

**Precedent No. 29**

**COUNTER-AFFIDAVIT: UNDER ORDER IX, RULE 9 OF THE CODE OF CIVIL  
PROCEDURE, 1908**

BEFORE THE SUBORDINATE JUDGE'S COURT

CM. Restoration Application No..... of 20

In

Suit No ..... of 20

**IN THE MATTER OF:**

A.B

....PETITIONER

VERSUS

B.C

....RESPONDENT

**COUNTER-AFFIDAVIT**

I, ..... W/o ..... ,aged about..... years, now residing in  
....., do hereby solemnly affirm and state on oath as under:

1. I am the respondent in the Restoration Application referred to above and the defendant in the suit. I am well conversant with the facts and circumstances of the present case and stand competent to swear to this affidavit.
2. The averments in para 1 to para 4 of the affidavit accompanying the restoration application, being statements of facts, deserve no comment.
3. The statements made in para 5 onwards, save and except those, which have been specifically admitted hereunder, are denied as untrue and incorrect.
4. Notice regarding the posting of the case was duly notified in the Court diary and when the case had been listed for trial it was published in the list, which was exhibited outside the Court hall. Further, one copy of the notice had even been affixed in the office of the Association of Advocates of which the counsel for the applicant is a member. Therefore, the statement that the applicant or his counsel had no knowledge of the posting of the case or its inclusion in the special list for trial is absolutely false and incorrect and hence denied.
5. The kind attention of this Hon'ble Court may also be drawn to the fact that just one week before the date of posting of the case for trial, there was a case between the

counsel of the defendant and my counsel. At that point in time, this Hon'ble Court had specifically asked both the counsels, as to, how much time would be taken by them in conducting the trial and both the counsels had given their respective replies to this Hon'ble Court. Therefore, it cannot, in any event, be believed that the counsel for the defendant was unaware of the date of posting of the case.

6. In view of the aforementioned facts, it is more than abundantly clear that the contents of the affidavit are absolutely false and fabricated, making the deponent thereof liable to be penalized for having sworn to untrue statements.
7. The above stated facts lay bare the fact of default and negligence on the part of the defendant and his counsel, which cannot be condoned in any event.
8. It is, therefore, just and necessary that this Hon'ble Court may be pleased to reject the application for restoration with compensatory costs to me.

*Sd/J*

Deponent

#### **Verification**

Verified at ..... on this the ..... day of ..... 20 ....., that the contents of the above affidavit are true and correct to the best of my knowledge, belief and information and nothing material has been concealed therefrom.

*Sd./*

Deponent

Solemnly affirmed and signed before me by the deponent, who is personally known to me, on this the ..... day of ....., 20 ....

*Sd./*

Counsel for the deponent

**Note:** Affidavit to be attested by the appropriate authority prescribed under law. Prayer should be avoided and language should preferably be in 'first person'.