

# A Guide to Preparing Your *Affidavit* (Form 10)

This Guide provides information and instructions on preparing your *Affidavit* (Form 10). Remember that this Guide is meant to give you helpful information, **not legal advice**. For questions about the content of your *Affidavit*, please contact a lawyer.

## What is an Affidavit?

The *Affidavit* is used to present evidence to the Tribunal in a motion or an application where the testimony (evidence) of witnesses is typically not required. The *Affidavit* is a written statement that contains important facts you want the Tribunal to know about.

You swear an *Affidavit* under oath or affirm it before a commissioner of oaths. Swearing an *Affidavit* means taking an oath to tell the truth on a holy book, such as the Holy Bible. Affirming means stating that you will tell the truth. When signing an *Affidavit*, you promise that the information contained in the *Affidavit* is true.

It is a serious offence to make a false or misleading statement in an *Affidavit*.

There is a form used to prepare your *Affidavit*; it is called *Affidavit* (Form 10). See pages 8 and 9 for a sample blank *Affidavit* (Form 10) and sample completed *Affidavit* (Form 10)

## What's in this Guide?

This Guide has four sections:

1. What to put in your *Affidavit*
2. The structure and content of an *Affidavit*
3. Drafting tips
4. Resources

- Checklist
- Sample blank *Affidavit* (Form 10)
- Sample completed *Affidavit* (Form 10)

## 1. What to Put in your *Affidavit* (Form 10)

There are three important rules to remember about Affidavits.

### a) The Information must be true

The first rule about preparing an Affidavit is that you must tell the truth. If you willfully lie in an Affidavit, you may be found guilty of perjury.

### b) The Information must be relevant

The statements you make in your Affidavit and documents attached to the Affidavit must be relevant or closely connected or appropriate to what is being done or considered in the motion or application before the Tribunal. This is the key to having a good Affidavit.

### c) Typically, your Affidavit sets out facts, not opinions

Affidavits typically contain facts, not opinions.

Fact: You did something or saw something happen and you have personal knowledge of it.

Example: I saw Jane Smith give John Smith an envelope on July 14, 2017 at 3:00 p.m. at the corner of King Street and Germain Street in Saint John, New Brunswick.

Opinion: What you think or believe.

Example: I think Jane Smith is a bad person.

## 2. The Structure and Content of an *Affidavit* (Form 10)

An Affidavit has six parts. We will look at each of them in turn.

- a) The file number
- b) The deponent's statement ("deponent" is the person making the Affidavit)
- c) The knowledge statement
- d) The body of the Affidavit (this is the most important part of the Affidavit)
- e) The jurat (ending) of the Affidavit
- f) Exhibits

As you go through each part of this section, look at the sample blank Affidavit (Form 10) at page 8 and the sample completed Affidavit (Form 10) at page 9.

### **a) File Number**

Fill out the Tribunal file number at the top of the Affidavit (Form 10). If you are filing your Affidavit in support of a Notice of Application (Form 4) or a Notice of Preliminary Motion (Form 7), leave the file number blank and the Registrar of the Tribunal will assign a file number.

### **b) Deponent's Statement**

The deponent is the person who is making the *Affidavit*. This person has to identify itself by completing the first sentence of the *Affidavit* (Form 10). The *Affidavit* (Form 10) already contains a template of the deponent's statement. You must simply click on the text in red and type in your information.

You must also choose in the deponent's statement to either swear or affirm you are telling the truth in the *Affidavit*. You do one or the other, not both. You do this by clicking on the words "choose an item" in the first sentence and selecting from the drop-down menu.

Example of a deponent's statement: I, John Smith, of 123  
Main Street, in the City of Saint John and Province of New  
Brunswick, welder, SWEAR THAT:

### **c) Knowledge Statement**

The knowledge statement comes immediately after the deponent's statement and states that you have personal knowledge of the information that you are putting in your *Affidavit* except where you have been informed of such facts, in which case you have stated the source of those facts and that you believe those facts to be true.

The knowledge statement is already contained in paragraph 1 of the *Affidavit* (Form 10). You must respect its contents in order to complete a valid *Affidavit*.

### **d) Body of the Affidavit (Form 10)**

The body of the *Affidavit* is the most important part of the *Affidavit*. It sets out your facts. The *Affidavit* should be drafted in the first person (i.e. "I"). See the sample completed Affidavit at page 9.

The body of the *Affidavit* must be divided into numbered paragraphs, with each paragraph being confined to a particular fact. You can use headings if you wish.

As explained in the knowledge statement above, an *Affidavit* may be based upon firsthand knowledge or information obtained from another person. If you refer to

information obtained from another person in the body of the *Affidavit*, you must identify that person and that you believe the person's information to be true.

Example 1: I am informed by John Smith and believe that on July 14, 2017 he received an envelope from Jane Smith.

Example 2: On August 30, 2009, John Smith told me and I believe that Jane Smith had not gone to work the day before.

### **e) Jurat (ending) of the Affidavit (Form 10)**

You must sign your *Affidavit* in the presence of a lawyer or commissioner of oaths; this is called swearing of affirming your *Affidavit*.

The lawyer or commissioner of oaths must also sign the *Affidavit* and complete the jurat in your presence and print his or her name below his or her signature. A stamp is also acceptable. See the sample blank *Affidavit* at page 8 and the sample completed *Affidavit* at page 9.

To complete the jurat in the *Affidavit* (Form 10), simply click on the red text to fill in the requested information. The red instructions will disappear after the information is entered.

The lawyer must also sign all exhibits to your Affidavit, if any.

As previously explained, it is a serious offence to make a false or misleading *Affidavit*.

