

XVIII. FOUNDATIONS OF LAW, LESSON 15: UNDERSTANDING AFFIDAVITS: THEIR USE AND FORMATION

A. INTRODUCTION:

1. **Definition Of An Affidavit.** A written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before an officer having authority to administer such oath. *Cox v. Stern*, 170 Ill. 442, 48 N.E. 906, 62 Am.St.Rep. 385; *Hays v. Loomis*, 84 Ill. 18. A statement or declaration reduced to writing, and sworn to or affirmed before some officer who has authority to administer an oath or affirmation. *Shelton v. Berry*, 19 Tex. 154, 70 Am.Dec. 326, and *In re Breidt*, 84 N.J.Eq. 222, 94 A. 214, 216. A written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before an officer having authority to administer such oath. *June v. School Dist. No. 11, Southfield Tp.*, 283 Mich. 533, 278 N.W. 676, 677, 116 A.L.R. 581. Any voluntary ex parte statement reduced to writing and sworn to or affirmed before some person legally authorized to administer oath or affirmation, made without notice to adverse party and without opportunity to cross-examine. *Kirk v. Hartlieb*, 193 Ark. 37, 97 S.W.2d 434, 435, 436. The word sometimes includes "depositions. *U. S. v. Kaplan, D.C.Ga.*, 286 F. 963, 970. "Affidavits" are of two kinds; those which serve as evidence to advise the court in the decision of some preliminary issue or determination of some substantial right, and those which merely serve to invoke the judicial power. *Worthen v. State*, 189 Ala. 395, 66 So. 686, 688.
2. **Importance And Common Uses:** Affidavits hold significant importance in various legal, administrative, and business contexts due to their role in providing sworn statements of fact. Here are some key points regarding their importance and common uses:
 - a. **Legal Evidence:** Affidavits serve as crucial legal evidence in court proceedings. They provide a formal, sworn statement of facts relevant to a case, offering firsthand accounts or expert opinions. This can include witness testimony, details of events, or other pertinent information.
 - b. **Documentation and Record Keeping:** Affidavits help document and record important information in a legally recognized format. They provide a written record of statements made under oath or affirmation, which can be referenced and relied upon in the future.
 - c. **Supporting Documents:** Affidavits often accompany other legal documents to support claims or assertions made therein. For example, in applications for various legal processes such as obtaining a visa, a supporting affidavit may provide additional context or evidence to strengthen the application.

- d. **Verification of Identity or Information:** Affidavits are commonly used to verify identity, residence, or other personal information. For instance, when applying for a passport or a loan, individuals may be required to submit an affidavit confirming their identity or residency status.
- e. **Affirmations of Support or Intent:** In business transactions or personal matters, affidavits can be used to affirm support for a particular cause, express intent to carry out certain actions, or confirm agreements between parties. This can include financial support, sponsorship, or commitments to fulfill contractual obligations.
- f. **Court Proceedings and Legal Matters:** Affidavits play a crucial role in various legal proceedings, including civil lawsuits, criminal trials, and administrative hearings. They provide sworn statements from witnesses, experts, or parties involved in the case, helping establish facts and evidence before the court.
- g. **Probate and Estate Matters:** In matters related to probate or estate administration, affidavits may be used to verify the authenticity of documents, confirm the identity of heirs or beneficiaries, or provide details about assets and liabilities of the deceased.

Overall, affidavits serve as formal declarations made under oath or affirmation, providing a means to establish facts, verify information, and support legal claims or assertions. Their importance lies in their reliability as sworn statements, which carry legal weight and can be relied upon in various legal, administrative, and business contexts.

B. MAXIMS OF LAW ABOUT AFFIDAVITS

- a. **Maxim 65q.** In a trial, credence is given only to those who are sworn. **Cro. Car. 64.**
- b. **An un rebutted Affidavit** [or sworn Declaration] becomes the judgement in Law.
- c. **An Affidavit must be rebutted line-by-line, in substance, by [an] Affidavit.**
- d. The word of a man [or woman] who will not make oath, is worth nothing.
- e. **The word of a man** [or woman] **who will not make oath, is not to be heard.**
- f. An infamous man should not be allowed to make an oath.
- g. **He** who states contrary things to the truth, is not to be believed.
- h. **He** who states contrary things to the truth, is not to be heard.
- i. **No man** [or woman] **is believed in court but upon his** [or her] **oath.**
- j. **Truth is expressed in the form of an Affidavit.**
- k. An affidavit is a law between the parties.
- l. An affidavit is a court.
- m. Punishment is due if the words if an oath be false.
- n. No one is believed in court but upon his oath.
- o. Claims made in an Affidavit, if not rebutted, emerge as the truth of the matter.
- p. Truth is expressed in the form of an Affidavit.
- q. An un rebutted Affidavit stands as the truth in commerce.
- r. False spelling and false grammar do not vitiate an Affidavit.

- s. A lien claim can only be satisfied by point-by-point rebuttal, in substance, at Law, by Affidavit or payment or [when not disbarred by tacit procuration agreement obtained by default] by jury resolution.

C. SUPREME COURT RULINGS ABOUT AFFIDAVITS

- a. “[11] The charge of bad faith against Berry is overborne by his affidavit of merits. That affidavit stands unchallenged and must be accepted as true.” **Woods v. Berry, 111 Cal.App. 675, 683 (Cal. Ct. App. 1931)**
- b. “Furthermore, a court must accept an affidavit as true if it is uncontradicted by counteraffidavit or other evidentiary material. Financial Freedom, 377 Ill. App. 3d at 134, 877 N.E.2d at 46-47.” **Fields v. Schaumburg Firefighters' Pension, 383 Ill. App. 3d 209, 224 (Ill. App. Ct. 2008)**
- c. “This court has held that where a motion for summary judgment is supported by an affidavit, which is uncontroverted, the trial court is warranted in sustaining the motion.” **Schaffer v. United States, 232 F.2d 632, C.A. 6th, 1956 (cases cited therein). In Appolonio v. Baxter, 217 F.2d 267, C.A. 6th, 1954, Williams v. Baltimore Ohio Railroad Company, 303 F.2d 323, 324 (6th Cir. 1962)**
- d. “For purposes of our review, all of the well pleaded allegations of respondents' complaint and uncontroverted affidavits filed in support of the motion for a preliminary injunction are taken as true.” **Elrod v. Burns, 427 U.S. 347 (1976)**

D. COMPONENTS OF AN AFFIDAVIT

- a. **Heading: Title and Jurisdiction**
- b. **Opening Statement: Introduction of Affiant**
- c. **Statement of Facts: Detailed Description of Events**
- d. **Sworn Oath or Affirmation: Confirmation of Truthfulness**
- e. **Signature and Notarization: Legal Authentication**

E. DEFECTIVE AFFIDAVITS

Real Law, Real Simple

Affidavit of Truth
Legal Notice and Warning

To: _____

From: _____

Notice to Agent is Notice to Principal and Notice to Principal is Notice to Agent

Comes now Affiant, _____, one of the people (as seen in 50 State Constitutions), Sui Juris, in this court of record. You, being trustees of the People must provide due care and remember your oath which binds you. I, the Affiant, make the following statements and claims:

1. _____
2. _____
3. _____

Any man or woman who denies these claims are true must rebut them under penalty of perjury in the form of an affidavit. Any man or woman who is found to have committed the offense indicated in this affidavit agrees, to pay a minimum of \$25,000 **per situation**. In case of dispute, all parties agree to have these matters heard before an Arbitrator of the Affiant’s choice at the expense of the public official or private actor. Any man or woman denying these claims are true must rebut these claims point by point within (3) days (72 hours). Failure to respond means that, by acquiescence, you agree that all claims are true.

Verification

I hereby declare, certify and state, pursuant to the penalties of perjury under the laws of the United States of America, and by the provisions of 28 USC § 1746 that all of the above and foregoing representations are true and correct to the best of my knowledge, information, and belief. Executed in _____, **Massachusetts** on this _____ day of _____ in the year of Our Lord **Two Thousand Twenty-Four**.

Autograph of Affiant

Notary as JURANT CERTIFICATE

JURAT *****

Massachusetts State }
Bristol County }

Subscribed and sworn to (or affirmed) before me, **On this** _____ **day of** _____, **2024** (date) before me, A Notary Public personally appeared, _____ Name of Affiant, who proved to me on the basis of satisfactory evidence to be the man whose name is subscribed to the within instruments and acknowledged to me that he executed the same in his authorized capacity and that by his autograph(s) on the instrument, the man executed the instrument.

I certify under PENALTY OF PERJURY under the lawful laws of Massachusetts State and that the foregoing paragraph is true and correct.

WITNESS my hand and official seal. _____

Signature of Notary /Jurat Seal _____