**THE KING'S BENCH**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Centre**

BETWEEN:

applicant/

 petitioner/plaintiff

- and -

respondent/

 defendant

**AFFIDAVIT OF: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**SWORN/AFFIRMED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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*(Name, address, and telephone number of party filing)*

**THE KING'S BENCH**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Centre**

BETWEEN:

applicant/

 petitioner/plaintiff

- and -

respondent/

 defendant

**AFFIDAVIT OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

 *(name of party)*

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, of the \_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

 *(name of party) (city, town, etc.) (name of city, town, etc.)*

in the Province of Manitoba, **MAKE OATH AND SAY (OR AFFIRM):**

*(Where the deponent is a party, lawyer, officer, director, partner, proprietor, member or employee of a party, set out the deponent's capacity)*

1. I am \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ the applicant, and as such have personal knowledge of the facts and matters hereinafter deposed to by me save and except where same are stated to be based upon information and belief, in which case I verily believe them to be true.

2. *(Tell your story in numbered paragraph form. Insert as many numbered pages as needed to disclose all relevant facts)*

I MAKE THIS AFFIDAVIT BONA FIDE AND IN SUPPORT OF MY NOTICE OF MOTION/ APPLICATION.

Sworn (or Affirmed) before me at the

\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

in the Province of Manitoba,

this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ , \_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Signature of Deponent

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Deputy Registrar for King’s Bench, or

A Commissioner for Oaths in and for

The Province of Manitoba

My Commission expires: \_\_\_\_\_\_\_\_\_\_\_\_\_

**EXCERPTS FROM THE KING’S BENCH RULES COVERING AFFIDAVIT USE**

**All affidavits filed in the Manitoba Court of King’s Bench (General and Family Divisions) must comply with the following:**

(a) Typing must be in font size 14;

(b) Pages must be numbered;

(c) Exhibits must be separated by tabs with sequential numbers or letters; and

(d) Pages and exhibits must be fastened or secured sufficiently to remain intact.

This Practice Direction does not extend to documents that are filed in the Bankruptcy Registry.

**AFFIDAVITS**

**Format**

4.07(1) An affidavit used in a proceeding shall,

1. be in Form 4D;
2. be expressed in the first person;
3. state the full name of the deponent and, if the deponent is a party or a lawyer, officer, director, member or employee of a party, shall state that fact;
4. be divided into paragraphs, numbered consecutively, with each paragraph being confined
5. as far as possible to a particular statement of fact; and
6. be signed by the deponent and sworn or affirmed before a person authorized to administer oaths or affirmations.

**Contents**

4.07(2) An affidavit shall be confined to the statement of facts within the personal knowledge of the deponent or to other evidence that the deponent could give if testifying as a witness in court, except where these rules provide otherwise.

**Exhibits**

4.07(3) An exhibit that is referred to in an affidavit shall be marked as such by the person taking the affidavit and where the exhibit,

1. is referred to as being attached to the affidavit, it shall be attached to and filed with the affidavit;
2. is referred to as being produced and shown to the deponent, it shall not be attached to the affidavit or filed with it, but shall be left with the registrar for the use of the court, and on the disposition of the matter in respect of which the affidavit was filed, the exhibit shall be returned to the lawyer or party who filed the affidavit, unless the court orders otherwise; and
3. is a document, a copy shall be served with the affidavit, unless it is impractical to do so.

EVIDENCE ON MOTIONS AND APPLICATIONS

EVIDENCE BY AFFIDAVIT

**Generally**

39.01(1) Evidence on a motion or application may be given by affidavit unless a statute or these rules provide otherwise.

**Affidavits in support**

39.01(2) Where a motion or application is made on notice, the affidavits on which the motion or application is founded shall be served within the time for service of the motion or application, and shall be filed in the court office where the motion or application is to be heard not later than 2 p.m. on the day before the hearing.

**Affidavits in opposition**

39.01(3) All affidavits to be used at the hearing in opposition to a motion or application or in reply shall be served and filed in the court office where the motion or application is to be heard not later than 2 p.m. on the day before the hearing.

**Contents ‑ motions**

39.01(4) An affidavit for use on a motion may contain statements of the deponent's information and belief, if the source of the information and the fact of the belief are specified in the affidavit.

**Contents ‑ applications**

39.01(5) An affidavit for use on an application may contain statements of the deponent's information and belief with respect to facts that are not contentious, if the source of the information and the fact of the belief are specified in the affidavit.