### **f) Exhibits**

You may attach letters or other documents you want the Tribunal consider to your *Affidavit*. These are often referred to as exhibits to the *Affidavit*.

Documents you attach to an *Affidavit* must be identified with a letter and referred to in the body of the *Affidavit*. Each exhibit must have a different letter and it is preferable to arrange your exhibits in alphabetical order (i.e. Exhibit "A", Exhibit "B", etc.). See the sample completed Affidavit at page 9.

Below is an example of how to identify an exhibit in the body of your *Affidavit*.

On July 30, 2017, I received a letter from John Smith. A copy of that letter is attached as Exhibit "A".

Most lawyers and commissioner of oaths have stamps that they put on the first page of the exhibit and they typically read as follows:

This is Exhibit “...” to the Affidavit of .....sworn before me on ....., 2017.

### 3. Drafting Tips

#### a) Organize Your Affidavit

If your *Affidavit* is organized, it is easier for the Tribunal to understand. Here are some tips for organizing your *Affidavit*:

- Use facts, not general statements.
- Tell your story in the order it unfolded (chronological order). Do not jump all over the place from one time period to another.
- Try to provide specific dates (i.e. July 13, 2017 or the middle of July 2017).
- Refer to people by their full names. Try to avoid using “him” or “her” as this can lead to confusion.
- Ensure all important facts are set out in your *Affidavit*.

#### b) Avoid Vague Statements

Avoid vague statements in your *Affidavit*.

Vague statement: I met John Smith on several occasions. I walked away from these meetings with the impression that he would not charge me for his services.

Clear statement: I met John Smith on July 13, 2017 at his office. He told me “I will not charge you for any legal work”. I relied on this statement.

#### c) Check for Consistency

Check to make sure your *Affidavit* is consistent throughout. Make sure it does not say one thing in one place and something that contradicts it in another place. Also check your *Affidavit* for consistency with your exhibits and other documents, including other *Affidavits* you have made.

#### d) Proofread your Affidavit

Proofread your *Affidavit* to ensure there are no typing, spelling or grammar errors, and the language is clear. To make sure your *Affidavit* is up to standards, you can also have a friend or spouse look it over.

**e) Use the Checklist**

See the checklist at page 7 to make sure you completed all sections of the *Affidavit*.

## 4. Resources

### Checklist for Preparing an Affidavit

1.	Have you indicated the Tribunal file number?	<b>Check</b>
2.	Have you entered the name, address and occupation of the person making the Affidavit?	
3.	Have you chosen between swearing under oath or affirming and made this selection in the deponent's statement?	
4.	Have you drafted the Affidavit in the first person (using "I")?	
5.	Have you put in facts and not opinions?	
6.	Have you put in exact dates?	
7.	Have you numbered the paragraphs?	
8.	Have you considered putting headings to better organize your Affidavit?	
9.	Have you organized your Affidavit in chronological order?	
10.	If you have exhibits, have you numbered them (i.e. "A", "B", etc.)?	
11.	Have you attached the exhibits?	
12.	Have you sworn or affirmed the Affidavit before a lawyer or other commissioner of oaths?	

**Form 10  
Affidavit**

Tribunal File No.:

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**Deponent's  
Statement**

I, **enter your name** of **enter the town or city where you live**, Province of **enter the province**, **enter your occupation**, **choose an item** THAT:

**Knowledge  
Statement**

I have personal knowledge of the facts stated in this Affidavit, except where I have been informed of such facts, in which case I have stated the source of those facts and that I believe those facts to be true.

1.

**Body of  
Affidavit**

2.

3.

**Jurat**

**Choose an item** before me at **enter name of town or city**, Province of **enter province**, on **click to enter date**.

\_\_\_\_\_ )  
**enter the name of the commissioner of oaths** )  
A Commissioner for taking oaths/a Notary Public )  
(if outside New Brunswick) )

) \_\_\_\_\_ )  
) **enter the name of the person signing the Affidavit**

**Form 10  
Affidavit**

**Tribunal File No.: CA-100-2017**

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I, John Smith of Saint John, Province of New Brunswick, welder, SWEAR THAT:

1. I have personal knowledge of the facts stated in this Affidavit, except where I have been informed of such facts, in which case I have stated the source of those facts and that I believe those facts to be true.
2. I have been working as a welder at ABC Inc. since January 1, 2017.
3. On June 1, 2017, while welding a pipe, I burned my right hand.
4. I have been unable to work since June 1, 2017 because of the injury to my hand.
5. I attach as Exhibit "A" a letter dated August 1, 2017 from my family doctor, Dr. Jane Doe, indicating that I cannot work.

Sworn to before me at Saint John, Province of New Brunswick, on October 5, 2017. )

*C. Smith*  
Charles Smith )

A Commissioner for taking oaths/a Notary Public (if outside New Brunswick) )

*John Smith*  
John Smith )

ABC Medical Centre  
123 Main Street  
Saint John, NB E2L 2J2  
Tel: 506 123-4567

August 1, 2017

**Re: John Smith**

To Whom It May Concern,

I saw my patient John Smith on August 1, 2017. Mr. Smith remains unable to work as a result of a third-degree burn sustained to his right hand in a welding accident which occurred at his workplace on June 1, 2017. I have placed Mr. Smith off work for another month and will reassess him on September 1, 2017.

Please contact me if you have any questions about this letter.

Sincerely,

*Jane Doe*

Dr. Jane Doe

This is Exhibit "A" to the Affidavit of  
John Smith sworn before me on  
October 5, 2017.

*C. Smith*

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Christine Smith