finest and/or civil penalties in excess of statutory maximums, and waiving Plaintiffs' statutory and constitutional rights violated Plaintiffs' rights under the U.S. Constitution, the New York State Constitution, the New York City Charter, the New York City Administrative Code, and the Rules of the City of New York, and were otherwise lacking in legal consideration on the part of Defendants.

59. Defendants' adjudication of Plaintiffs' alleged violations of the New York City Codes and Rules Regulating Process Servers, and "Consent Orders", and imposition of excessive fines and/or suspension or revocation of process serving licenses, violated Plaintiffs' rights to due process under the U.S. Constitution, the New York State Constitution, the New York State Criminal Procedure Law, the New York City Charter, the New York City Administrative Code, and the Rules of the City of New York.

60. Defendants' directives to Administrative Law Judges to find in favor of DCA in adjudication proceedings, and to impose maximum fines against Plaintiffs, under threat of disciplinary action and disqualification from promotion, and implementation of negative performance evaluations against the Administrative Law Judges violated Plaintiffs' rights to due process under the U.S. Constitution, the New York State Constitution, the New York City Charter, the New York City Administrative Code, and the Rules of the City of New York.

61. The adjudications of Plaintiffs by Defendants Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwiko-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., Nancy Tumelty, Esq., Judith Gould, Esq., Nancy Schindler, Esq., Bruce Dennis, Esq., and James Plotkin, Esq. of alleged violations by Plaintiffs of the New York City Codes and Rules Regulating Process Servers, and "Consent

Orders” without jurisdiction violated Plaintiffs’ rights to due process under the U.S. Constitution, the New York State Constitution, the New York City Charter, the New York City Administrative Code, and the Rules of the City of New York.

62. Defendants’ enforcement and adjudications against Plaintiffs violated Plaintiffs’ rights to substantive and procedural due process under the U.S. Constitution, the New York State Constitution, the New York City Charter, the Administrative Code for the City of New York, and the Rules of the City of New York.

63. Defendants’ adjudications finding Plaintiffs in violation of the New York City Codes and Rules Regulating Process Servers based on unsworn testimony and otherwise insubstantial evidence, or proof beyond a reasonable doubt violated Plaintiffs’ rights to due process under the United States Constitution the New York State Constitution, the New York Criminal Procedure Law, the New York City Charter, the Administrative Code for the City of New York, and the Rules of the City of New York.

64. Defendants’ imposition of separate fines against Plaintiffs for failure to appear for hearing violated Plaintiffs’ rights to due process under the U.S. Constitution, the New York State Constitution, the New York City Charter, the Administrative Code for the City of New York, and the Rules of the City of New York.

65. Defendants’ imposition of fines 50% - 1000% higher, and license suspension/revocation against Plaintiffs who requested hearings with significantly higher frequency than Plaintiffs who either defaulted or signed “Consent Orders” violated Plaintiffs’ rights to equal protection of the laws under the U.S. Constitution, the New York State Constitution, the New York City Charter, the Administrative Code for the City of New York, and the Rules of the City of New York.

66. Defendants' imposition of multiple punishments upon Plaintiffs for the same act and/or omission violated Plaintiffs' right to protections from cruel and inhuman punishment under the U.S. Constitution, and the New York State Constitution, the New York City Charter, the Administrative Code of the City of New York, and the Rules of the City of New York.

67. Defendants' imposition of monetary fines and/or civil penalties against Plaintiffs in excess of the amounts permitted under the Administrative Code of the City of New York, Title 20, Chapters 1 and 2 violated Plaintiffs' rights to due process under the New York City Charter, the Administrative Code of the City of New York, the Rules of the City of New York, the New York State Constitution, and the United States Constitution.

68. Commencing April 19, 2005 and continuing to the present time, on at least 17 occasions, Defendants imposed and collected fines from Plaintiffs which were and are so disproportionate to the offenses charged so as to shock the moral sense of the community in violation of Plaintiffs' constitutional right to due process under the Eighth and Fourteenth Amendments to the United States Constitution.

69. Defendants' letters to Plaintiffs informing Plaintiffs that Defendants summarily determined to deny renewal of process serving licenses (without a hearing) on the grounds that Plaintiffs "failed to demonstrate... the integrity and honesty necessary to hold a process server license in the City of New York pursuant to 20-101 of the New York City Administrative Code" deprived Plaintiffs of property rights without due process in violation of the United States Constitution, the New York State Constitution, the New York City Charter, and the New York City Administrative Code.

70. Defendants' publication on Defendants' public website of at least 300 records of "Assurance of Discontinuance" agreements", "Consent Orders", "Notice of Hearing", "Notice of Violation", "Decision and Order", and determination not to renew license documents unlawfully issued and rendered against Plaintiffs deprived Plaintiffs' rights to due process under the Administrative Code of the City of New York, Title 6 of the Rules of the City of New York, the New York City Charter, the New York State Constitution, and the United States Constitution.

71. Defendants, acting under color of law, deprived Plaintiffs of a protected property right.

72. Defendant City of New York is liable for the acts and omissions by its officials and employees pursuant to policies and practices promulgated and implemented by Defendants in their official capacities, or otherwise under color of law.

73. Defendants have demonstrated their intention to continue their unlawful actions against Plaintiffs.

74. One or more members of Plaintiff NYSPPSA are suffering immediate or threatened injury as a result of the actions of Defendants.

75. Plaintiff NYSPPSA seeks to devote its resources to activities aimed at leadership, education, and legislation in the process serving industry.

76. As a result of Defendants' actions, the demand of certain members of Plaintiff NYSPPSA for more individualized services, such as investigation, counseling and intervention to address Defendants' actions, has increased.

77. As a result of Defendants' actions, Plaintiff NYSPPSA has had to divert greater resources to more individualized services and away from the industry reform efforts in which it engages.

78. Plaintiffs are entitled to a permanent injunction, enjoining Defendants from commencing and conducting adjudication proceedings against Plaintiffs for alleged violations of the New York City Codes and Rules Regulating Process Servers.

79. Defendants' actions caused monetary losses to Plaintiffs in the form of payment of counsel fees and fines, loss of income, loss of profits, and deprived Plaintiffs' potential for producing income or expected profit, entitling Plaintiffs to an award of compensatory damages against Defendants.

80. Plaintiffs are entitled to an award of exemplary and/or punitive damages against Defendants.

81. Plaintiffs are entitled to an award of reasonable legal fees under 42 U.S.C. 1988.

PLAINTIFFS' CLAIMS UNDER 18 U.S.C. 1964

82. Process serving is a public function.

83. Process serving is a state function.

84. At all times hereafter mentioned, Defendants policies, legislation, procedures, and practices in the regulation of process servers and process serving agencies doing business in the City of New York directly and indirectly affect the accessibility of opportunities to conduct business as a process server in New York City; the cost of doing business as a process server and process serving agency in New York, City; and, the availability and efficiency of process serving services in the City of New York.

85. The accessibility, cost, availability, efficiency, and business opportunity of process serving services in the City of New York affects interstate commerce.

86. The decision to do business in the City of New York and State of New York takes into consideration the ability to enforce business rights and comply with business obligations; the ability to enforce rights and meet obligations is related to the ease of use of the judicial system; the use of the judicial system requires the use of process serving services; the regulation of the business of process serving in the City of New York increases the cost and decreases the efficiency of performing process serving services in New York City; the increased cost and decreased efficiency of process serving services diminishes access to the judicial system; the increased cost and decreased efficiency of process serving affects the decisions of businesses domiciled in and out of New York State to engage in the business of process serving in New York City; some New York City licensed process servers and process serving agencies are domiciled outside of the State of New York; the actions of Defendants against Plaintiffs for conduct in New York City has damaged Plaintiffs' credibility in their business relationships between states; Defendants have been taking enforcement actions against Plaintiffs for process serving activities performed outside of New York State.

87. At all times hereafter mentioned, the enforcement of the New York City Codes and Rules Regulating Process Servers is an enterprise distinct from the conduct of Defendants pursuant to 18 U.S.C. 1961 et. seq.

88. At all times hereafter mentioned, the adjudication of violations of the New York City Codes and Rules Regulating Process Servers is an enterprise distinct from the conduct of Defendants pursuant to 18 U.S.C. 1961 et. seq.

89. At all times hereafter mentioned, the Adjudication Tribunal for the New York City Department of Consumer Affairs is an enterprise distinct from the conduct of Defendants pursuant to 18 U.S.C. 1961 et. seq.

90. At all times hereafter mentioned, pursuant to the New York City Charter, and the Administrative Code, Title 20, Chapters 1 and 2, Sections 20-106 and 20-409.1, Defendant officials and employees of the New York City Department of Consumer Affairs were not vested with the power or jurisdiction to enforce or adjudicate alleged violations of the New York City Codes and Rules Regulating Process Servers against Plaintiffs.

91. The individual Defendants devised, orchestrated, and carried out a scheme to defraud Plaintiffs using their positions as officials and employees of the City of New York, Department of Consumer Affairs.

92. Defendants' Subpoenas prohibiting Plaintiffs from disclosing the existence of the subpoenas to anyone were intended to intimidate, threaten, or corruptly persuade Plaintiffs, or an attempt to do so, with intent to hinder, delay, or prevent Plaintiffs' communication to a law enforcement officer or judge of the United States, of information relating to Defendants' commission or possible commission of a Federal offense in violation of 18 USC 1512, and 18 USC 1961 et. Seq.

93. Defendants' Subpoenas prohibiting Plaintiffs from disclosing the existence of the subpoenas to anyone were intended to prevent Plaintiffs from communicating any complaints against Defendants to legal counsel.

94. Defendants' Subpoenas prohibiting Plaintiffs from disclosing the existence of the subpoenas to anyone were intended to prevent Plaintiffs from communicating any complaints against Defendants to law enforcement officials in violation of 18 USC 1503.

95. Defendants' Subpoenas were delivered and/or transmitted to Plaintiffs by United States Post Office and/or private or commercial interstate carrier, and/or by wire in interstate commerce as part of a scheme for collection of unlawful debt in violation of 18 USC 1341 and 1343, and 18 USC 1961 et. seq.

96. Defendants' Letters were delivered and/or transmitted to Plaintiffs by United States Post Office and/or private or commercial interstate carrier, and/or by wire in interstate commerce as part of a scheme for collection of unlawful debt in violation of 18 USC 1341 and 1343, and 18 USC 1961 et. seq.

97. Defendants' "Assurance of Discontinuance" agreements and "Consent Orders" were delivered and/or transmitted to Plaintiffs by United States Post Office and/or private or commercial interstate carrier, and/or by wire in interstate commerce as part of a scheme for collection of unlawful debt in violation of 18 USC 1341 and 1343, and 18 USC 1961 et. seq.

98. Defendants' "Notices of Hearing" and "Notices of Violation" were delivered to Plaintiffs through the United States Post Office and/or private or commercial interstate carrier, and/or by wire in interstate commerce as part of a scheme for collection of unlawful debt in violation of 18 USC 1341 and 1343, and 18 USC 1961 et. Seq.

99. Defendants' Subpoenas, Letters, agreements, consent orders, and Notices to Plaintiffs were part of a scheme by Defendants to intimidate Plaintiffs and expressly or impliedly misrepresent Defendants' authority to enforce and adjudicate alleged violations of the New York City Codes and Rules Regulating Process Servers, and "Consent Orders" against Plaintiffs; and to misrepresent Defendants' authority to impose and collect fines in excess of statutory maximums, to impose injunctive directives, and to suspend, revoke,

and/or deny renewal of Plaintiffs' license without due process of law; and to expressly or impliedly threaten Plaintiffs with economic harm.

100. Defendants knew the statements and representations contained in the "Subpoenas", "Letters", "Notices of Hearings" and "Notices of Violations", "Assurance of Discontinuance" agreements and "Consent Orders", and "Decisions and Orders" were false and fraudulent misrepresentations at the time they were made.

101. Defendants intended to defraud Plaintiffs at the time the false statements were made, with the intention to collect unlawful debt.

102. Defendants' written or verbal directives to NYC Administrative Law Judges to find in favor of DCA in adjudication proceedings against Plaintiffs, and to impose excessive fines, under threat of adverse action against the Administrative Law Judges including disciplinary action and disqualification from promotion, and implementation of negative performance evaluations were threats and actions to create fear of economic loss, intended to intimidate, threaten, or corruptly persuade said Judges, or an attempt to do so with intent to hinder, delay, or prevent communication to a law enforcement officer or judge of the United States, of information relating to Defendants' commission or possible commission of a Federal offense in violation of 18 USC 1512, and 18 USC 1961 et. seq.

103. Defendants' written or verbal directives to NYC Administrative Law Judges to find in favor of DCA in adjudication proceedings against Plaintiffs, and to impose excessive fines, under threat of adverse action against the Administrative Law Judges including disciplinary action and disqualification from promotion, and implementation of negative performance evaluations were threats and actions to create fear of economic loss, intended to intimidate, threaten, or corruptly persuade said Judges, or an attempt to do so with intent

to hinder, delay, or prevent communication to a law enforcement officer or judge of the United States, of information relating to Defendants' commission or possible commission of a Federal offense in violation of 18 USC 1512, and 18 USC 1961 et. seq.

104. Defendants acquired and maintained an interest in the enforcement and adjudication enterprises of alleged violations of the New York City Codes and Rules Regulating Process Servers, and "Consent Orders" against process servers and process serving agencies serving process in New York City through a pattern of racketeering activity and collection of unlawful debt.

105. As a result of Defendants' acquisition of an interest in the enforcement and adjudication enterprises of alleged violations of New York City Codes and Rules Regulating Process Servers, and "Consent Orders" against of process servers and process serving agencies, Plaintiffs suffered injury in the form of payment of attorney's fees, payment of unlawful and excessive monetary fines, and loss of business income and profit.

106. Defendants Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikipo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., and Judith Gould, Esq. knowingly exercised and maintained control over the adjudication of the aforementioned alleged violations against Plaintiffs without jurisdiction in violation of the Administrative Code for the City of New York, Title 20, Chapter 1, Section 20-106, and the New York City Charter, Chapters 45 and 45-a through a pattern of racketeering activity and collection of unlawful debt.

107. Defendants' Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., and Judith Gould, Esq. written "Decisions and Orders" adjudicating the aforementioned alleged violations against Plaintiffs were delivered to Plaintiffs through the United States Post Office and/or private or commercial interstate carrier, and/or by wire in interstate commerce with the intention of collection of unlawful debt in violation of 18 USC 1341 and 1343, and 18 USC 1961 et. Seq.

108. Defendants' letters to Plaintiffs informing Plaintiffs that Defendants determined to deny renewal of process serving licenses without a hearing on that grounds that Plaintiffs "failed to demonstrate... the integrity and honesty necessary to hold a process server license in the City of New York pursuant to 20-101 of the New York City Administrative Code" contained false representations of Defendants' authority to deny license renewal under the New York City Administrative Code, Section 20-101, and were delivered to Plaintiffs through the United States Post Office and/or private or commercial interstate carrier, and/or by wire in interstate commerce as part of Defendants' scheme to intimidate Plaintiffs to prevent objection or challenge to Defendants' actions.

109. Defendants published at least 300 records of "Assurance of Discontinuance" agreements", "Consent Orders", "Notice of Hearing", "Notice of Violation", "Decision and Order", and determination not to renew license documents issued and rendered against Plaintiffs, containing false statements and/or fraudulent representations of Defendants' authority to prosecute and adjudicate alleged violations of the New York City Codes and

Rules Regulating Process Servers, and of “Consent Orders” against Plaintiffs, and, to impose unlawful injunctive directives and fines in excess of statutory provisions upon Plaintiffs, by publication of said documents on Defendants’ public website, with the intention of furtherance of Defendants’ scheme for collection of unlawful debt in violation of 18 USC 1343, and 18 USC 1961 et. seq.

110. Defendants’ publication of at least 300 records of “Assurance of Discontinuance” agreements”, “Consent Orders”, “Notice of Hearing”, “Notice of Violation”, and “Decision and Order” documents issued and rendered by Defendants against Plaintiffs was intended to display and communicate to Plaintiffs and to other licensees that Defendants could issue oppressive and overreaching subpoenas among New York City process servers and agencies; and take control of the enforcement and adjudication of alleged violations of the New York City Code and Rules regulating Process Servers by issuing “Notices of Hearing” and “Notices of Violations” charging Plaintiffs with violations of the New York City Codes and Rules Regulating Process Servers, and to display and communicate the consequences of Plaintiffs’ non-appearance at hearings, or Plaintiffs’ pursuit of a DCA hearing instead of signing settlement agreements/orders and paying the fines demanded by Defendants, with the intention of obtaining property from Plaintiffs by instilling fear of loss of business and loss of livelihood in Plaintiffs.

111. Defendants Michael T. Bloomberg, Jonathan Mintz, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Marla Tepper, Esq., Sanford Cohen, Esq., Alvin Liu, Esq., Nicholas J. Minella, Esq., Shannon Bermingham, Jordan Cohen, Philip Kimball, Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera, G.

Pikulina, P. Kumar, Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikipo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., and Judith Gould, Esq. actions were intended to collect unlawful debt from Plaintiffs by creating fear of economic harm and loss to Plaintiffs in furtherance of Defendants' scheme to in violation of 18 U.S.C. 1951 and 18 U.S.C. 1961 et. seq.

112. The individual Defendants knowingly and intentionally engaged in a scheme to defraud Plaintiffs.

113. Specifically, Defendants caused to be prepared and delivered to Plaintiffs Subpoenas ordering Plaintiffs not to disclose the existence of the subpoenas, and routinely requesting extensive records for audit among Plaintiffs and Plaintiffs' business associates; Defendants caused Letters to be prepared and delivered to Plaintiffs stating that Plaintiffs records violated New York City Codes and Rules regulating Process Servers, and demanding payment of fines of thousands of dollars and execution of "Assurance of Discontinuance" agreements and/or "Consent Orders" as a condition of license retention or renewal, which "Assurance of Discontinuance" agreements and/or "Consent Orders" contained unauthorized injunctive directives imposing more burdensome and costly conditions on Plaintiffs' conduct of their business, and requiring Plaintiffs to pay thousands of dollars in fines in excess of statutory maximums, and to agree to pay greater unlawful and excessive fines in the thousands of dollars for any future violations, and providing for Plaintiffs' waiver of rights; Defendants caused to be prepared and delivered "Notice of Hearing" and/or "Notice of Violations" containing false representations of Defendants' legal authority and jurisdiction to enforce and adjudicate New York City Code and Rules

regulating Process Servers, vague statements of the violations alleged, and de-emphasizing Plaintiffs' need for legal counsel, and, seeking punishment by imposition of maximum fines, revocation of process serving license, and disqualification from eligibility from any license to do any business licensed by NYC Department of Consumer Affairs; Defendants caused to be conducted unlawful adjudication hearings presided over by Administrative Law Judges who lacked jurisdiction, and with whom Defendants had improper ex parte communications in the nature of written and verbal pressure to rule against Plaintiffs and impose maximum fines under threat of adverse employment action; Defendants caused publication and exhibition of the "Notices of Hearing", "Decisions and Orders" after hearing and appeal, determinations not to renew licenses, and agreements and "Consent Orders" of Plaintiffs and of other NYC business Licensees on the Department of Consumer Affairs website, and then brought subsequent actions alleging violations of statute and violations of Consent Orders for the same incidents, and then sought "Consent Orders" providing for even stricter business restrictions and harsher penalties.

114. The individual Defendants abused their legal authority by imposing excessive fines and injunctive directives against Plaintiffs, and by unlawfully suspending, revoking, and/or denying renewal of Plaintiffs' licenses.

115. The individual Defendants used their positions as City officials to intimidate Plaintiffs, and to instill fear of economic harm in unsophisticated Plaintiffs, to carry out Defendants' scheme of collecting unlawful and substantial fines under threat of loss of their licenses to perform their livelihood.

116. Defendants Michael T. Bloomberg, Bill deBlasio, Jonathan Mintz, Alba Pico, Nancy Schindler, Esq., Bruce Dennis, Esq., and James Plotkin, Esq. collected and received unlawful

and excessive fines from Plaintiffs through racketeering activities, and used and invested the funds received from collection of fines to fund expansion of operations, pay raises for Defendants, and to create positions for additional employees and to cover the cost of overhead for continued enforcement and adjudication operations; to elevate the importance of the Department of Consumer Affairs as a revenue source for the City of New York; to continue to exert influence over the Administrative Law Judges to rule in favor of the Department of Consumer Affairs and impose maximum fines; to operate the New York City Department of Consumer Affairs Adjudication Tribunal, an enterprise engaged in activities which affect interstate commerce, in violation of 18 U.S.C. 1642(a), resulting in continuing economic injury to Plaintiffs in successive audits, enforcements, and adjudications, including attorney's fees, payment of unlawful and excessive fines, and loss of business income and profits.

117. Defendants Michael T. Bloomberg, Jonathan Mintz, Marla Tepper, Esq., Sanford Cohen, Esq., Alvin Liu, Esq., Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Nicholas J. Minella, Esq., Shannon Bermingham, Jordan Cohen, Philip Kimball, Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera, G. Pikulina, P. Kumar, Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., and Judith Gould, Esq. directly or indirectly acquired or maintained an interest in or control of the New York City Department of Consumer Affairs Adjudication Tribunal, and the enforcement and adjudication of alleged violations of the New York City Codes and Rules

regulating Process Servers, and “Consent Orders”, all enterprises which affect interstate commerce, by a pattern of racketeering conduct, and collecting unlawful debt.

118. Defendants Michael T. Bloomberg, Jonathan Mintz, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Marla Tepper, Esq., Sanford Cohen, Esq., Alvin Liu, Esq., Nicholas J. Minella, Esq., Shannon Bermingham, Jordan Cohen, Philip Kimball, Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera, G. Pikulina, P. Kumar, Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., and Judith Gould, Esq. conducted or participated, directly or indirectly, in the conduct of the Department of Consumer Affairs’ Adjudication Tribunal, and the enforcement and adjudication of the New York City Code and Rules regulating Process Servers through a pattern of racketeering activity or collection of unlawful debt.

119. Defendants Michael T. Bloomberg, Bill deBlasio, Jonathan Mintz, Alba Pico, Nancy Schindler, Esq., Bruce Dennis, Esq., James Plotkin, Esq., Marla Tepper, Esq., Sanford Cohen, Esq., Alvin Liu, Esq., Nicholas J. Minella, Esq., Shannon Bermingham, Jordan Cohen, Philip Kimball, Lori Barrett, Esq., Megan Roberts, Esq., Wanda Day, Esq., Fred Cantor, Esq., Allison Rene Johnson, Esq., Margarita Marsico, Esq., David Cho, K. James, Wilfredo Lopez, Esq., Eunice Rivera, G. Pikulina, P. Kumar, Michele Mirro, Esq., Mitchell B. Nisonoff, Esq., Lee Fawkes, Esq., Steven T. Kelly, Esq., Nancy Tumelty, Esq., Susan Kassapian, Esq., Maurice Nwikpo-Oppong, Esq., Eryn A. DeFontes, Esq., Richard Zeitler, Jr., Esq., David Scott Paul, Esq., Shanet Viruet, Esq., Nancy Tumelty, Esq., and Judith Gould, Esq. had knowledge of the

individual Defendants' goals to take over and control enforcement and adjudications of Plaintiffs for alleged violations of the New York City Codes and Rules Regulating Process Servers, and "Consent Orders" to exert economic pressure on Plaintiffs to sign "Assurance of Discontinuance" agreements and "Consent Orders"; to exert influence over the enforcement of violations; to exert influence over adjudications to favor the Department of Consumer Affairs, and to routinely impose excessive fines in the thousands of dollars; and, conspired by words or actions manifesting an agreement to commit at least two predicate acts which violate 18 U.S.C. 1962, subsections (b) and/or (c) to achieve Defendants' goals in furtherance of a common purpose of the individual Defendants' RICO enterprise.

120. Defendants' actions against Plaintiffs were part of a scheme by Defendants wherein Defendants, on at least 300 occasions commencing on or before February 27, 2005 and continuing to the present; exercise authority and jurisdictions over enforcement and adjudication of alleged violations of New York City Codes and Rules Regulating Process Servers; to intimidate Plaintiffs; to misrepresent Defendants' authority to enforce and adjudicate alleged violations of the New York City Codes and Rules Regulating Process Servers and "Consent Orders" against Plaintiffs; to misrepresent Defendants' authority to impose and collect unlawful and excessive fines, and impose injunctive directives; to apply pressure to Administrative Law Judges to rule against Plaintiffs and impose maximum fines, which acts amount to or pose a threat of continued criminal activity by Defendants.

121. Defendants have demonstrated their intention to continue their unlawful actions against Plaintiffs.

122. One or more members of NYSPPSA, are suffering immediate or threatened injury as a result of Defendants' actions.

123. Plaintiff NYSPPSA seeks to devote its resources to activities aimed at leadership, education, and legislation in the process serving industry.

124. As a result of Defendants' actions, the demand for more individualized services, such as investigation, counseling, and intervention has increased.

125. As a result of Defendants' actions, NYSPPSA has had to divert greater resources to more individualized services and away from the reform efforts in which it engages.

126. Plaintiff NYSPPSA has been caused to divert scarce resources away from other organization activities as a result of the actions of Defendants.

127. Plaintiffs are entitled to a permanent injunction, enjoining Defendants from commencing and conducting adjudication proceedings against Plaintiffs for alleged violations of the New York City Codes and Rules Regulating Process Servers.

128. As a result of the conduct of the individual Defendants, Defendants obtained unlawful fines and penalties from Plaintiffs, and unlawful revocation, suspension of Plaintiffs' process serving licenses; and Plaintiffs have sustained special damages, including payment of unlawful fines, payment of attorneys' fees to defend Defendants' unlawful actions and adjudication proceedings, and loss of business income and profits as a result of Defendants' adverse action against Plaintiffs' NYC process serving licenses.

**PLAINTIFFS CLAIMS FOR DEFAMATION PER SE PURSUANT
TO NEW YORK STATE LAW**

129. Defendants' "Assurance of Discontinuance" agreements and "Consent Orders" against Plaintiffs were obtained under false pretenses.

130. Defendants' "Assurance of Discontinuance" agreements and "Consent Orders" against Plaintiffs were obtained under duress.

131. Defendants' issuance of "Notice of Hearing", "Assurance of Discontinuance" agreements, "Consent Orders", and "Decision(s) and Order(s)" against Plaintiffs in violation of the New York City Codes and Rules Regulating Process Servers was in violation of the New York City Charter, and the New York City Administrative Code, Chapter 1, Section 20-106, Chapter 2, Section 20-409.1, and Rules of the City of New York, Title 6, Chapter 2, and were therefore without jurisdiction and unlawful.

132. Defendants' "Notice(s) of Hearing", "Assurance of Discontinuance" agreements, "Consent Orders", and "Decision(s) and Order(s)" contain statements by Defendants that Plaintiffs violated, admitted violating, or were adjudicated in violation of the New York City Codes and Rules Regulating Process Servers, and imparted fraud, dishonesty, misconduct, or unfitness regarding Plaintiffs' business practices.

133. Defendants' letters to Plaintiffs informing Plaintiffs that Defendants determined to deny renewal of process serving licenses contained statements by Defendants that Plaintiffs "failed to demonstrate... the integrity and honesty necessary to hold a process server license in the City of New York pursuant to 20-101 of the New York City Administrative Code", which statements were false or fraudulent, and imparted fraud, dishonesty, misconduct or unfitness regarding Plaintiffs' business practices, and Defendants' adjudication thereof.

134. Defendants' "Notice of Hearing", "Assurance of Discontinuance" agreements", "Consent Orders", "Decision and Order", and determination not to renew letter documents against Plaintiffs contain false and fraudulent statements and representations that Plaintiffs engaged in conduct classified as violations under the New York City Codes and Rules Regulating Process Servers, alleging non-compliance with rules applicable to process

servers, and violations of "Consent Orders"; that Plaintiffs were lawfully adjudicated in violation and/or lawfully admitted to such violations in settlement of the alleged violations; that fines were lawfully imposed on Plaintiffs and/or that Plaintiffs consented to such fines; that Plaintiffs' licenses were lawfully surrendered, suspended, revoked, or denied renewal by Defendants, and/or that Plaintiffs lawfully consented to such surrender, suspension, revocation, or denial of renewal of such licenses in settlement of such violations; and/or, that injunctive directives have been lawfully imposed on Plaintiffs, and/or that Plaintiffs lawfully consented to the injunctive directives of Defendants.

135. The statements contained in Defendants' "Assurance of Discontinuance" agreements", "Consent Orders", "Decision(s) and Order(s)" and determination not to renew letters against Plaintiffs contain false and/or fraudulent statements by Defendants which impart fraud, dishonesty, misconduct or unfitness by Plaintiffs in their businesses.

136. From January 1, 2009 and continuing to the date hereof, Defendants published Defendants' "Notices of Hearing", "Assurance of Discontinuance" agreements", "Consent Orders", "Decision(s) and Order(s)", and determination not to renew letter documents issued and rendered against Plaintiffs on Defendants' public website.

137. From January 1, 2003, Defendants published Defendants' "Notices of Hearing", "Assurance of Discontinuance" agreements", "Consent Orders", "Decisions and Orders", and determination not to renew letter documents issued and rendered against Plaintiffs on the New York Law School CityAdmin On Line Library website accessible by the public through Defendants' website.

138. The statements contained in Defendants' online publications of Defendants' "Notice of Hearing", "Assurance of Discontinuance" agreements", "Consent Orders", "Decision and

Order”, and determination not to renew letter documents concerning Plaintiffs are defamatory per se.

139. One or more members of NYSPPSA, are suffering immediate or threatened injury as a result of Defendants’ actions.

140. Plaintiff NYSPPSA seeks to devote its resources to activities aimed at leadership, education, and legislation in the process serving industry.

141. As a result of Defendants’ actions, the demand for more individualized services, such as investigation, counseling, and intervention has increased.

142. As a result of Defendants’ actions, NYSPPSA has had to divert greater resources to more individualized services and away from the reform efforts in which it engages.

143. Plaintiff NYSPPSA has been caused to divert scarce resources away from other organization activities as a result of the actions of Defendants.

144. Defendants are liable to Plaintiffs for compensatory damages.

**PLAINTIFFS’ CLAIM FOR ANTI-TRUST VIOLATIONS
AGAINST DEFENDANT CITY OF NEW YORK PURSUANT TO 15 U.S.C. 15**

145. Defendant City of New York offers and provides process serving services in the City of New York for the general public through its Office of the City Sheriff, Department of Finance, which services affect interstate commerce.

146. Defendant City of New York’s Codes and Rules regulating New York City Process Servers and Process Serving Agencies exempts New York City Sheriffs from the examination, licensing, record-keeping, and reporting requirements of the New York City Administrative Code and the Rules of the City of New York.

147. Defendant City of New York, acting as providers of processing services to the general public, have an impact on other individuals and business enterprises with which they interrelate as purchasers, suppliers, and as competitors.

148. Defendant City of New York in the conduct of its business providing process serving services, operates in furtherance of its own goals, and, as a municipality, that goal is likely to be the benefit of its citizens, to assure maximum benefits for the constituency, which goals are not inherently likely to comport with the broader interest of regional and national economic well-being as would those of private entities acting in furtherance of the interests of the organization and its shareholders.

149. The New York City Code and Rules regulating Process Servers requiring licensing, manual and electronic recordkeeping, and reporting by private process servers, and the City's enforcement of private process server compliance has had the effect of increasing operating costs to individual process servers and agencies, has resulted in decreased productivity of private process servers and agencies, and has resulted in the reduction of the availability of private process serving individuals and agencies licensed to serve process in New York City, which results directly impact the willingness and ability of process servers domiciled in neighboring states to become process servers in New York City, and necessarily increases the costs of New York City process service to out-of-state and in-state process servers and agencies not licensed in New York City, which costs of New York City process service affects purchasers and suppliers of New York City process service in interstate commerce.

150. Upon information and belief, Defendant City of New York directs interstate and in-state internet inquiries for New York City process serving services to the New York City Sheriff.

151. Defendant City of New York has conspired to unreasonably restrain competition in the New York City Process Serving business through regulation.

152. Defendant City of New York is attempting to monopolize the New York City Process Serving trade.

153. Defendant's anticompetitive activities are not authorized by the State of New York pursuant to a State policy to displace competition through regulation, and Defendant is therefore not immune from antitrust liability.

154. The policies and practices of Defendant City of New York have the effect of displacing competition by the regulation of private process servers and agencies, in favor of the New York City Sheriffs' Department, and of eliminating assignments for private process servers in an established service area, which has had the effect of reducing revenues, and abandonment of service by private entities in these areas.

155. The customers and investor-owners bear the brunt of the consequences of unlawful restraint of trade on private process servers and agencies.

156. The decisions to displace existing service, rather than being made on the basis of efficiency in the distribution of services, are made by the Defendant City of New York in the interest of realizing maximum benefits to itself and its constituents without regard to extraterritorial impact and regional efficiency.

157. The actions of Defendant City of New York constitute a conspiracy in restraint of trade among the several States.

158. Defendants have demonstrated their intention to continue their unlawful actions against Plaintiffs.

159. As a result of the unlawful regulatory and enforcement actions by Defendants, Plaintiffs have been damaged by payment of fines and civil penalties, and by loss of business profits.

160. Plaintiff will continue to be irreparably harmed by loss of business and loss of profits for so long as New York City Codes and Rules Regulating Process Servers favor the New York City Sheriff's business of process serving.

161. Plaintiffs are entitled to an injunction enjoining Defendant City of New York from enforcing the provisions of the New York City Codes and Rules Regulating Process Servers to the extent they favor process service by the New York City Sheriff, and are otherwise inconsistent with State Law.

162. One or more members of NYSPPSA, are suffering immediate or threatened injury as a result of Defendants' actions.

163. Plaintiff NYSPPSA seeks to devote its resources to activities aimed at leadership, education, and legislation in the process serving industry.

164. As a result of Defendants' actions, the demand for more individualized services, such as investigation, counseling, and intervention has increased.

165. As a result of Defendants' actions, NYSPPSA has had to divert greater resources to more individualized services and away from the reform efforts in which it engages.

166. Plaintiff NYSPPSA has been caused to divert scarce resources away from other organization activities as a result of the actions of Defendants.

167. Plaintiffs are entitled to compensation pursuant to 15 U.S.C. 2, 15 U.S.C. 3, and 15 U.S.C. 15.

168. Plaintiffs are entitled to recover threefold the damages sustained by them, and the cost of suit, including a reasonable attorney's fee.

**PLAINTIFFS' CLAIMS CHALLENGING THE CONSTITUTIONALITY
OF CERTAIN NYC ADMIN. CODE 20-406, AND NYC RULES, TITLE 6, CHAPTER 2,
SUBCHAPTER W**

146. Pursuant to Chapter 45 of the NYC Charter, Section 1043(d)(1)(c), each agency of Defendant City of New York, in adopting rules to carry out the powers and duties delegated it, is required to provide for a cure period or other ameliorative action by the party(ies) subject to enforcement where a rule involves the establishment of a violation, or to provide an explanation of the reason(s) a cure period or other opportunity for ameliorative action was not included.

147. The New York City Codes and Rules Regulating Process Servers are penal in nature, providing for criminal penalties pursuant to New York City Administrative Code, Chapter 1, Section 20-106, and Chapter 2, Section 20-409.1, and must be construed and applied narrowly.

148. The following NYC Codes and Rules enacted by Defendant City of New York to regulate the business practices of Plaintiffs were not lawfully enacted as violations subject to enforcement, and fail to provide notice of required conduct and/or forbid acts in terms so vague that persons of ordinary intelligence must guess at its meaning and differ as to its application, and fails to provide officials with clear standards for enforcement and permits arbitrary enforcement in every case:

- a) The provisions of the New York City Administrative Code, Title 20, Chapter 2, Sections 20-406.2 are vague on its face. The rule permits process serving agencies to be “legally responsible” for any “failure to act in accordance with the laws and rules” by each process server to whom it has distributed, assigned or delivered process for service. The term “legally responsible” is vague because it does not specify or distinguish civil or criminal liability; “for any failure to act in accordance with the laws and rules governing service of process” is also vague and overbroad because it implies strict liability and may apply to statutory law, case law, or both. It also does not provide guidance whether the “failure to act” must be a prior adjudication of failure to act on the part of the process server.
- b) The Rules of the City of New York, Title 6, Chapter 2, Subchapter W, Sections 6 RCNY 2-233, 2-233a, 2-233b, 2-234a, 2-235, and 2-236 are vague as applied, because it is likely they were never enacted as violations for which penalties were to be imposed in accordance with the New York City Charter 1043(d), and are also vague on their face.
- c) 6 RCNY 2-233 sets forth manual record keeping requirements. Subdivision (a)(1) requires “legible records”, however what may be legible to some, may not be legible to others. Subdivision (a)(2)(i) permits abbreviation of the title of the action, but is silent as to permissible abbreviations for other entries such as the address or court. Subdivision (b)(8) permits corrections of records, but does not set forth a time limit.
- d) 6 RCNY 2-233a(c) also permits the amendment of electronic records, but does not set a time frame, permitting confusion of understanding and arbitrariness in application. correction because although the their as applied. First, the provisions of the Rules permit corrections and amendments to be made.

