Affidavit Info

Inasmuch as everyone has free will and is an irreducible unit of experience, choice, responsibility, and self-government, each particular man/woman is the only one who can speak his/her own truth—and has the right and obligation to do so. No one is obligated or qualified to express the truth of another.

Dispute resolution ("law") requires a universally accepted means for someone to assert his subjective truth in a manner that all understand is intended to be uttered without equivocation, concealment, deception, or insincerity. An *affidavit*, especially an affidavit "sworn true, correct, and complete," has evolved over time to be the accepted process by which someone expresses his truth in the most solemn, absolute, ceremonial means possible, past which nothing exists.

An oath in the form of an affidavit, as a solemn and sworn statement of truth, automatically renders the affiant the subject of charges of perjury if any portion of his affidavit is false.

In order for a document to be in the nature of an affidavit, it must contain the characteristics and properties itemized below. To wit, an affidavit:

1. States facts ("truth") only on the basis of firsthand personal knowledge, not conjecture, theory, or hearsay. The facts stated must express direct knowledge of the affiant (not "information and belief," which is hearsay).

2. Cannot be argumentative.

3. Must not draw conclusions of law.

4. Can be executed and served at any time without notice to the adverse party. An affidavit is not subject to cross-examination.

5. Must be certified (witnessed) by someone authorized to administer oaths, usually a notary public, or at least two (preferably three) witnesses. If it is not so sworn to it will not be considered as being a bona fide affidavit.

6. Constitutes one of three kinds of testimony, the other two being *deposition* and *direct oral examination* (on the witness stand), and stands as uncontroverted evidence if not timely rebutted point-for-point by proper counteraffidavit executed by the adverse party.

7. Must be executed by being sworn true, correct, and complete, i.e. under oath, defining the degree and nature of the liability being staked by the affiant for the veracity, accuracy, relevance, and verifiability of everything stated in the affidavit.

8. Can be overcome only via point-for-point rebuttal by counteraffidavit that takes the same degree of risk/sacrifice, i.e. sworn true, correct, and complete, with superior material facts and evidence that surmount the adverse affidavit.

9. Stands as the truth concerning each point that is not rebutted or surmounted by counteraffidavit as above; the entire affidavit stands as the truth in the matter if not answered at all.

10. Stands in full as the judgment (application) of the law if completely unrebutted by counteraffidavit as above; invokes execution of the law concerning the points in the affidavit that are not expressly rebutted in a counteraffidavit.

Without a *competent witness*, i.e. testimony, no court has any power to act. Judgments may be made solely on evidence, but all evidence, to be evidence, requires that a competent witness attest its validity, i.e. verify that which is submitted. Without a competent witness, a judgment is void.

In court, the adverse party has the right to cross-examine. When testimony is issued via affidavit, nearly always a non-judicial exercise, the adverse party has the right (and obligation, if he/she desires not to have the affiant's affidavit stand as the truth and judgment of the law) to respond to the affidavit point-for-point via counteraffidavit sworn true, correct, and complete.

Regardless of the form in which testimony is introduced into proceedings and disputes, once a competent witness has submitted testimony (by any means, including affidavit), the adverse party must:

1. Disprove stated facts or prove alternative facts; and

2. Prove application of law re stated facts or alternative facts.

In the event that the adverse party fails to comply with the above two (2) essentials, the testimony of the competent witness is established as conclusive evidence.

For the most part (almost always), attorneys (including government attorneys), are not competent witnesses because (1) they do not have personal knowledge of facts, and (2) they do not submit whatever they have to say under oath, i.e. "the truth, the whole truth, and nothing but the truth" (e.g. via affidavit sworn true, complete, and correct, respectively). Attorneys act under authority of the system, not under their own unlimited liability, and only relate second-hand information, i.e. what is related to them by others. Legally, therefore, what an attorney states is hearsay. It is not the result of direct experience and cannot be attested on the basis of direct, personal knowledge.

An affidavit must also be subscribed before an officer of the state authorized to administer oaths (most commonly a notary public), with said officer acting as third-party (competent) witness, and should, ideally:

1. Have all paragraphs numbered, for the purpose of, among other things, identifying particular points/passages for future reference should rebuttal be attempted.

2. Should not violate any of the above-stated criteria.

3. Have a unique form number, usually at the bottom, different from that of any other affidavit, for unambiguous future reference and enhanced admissibility in evidence.

4. Be written in clean, clear, matter-of-fact, minimalist style.

5. Be written in the present tense.

6. Avoid use of pronouns and the words “to” (infinitive form is least-ambiguous use) and “or,” which are ambiguous. The less ambiguity, the less need for a third party, such as a judge, to intervene in the matter to interpret the text.

7. Contain as few adjectives and adverbs as possible, since such color matters and try to tell people what to think. Often the more nakedly words and terms are expressed, the more definitive and ironclad they are.

8. Have as much documentation, i.e. exhibits, attachments, and documentary evidence, supporting the assertions made in the affidavit, as possible. Obviously, the more incontrovertible the substantiation, the better.