

REPORT TO:
THE STAND UP FOR NEIGHBORHOODS BLIGHT COMMITTEE
REGARDING:
THE OUT OF STATE LAWSUIT PROCESS

September 24, 2014

DEPARTMENT: Office of General Counsel

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MEMORANDUM

TO: Honorable Members of the Ad Hoc Blight Committee
FROM: Cherry A. Shaw, Assistant General Counsel *CA Shaw*
SUBJECT: Out of State Lawsuit Process
DATE: September 9, 2014

I. Background.

The Jacksonville City Council Ad Hoc Blight Committee has discussed the issue of enforcement against business owners who violate Chapter 741 snipe sign regulations. For instance, out of state business owners are illegally posting snipe signs on public property throughout the Jacksonville area. These business owners are, apparently, soliciting services for buying houses, junk cars, etc. From a review of the information received, the illegal signs contain a telephone number, and staff has advised that the telephone number appears to be assigned to an out of state business.

II. Question Asked.

What is the process for initiating a lawsuit against a business that is domiciled out of state?

III. Short Discussion and Answer.

Chapter 48, Florida Statutes, provides authority and direction for service of process for all types of court actions. It is important to point out that this memorandum has its focus primarily on lawsuits against corporations as there are different steps for partnerships, joint ventures, etc. In addition, many of the violators cited in snipe sign violations are corporations found in Florida. Florida law provides several scenarios for service of process to a corporation including, but not limited to the various named officers of the corporation from the President to the Secretary, and the Registered Agent for the corporation. If the service of process is not successful with these named individuals, a final resort is to serve any employee of the corporation or any employee of the registered agent. The following is a step-by-step process:

Memorandum to Honorable Members of the Ad Hoc Blight Committee
September 9, 2014
Page 2 of 2

- Identify violator and whether violator is some form of a corporate entity
- If a corporate entity, identify whether violator is a domestic or foreign corporation. If a foreign corporation, identify whether the entity is registered to do business in Florida to determine proper service procedure
- File a lawsuit in Duval County
- Have summons issued by Clerk of Court
- Per Section 48.091, Fla. Stat., verify the name of the registered agent. Process may be served on the designated registered agent, per Section 48.091, Fla. Stat.
- In the alternative, per Section 48.081(1)(a)-(d), Fla. Stat., process against any private corporation, domestic or foreign, may be served:
 - (a) On the president or vice president, or other head of the corporation;
 - (b) In the absence of any person described in paragraph (a), on the cashier, treasurer, secretary, or general manager;
 - (c) In the absence of any person described in paragraph (a) or paragraph (b), on any director; or
 - (d) In the absence of any person described in paragraph (a), paragraph (b), or paragraph (c), on any officer or business agent residing in the state.
- If no service can be made on the registered agent due to noncompliance with Section 48.091, Fla. Stat., process may be permitted on any employee of the corporation or any employee of the registered agent.
- Locate place where violator can be found for service
- Per, Section 48.194, Fla. Stat., hire a process server in foreign state to serve on employee of the corporation or the registered agent.
- File proof of service in Duval County once service has been made
- Defendant responds to the complaint lawsuit ensues or defendant does not respond seek default
- Obtain judgment
- Hire local attorney from the foreign state to domesticate judgment in foreign state pursuant to that state's procedures.
- Begin collection measures (if monetary judgment) pursuant to the foreign state's procedures