e) 6 RCNY 2-233b(a) is vague on its face because it requires creation of GPS records, and acknowledges that GPS signals are not available at all locations. The Rule provides that when a GPS signal is not available, the record is to be made by “triangulated cell tower signals”, but no provision is made for the case when GPS and cell tower signals are not accessible.

f) 6 RCNY 2-234a(a)(3) is vague on its face because it is subject to differing interpretations along a spectrum of perceptions of “integrity and honesty”. 6 RCNY 2-234a(b)(2)(v) is vague on its face because it requires agencies to report each process server who does not comply with “the law governing process servers”, and seems to require agencies to monitor record keeping for assignments of other agencies, and to require agencies to make “adjudications” as to whether a process server is in compliance or not. Again, there are a range of interpretations and applications which create confusion as to what exactly is expected and prosecutable under these Rules for both the licensees and the enforcer.

g) N.Y.C. Admin. Code 20-101 is vague as applied because although the provision is entitled “Legislative Intent”, Defendants use it as a basis to assert violation against Plaintiffs alleging Plaintiffs violate the rule by “failure to demonstrate integrity and honesty”.

149. The foregoing provisions of City law are vague on their face and/or as applied to Plaintiffs.

150. The aforementioned statutes violate due process guarantees of the New York State and United States Constitutions.

169. One or more members of NYSPPSA, are suffering immediate or threatened injury as a result of Defendants' actions.

170. Plaintiff NYSPPSA seeks to devote its resources to activities aimed at leadership, education, and legislation in the process serving industry.

171. As a result of Defendants' actions, the demand for more individualized services, such as investigation, counseling, and intervention has increased.

172. As a result of Defendants' actions, NYSPPSA has had to divert greater resources to more individualized services and away from the reform efforts in which it engages.

151. Plaintiff NYSPPSA has been caused to divert scarce resources away from other organization activities as a result of the actions of Defendants.

152. Plaintiffs are entitled to declaratory judgment, declaring the stated Code provisions and Rules vague as applied and/or on their face, and therefore unconstitutional and void.

WHEREFORE, Plaintiffs demand the following relief:

- i) An Order certifying Plaintiffs as a class pursuant to F.R.C.P. 23;
- ii) Injunction prohibiting Defendant City of New York from enforcing the New York City Code, Title 20, Chapter 2, Subchapter 23, and the Rules of the City of New York, Title 6, Chapter 2, Subchapter W against Plaintiffs, and,
- iii) Judgment declaring New York City Code, Title 20, Chapter 2, Subchapter 23, Sections 20-406(c) and 20-409(a) unconstitutional;
- iv) a permanent injunction, enjoining Defendants from enforcing New York City Code, Title 20, Chapter 2, Subchapter 23, Sections 20-406(c) and 20-409(a);
- v) Judgment declaring Rules of the City of New York, Title 6, Chapter 2, Subchapter W, unconstitutional as applied, and void;

- vi) Declaratory judgment, declaring that under the current legislative provisions, the New York City Department of Consumer Affairs is not authorized to commence proceedings for civil penalties or take adverse action against a Process Server licensee for violations of the New York City Administrative Code, Title 20, Chapter 2, Subchapter 23 or Rules of the City of New York, Title 6, Chapter 2, Subchapter W unless and until a final adjudication of conviction by a court of competent jurisdiction against the licensee, pursuant to the New York City Administrative Code, Title 20, Sections 20-106(a) and 20-104(e), and 20-409 and 20-409.1;
- vii) Declaratory judgment declaring the “Assurance of Discontinuance” agreements and “Consent Orders” between Plaintiffs and the New York City Department of Consumer Affairs void and unenforceable;
- viii) Judgment rescinding and/or vacating all “Assurance of Discontinuance” agreements and “Consent Orders” between Plaintiffs and the New York City Department of Consumer Affairs;
- ix) Permanent injunction enjoining Defendants from enforcing or adjudicating alleged violations of “Assurance of Discontinuance” agreements and “Consent Orders”;
- x) Judgment awarding Plaintiffs compensatory, exemplary, and/or punitive damages against Defendants on Plaintiffs claims as permitted under the United States Code;
- (xi) Judgment awarding Plaintiffs compensatory, exemplary, and/or punitive damages against Defendants on Plaintiffs claims as permitted under the and the State of New York;
- xii) Judgment awarding Plaintiffs treble damages against Defendants as permitted under the United States Code;

xiii) Judgment awarding Plaintiffs reasonable attorneys on Plaintiffs claims as permitted under the United States Code; and,

xiv) For such other and further relief permitted by law, and as the Court may deem just.

Dated: Mt. Sinai, NY
February 25, 2014



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