

EVIDENCE FOR THE COURT UNDER OATH OR AFFIRMATION

Evidence is information given by parties or witnesses, either in writing or spoken, which the judge uses to make a decision in a court hearing or trial. Evidence includes information that parties, witnesses and other people give:

- in written affidavits or statements signed under oath or affirmation (see below),
- by documents, photographs, records, files, expert reports or other written papers presented (tendered) in the court case, and
- when speaking under oath or affirmation (giving testimony) in a court proceeding.

A Formal Promise to Tell the Truth must be given for a person's spoken or written information to be evidence. This is done by giving or swearing an oath, or by solemnly affirming, that the information is the truth. This happens before you sign an affidavit (or other sworn document) and before you give testimony in a courtroom.

The first step is that you will be told that you have a choice in how you promise to tell the truth and three main options will be given as part of asking you to make this choice:

[1] Oath [2] Solemn Affirmation [3] Affirmation with an Eagle Feather

A sample question about your promise is on the other side of this information sheet.

Swearing an Oath means that your promise to tell the truth includes your statement that you answer to a higher Being based upon your religion. This oath must "bind your conscience" as required in law in Nova Scotia. Usually you will do this while holding or placing your hand on a holy book or religious text, but it is not mandatory to do this. You may wish to bring your own holy book or religious text for your faith or religion to the court when you need to give evidence. You may also request that specific religious or spiritual words be used.

A sample oath is on the other side of this information sheet.

Solemnly Affirming means that your promise to tell the truth is your solemn declaration that is made in place of an oath. This is used when you choose to be bound by your own conscience to tell the truth rather than taking a religious oath. Under Nova Scotia law, an affirmation is equal to, and has the same effect as, an oath.

A sample affirmation is on the other side of this information sheet.

Affirming with an Eagle Feather means that your promise to tell the truth includes your statement that the Eagle Feather symbolizes your spiritual connection to the Creator and is held in the spirit of honour and truth. In Nova Scotia, the law recognizes that this affirmation is equal to, and has the same effect as, an oath.

A sample affirmation with an Eagle Feather is on the other side of this information sheet.

Sample Question

You have a choice in how you promise to tell the truth. You may swear an oath on a Holy Book or Bible, affirm, or affirm using an Eagle Feather. Which do you prefer?

Sample Oath

Do you swear that the evidence you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?

Answer example: Yes, I do, so help me God.

Sample Affirmation

Do you solemnly affirm that the evidence you are about to give shall be the truth, the whole truth and nothing but the truth?

Answer example: Yes, I solemnly affirm.

Sample Affirmation with an Eagle Feather

Do you affirm that this Eagle Feather symbolizes your direct connection to the Creator for your people and you hold it in the spirit of honour and truth and the evidence you shall give in this matter shall be the truth, the whole truth and nothing but the truth? Msit No'kmaq (All my relations) (may say both or English only)

Answer example: Yes, I affirm. Msit No'kmaq (All my relations)

An additional Information Sheet is available regarding the Eagle Feather Affirmation.

There are Serious Consequences for lying under oath or affirmation. A false oath or a false affirmation is called 'perjury'. In Canada, this is a crime punishable by law with a prison term of up to fourteen (14) years.

Key Resources for Information Sheet: www.nsfamilylaw.ca
www.courts.ns.ca