

CERTIFICATE/PROOF/AFFIDAVIT OF SERVICE FORM INSTRUCTIONS

Last revised: 10/19/10

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. Before you come to the store that will do the service, ensure that you print out as many ORIGINALS as you think you will need. You will need AT LEAST one for yourself. If you think the recipient will need an original rather than a copy of what you are sending, then print out TWO documents as originals: One to keep for yourself and one for the recipient. Do NOT sign the originals until you get to the store if your signature need to be notarized on the original.
- 2.5. Go to the store with your original printouts. If the original document requires a notarization separate from this Certificate of Service, then in the presence of the Notary and using blue (not black) ink, you should sign 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.
- 2.6. Make as many copies of the entire original package as you need for the mail server to mail. Keep AT LEAST one signed and/or notarized 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. This is also covered in [Techniques for Building a Good Administrative Record, Form #09.008](#).

2.7. Have the Mail Server:

- 2.7.1. Put the copies in the envelopes for each of the addressees, each one addressed to the two Recipients indicated in the cover letter of your document or correspondence.
- 2.7.2. Personally seal the envelopes.
- 2.7.3. Personally drop them into the mail.
- 2.7.4. 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.

<p><u>IMPORTANT:</u> 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.</p>

- 2.8. The Mail Server should then have the Notary fill out the Notary Public Jurat at the end of the Certificate of Service, which authenticates the identity of the Mail Server. Do NOT mail this Certificate of Service but rather keep it for your record. It allows proof of service to be immediately admissible as evidence without foundational testimony.

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/State 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 human being, 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 priority mail, postage prepaid, tracking number: _____
_____ 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(s) and address(es)):

#	Recipient(s)
1	
2	
3	
4	

5	
---	--

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

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20____, by
_____, proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me

WITNESS my hand and official seal.

SEAL

Notary Public

My Commission Expires On: