

CERTIFICATE/PROOF/AFFIDAVIT OF SERVICE FORM INSTRUCTIONS

Last revised: 4/13/08

1. PURPOSE:

- 1.1. To develop legally admissible evidence that a specific document was sent, when it was sent, and whom it was sent by.
- 1.2. To make the evidence of delivery admissible without the need for foundational testimony of the person who sent it. Anything that is an original which has a notary stamp on it is immediately admissible without foundational testimony.
- 1.3. To minimize the cost and inconvenience to the sender of having to appear in court in order to provide foundational testimony which authenticates the proof of service.
- 1.4. To provide more useful source of service than a Certified Mail. Certified or Registered Mail Green Cards are insufficient proof in court because:
 - 1.4.1. They do not precisely identify exactly what was mailed.
 - 1.4.2. They are not authenticated by a neutral third party.
 - 1.4.3. The recipients frequently refuse to sign and return them, so they are often not returned back, especially in the case of correspondence sent to the U.S. government.

2. PROCEDURE FOR USE:

- 2.1. Print out all the materials to be mailed or served and this Certificate of Service.
- 2.2. Fill in the list of deliverables in Item 1.
- 2.3. Find a Postal Annex or Mailboxes etc. that has two people on duty who will cooperate with you in accomplishing this procedure, one of which is a notary and the other the Mail Server who will mail the item and complete the Certificate of Service. This may take a little marketing expertise on your part.
 - 2.3.1. Study the procedure carefully before you call anyone. Know it backward and forward and be able to explain it quickly. If you haven't studied this procedure carefully yourself so that you can explain it quickly and simply, or if you make it sound complicated or risky, then the store probably won't want to cooperate with you. Your confidence level and familiarity with the procedure will usually dictate how much cooperation you will get. Whatever you do, DON'T hand them this sheet and FORCE them to figure it out or make it THEIR problem. They don't want a research project and if it is too much work, they will just say NO.
 - 2.3.2. Most stores won't be familiar with this procedure so you will have to educate them simply, patiently, and confidently and propose what you want them to do and enlist their cooperation.
 - 2.3.3. Emphasize that it is a simple and risk free procedure that has the same purpose as a Certified Mail, with the additional step that it documents EXACTLY WHAT was sent and that it was sent by a neutral, disinterested third party. Say that you have never heard of any complications, and that it won't take more than five minutes of their time. Pay the notary their fee and give the mail server \$10 or more for his trouble. Not bad for only five minutes of work but well worth it for you.
 - 2.3.4. Call several stores until you find one that will help. Take your time and don't appear pushy, demanding, or fearful. If you can't find a store that will do it, you may want to find a paralegal who can do it instead. Try to establish an ongoing relationship with one or two stores or sources so you always have a place to go.
 - 2.3.5. Make it profitable for them by paying them generously for their time, the inconvenience, and the unusual nature of what you are doing.
- 2.4. In the presence of the Notary and using blue (not black) ink, sign all of the documents that are being served in BLUE INK so that it is an obvious original signature and then have the notary notarize your identity if necessary.
- 2.5. Have the Mail Server fill out the attached Certificate of Service and sign it. Make sure item 2 includes the addresses where the items are mailed, as indicated in the documents to be mailed themselves.

<i>IMPORTANT:</i> Ensure that the mail server personally verifies EVERYTHING that is listed in Item 1 of the Certificate of Service, because he will be asked to sign under penalty of perjury that he has put these in the envelope and mailed them.
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- 2.6. Have the Notary fill out the Notary Public Jurat at the end of the Certificate of Service, which authenticates the identify of the Mail Server.
- 2.7. Make as many copies of the entire package as you need.

<i>IMPORTANT:</i> Keep the Original for yourself, which is filled out is BLUE original ink!
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- 2.8. Have the Mail Server:

- 2.8.1. Put the *copies* the envelopes for each of the addressees, each one addressed to the two Recipients indicated in the cover letter of your document or correspondence
- 2.8.2. Personally seal the envelopes and personally.
- 2.8.3. Personally drop them into the mail.
- 2.9. Keep the original for yourself and make several copies. You also might want to record the original with the County Recorder so that it becomes a public record which is automatically admissible as evidence in any court trial. The reason is that under [Federal Rule of Evidence 902](#), public records are not subject to the Hearsay Rule.
3. **PROTECT YOUR LEGAL EVIDENCE.** Keep the original in a safe place locked up, preferably away from your house so that it may not be seized. Also, scan it in as a full color PDF and make backups you keep in several locations. One of the first things a judge will do if you want the document admitted as evidence in a legal trial is ask about the chain of custody of the document and whether it has remained under your own control at all times so that there is an assurance that it was not tampered with. See the free article Techniques for Building a Good Administrative Record available below for further details:
<http://sedm.org/ItemInfo/RespLtrs/AdminRecord/AdminRecord.htm>
4. **FURTHER READING AND RESEARCH:**
 - 4.1. *Techniques for building a Good Administrative Record*
<http://sedm.org/ItemInfo/RespLtrs/AdminRecord/AdminRecord.htm>
 - 4.2. Administrative Procedures Act, 5 U.S.C. Part I, Chapter 5, Subchapter 2
<http://caselaw.lp.findlaw.com/cascode/uscodes/5/parts/i/chapters/5/subchapters/ii/toc.html>
 - 4.3. *Administrative Law and Process in a Nutshell*, Fifth Edition; Westlaw
http://west.thomson.com/store/product.aspx?r=136240&product_id=22094315

CERTIFICATE OF SERVICE

Republic of _____)
Subscribed and Affirmed _____)
County of _____)

I, _____, the undersigned mailer/server, being of sound mind and under no duress, do hereby certify, attest and affirm that the following facts are true and correct, to wit:

1. That, on the _____, 20____, that, on behalf of (name) _____, a natural person, the undersigned personally deposited the following documents (listed below) inside the envelope, sealed them and transmitted them via the carrier indicated in item 2 below, to wit:

Item #	Document Description	Number of pages
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		

Total of ____ documents with combined total of _____ pages.

2. That I personally mailed said document(s) via (initial those which apply):

_____ United States Postal Office, by regular mail, postage prepaid
 _____ United States Postal Office, by **Certified Mail #** _____,
 Return Receipt Requested
 _____ United Parcel Service (UPS), tracking number # _____
 _____ Federal Express, tracking number # _____
 _____ Other (specify): _____

at said City and State, one (1) complete set of **ORIGINAL/COPIED (circle one)** documents, as described in item 1 above, properly enveloped and addressed to (addressee and address):

3. That I am at least 18 years of age;
4. That I am not related to _____ by blood, marriage, adoption, or employment, but serve as a "disinterested third party" (herein "Server"); and further,
5. That I am in no way connected to, or involved in or with, the person and/or matter at issue in this instant action.

I now affix my signature to these affirmations.

(Signature): _____, Mailer/Server

(Printed name): _____

NOTARY PUBLIC'S JURAT

BEFORE ME, the undersigned authority, a Notary Public, of the County of

_____, Republic of _____ (statename), this _____ day of _____, 20____,

_____ mailer/server did appear and was identified by (circle one): 1. Passport; 2. Driver's license; 3. Other: _____, and who, upon first being duly sworn and/or affirmed, deposes and says that the foregoing asseveration is true to the best of his/her knowledge and belief.

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

WITNESS my hand and official seal.

/s/ _____ SEAL

Notary Public

My Commission Expires On: