



STATE OF FLORIDA
JUSTICE ADMINISTRATIVE COMMISSION

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Victoria A. Montanaro
Executive Director

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To whom it may concern:

An issue has arisen regarding investigators and similar due process providers that JAC wishes to address. This relates to investigator licensing requirements under Florida law.

Except as exempted through section 493.6102, F.S., it is a violation of Florida law for a person to provide investigation services without a license. A person performing investigative services in court-appointed or indigent for costs cases must be properly licensed as a private investigator by the Florida Department of Agriculture and Consumer Services with two limited exceptions provided below. If you utilize a private investigator that is not properly licensed, then JAC cannot process any invoices from that investigator.

Chapter 493 of the Florida Statutes addresses the licensing requirements for private investigators. Useful information regarding the requirement to have a private investigator license is available at, http://licgweb.doacs.state.fl.us/FORMS/PIA_Handbook_00093.pdf. Under section 493.6201, F.S., an investigator must have a Class C license and must be employed by or own an agency with a Class A, Class AA, or Class AB license. Although there is also a Class CC license for interns operating under the supervision of a Class C licensee, JAC will only compensate for services rendered by a fully licensed investigator with a Class C license. JAC will not pay for services rendered by an intern. A copy of the Class C license and the Class A license (or Class AA or Class AB if applicable) should be attached to the JAC Agreement submitted by the investigator.

There are only a couple of instances in which JAC is authorized to pay for investigators that are not licensed under Chapter 493. The first is where the trial court authorized the defense to retain an out-of-state private investigator to perform work outside Florida. As long as the investigator is not providing services in Florida, then the Florida licensing requirements do not apply.

Second, mitigation specialists providing services in a capital case may not need an investigator license if they are already licensed in an appropriate field. As defined by section 493.6101(17), F.S., the services provided by mitigation specialists generally fall within the definition of private investigation and are subject to the licensing requirements unless an exemption applies.

Section 493.6102(8) exempts persons having “a professional license under the laws of this state when such person is providing services or expert advice in the profession or occupation in which that person is so licensed.” Therefore, if a mitigation specialist is already licensed in an appropriate field such as mental health or social work, then he or she will not need a private investigation license. The person should attach a copy of the license in the appropriate field to his or her contract with JAC. JAC cannot compensate any mitigation specialist that is not licensed in Florida either as a private investigator or in another appropriate field.

Third, if the only service being provided is private process of service, then an investigator license is not required under Florida law. Private process of service should only be used if the sheriff is not available to provide service of process. Moreover, the sheriff must be used to serve in-county law enforcement.

The JAC invoice voucher cover for investigators has been amended to add space for the agency license number (Class A, Class AA, or Class AB) and the investigator license number (Class C). This information must be included in order for JAC to process any invoice for payment. For an out-of-state investigator, please note out-of-state investigator in the space for the agency number and, if applicable, the out-of-state license numbers in the space for the investigator license number. For mitigation specialists without an investigator license, please indicate the area of licensure in the space for the agency number and the license number in the space for the investigator license.

A copy of these licenses should be attached to your Agreement with JAC. If you have already submitted your contract for fiscal year 2009-2010, then you may fax these to (866) 849-6903, attention Connie Ramos.

If you have any questions, please feel free to contact me at (866) 355-7902.

Sincerely,

Christian D. Lake
Agency Attorney