

XXV. FOUNDATIONS OF LAW, Lesson 22: Lesson On Affidavits And The 10 Commercial Maxims

A. Introduction:

An affidavit is a legally binding document that, when submitted in judicial or administrative proceedings, serves as a sworn statement of fact. As affirmed by the courts, such as in **Sampson v. Channell**, an affidavit must be treated as true unless specifically rebutted. This principle underscores the seriousness of affidavits in legal matters.

- **Maxim:** *"An affidavit is a court."* In this context, the affidavit serves as the court, rendering a judgment based on the truth presented therein.

B. **The 10 Commercial Maxims:** In commercial law, the weight and authority of an affidavit are particularly pronounced when considered in light of the **10 Commercial Maxims**, which serve as guiding principles in resolving disputes, particularly in commerce. These maxims are fundamental truths recognized across jurisdictions, designed to ensure fairness, truth, and justice in the administration of law.

1. A Workman is Worthy of His Hire

This maxim emphasizes that compensation is due when service is rendered. In the context of affidavits, it implies that justice demands recompense for the effort and honesty invested in creating an affidavit. If an affidavit stands unrebutted, the affiant's claims—akin to their "work"—must be respected and honored, similar to an undisputed debt.

2. All Are Equal Under the Law

This maxim asserts that all parties, regardless of status, are subject to the same legal standards. When an affidavit is presented, it must be evaluated objectively, based on its content and the facts it asserts, without prejudice to the affiant's **standing**.

3. In Commerce, Truth is Sovereign

Truth is the cornerstone of legal and commercial transactions, and this maxim ensures that truth governs all matters of commerce. As applied to affidavits, the statements made under oath are treated as the truth unless rebutted with counter-evidence. Hence, the affidavit itself is regarded as expressing the ultimate truth in legal proceedings.

4. Truth is Expressed by Means of an Affidavit

This maxim directly relates to the authority of affidavits in law. It underscores the idea that truth, in its most solemn and verifiable form, is presented through affidavits. As such, an unrebutted affidavit carries the weight of truth and judgment in legal matters.

5. An Unrebutted Affidavit Stands as Truth in Commerce

This principle is crucial in both legal and commercial contexts. It means that if an affidavit is not contested, it is taken as the truth and forms the basis for judgment. Courts and administrative bodies must accept an unrebutted affidavit as the final word on the matter, making it binding between the parties involved.

6. An Unrebutted Affidavit Becomes the Judgment in Commerce

Similar to the previous maxim, this one emphasizes that an unrebutted affidavit is not merely evidence but serves as **the final judgment in a dispute**. If one party fails to rebut the affidavit, the claims within it are accepted as **legally binding and enforceable**.

7. He Who Leaves the Battlefield First Loses by Default

This maxim reflects the principle that silence or non-response in a legal dispute results in loss. If a party does not rebut an affidavit, they effectively concede the truth of the statements made within it. This is why timely and specific responses to affidavits are so crucial in legal and commercial disputes.

8. Sacrifice is the Measure of Credibility

This maxim means that credibility is established by the willingness to stand behind one's claims, even at personal cost. An affidavit, sworn under penalty of perjury, demonstrates the affiant's willingness to stand by their statements. This maxim ensures that those who make claims without the willingness to prove or defend them lose credibility.

9. A Lien or Claim Can Be Satisfied Only Through Rebuttal, Resolution, or Payment

In the context of affidavits, this maxim means that once a claim is made (through the affidavit), it remains in force until it is either rebutted, resolved by the court, or settled. If an affidavit is left unrebutted, the claims within it must be satisfied, as they become legally binding.

10. A Matter Must Be Expressed to Be Resolved

This maxim holds that legal matters can only be resolved if they are **clearly expressed**. Affidavits serve this function by formally and clearly stating the claims, **facts**, or demands of the affiant. An affidavit is a legal expression of the affiant's claims, and these claims must be addressed for the matter to be resolved.

C. Legal Precedent and the Binding Nature of Affidavits

As stated in **Sampson v. Channell**, affidavits are **prima facie** evidence, meaning they are treated as true unless rebutted. The courts also hold that an affidavit must be rebutted point by point. If no rebuttal occurs, the affidavit is legally binding, as the truth within it stands uncontested.

D. Vattel's Principle: Governments Cannot Alter Fundamental Law

Emer de Vattel, in *The Law of Nations*, affirms that government power is derived from the people and limited by natural law. Governments cannot arbitrarily alter fundamental legal principles, such as the binding nature of an affidavit. Vattel argues that power assumed without delegation is usurpation. This resonates with the principle that courts and governments must respect the truth presented in affidavits unless properly rebutted, as altering this fundamental law would constitute an overreach of power.

As stated in *The State v. Post*, 20 N.J.L. 368, 370 (1845), "A court can only declare what the law is, and whether consistent with the law of God, and the fundamental or constitutional law of society." The law here is clear: an affidavit left unrebutted becomes the binding judgment between the parties.

Conclusion

Affidavits play a vital role in upholding truth and justice, particularly when viewed through the lens of commercial law. The **10 Commercial Maxims** affirm the power of affidavits to express and enforce truth in legal disputes. When unrebutted, they stand as binding judgments, reinforcing the principles of fairness, equality, and justice. Furthermore, Vattel's principles remind us that neither courts nor governments have the authority to ignore or alter these truths, as doing so would violate the fundamental rights established by natural law.

Governments do **not** have the legitimate power to ignore an affidavit. Affidavits are legal instruments that must be respected within the judicial process as long as they are submitted according to the law. The power of affidavits, especially when left unrebutted, is grounded in both statutory law and common law principles.

E. Lack of Power to Ignore an Affidavit

Affidavits, as sworn statements of fact, hold significant legal weight. Once submitted, they require a formal rebuttal by the opposing party or the government. Failing to address an affidavit directly equates to conceding the truth of the statements contained within it. The principle is reflected in multiple court rulings and maxims of law, such as:

- **Maxim:** "An unrebutted affidavit becomes the judgment in law." If the government or any party fails to respond to an affidavit, it is considered the binding truth between the parties involved.
- **Sampson v. Channell, 110 F.2d 754, 762 (1st Cir. 1940):** This case reiterates that an affidavit stands as truth unless specifically rebutted. The government, like any other party, is bound to respond to an affidavit in a timely and substantive manner. Ignoring it does not extinguish its validity; instead, it acknowledges the claims as true.

F. Vattel's Principles: Limits on Governmental Power

Emer de Vattel, a foundational thinker in international law, emphasized in *The Law of Nations* that governments are bound by natural law and cannot exceed their delegated powers. Government authority comes from the people, and it is constrained by constitutional and natural law principles. Vattel asserts that:

1. **All power exercised by governments must be delegated.**
2. **Any assumed power beyond this delegation is usurpation.**

Therefore, a government that ignores a properly filed affidavit is acting beyond its authority. Vattel's argument reinforces the idea that no government has the legitimate power to arbitrarily ignore binding legal documents such as affidavits.

G. Constitutional and Judicial Framework

1. **Due Process:** The government is bound by constitutional guarantees of due process, which ensure that all legal claims, including those made in affidavits, are treated with fairness and transparency. Ignoring an affidavit would violate this foundational principle.
2. **Equal Protection Under the Law:** All parties, including the government, must operate within the same legal framework. Disregarding an affidavit would violate the principle that "all are equal under the law".

Conclusion

The government does not have the lawful power to ignore an affidavit. Such an action would violate both the principles of due process and the limits of governmental power as outlined by constitutional and natural law doctrines. Affidavits, unless specifically rebutted, must be accepted as binding in any legal dispute. This reflects both legal precedents and the immutable maxims of law, which dictate that truth expressed in an affidavit, when uncontested, stands as the final judgment.