**Format of Affidavit for and on behalf of the Complainant by way of evidence in case of Criminal Complaint Under section 138 of Negotiable Instruments Act.**

In some courts at the time of filing criminal complaint under section 138 of Negotiable Instruments Act (read with section 141 in case of Companies) against return of cheque, an affidavit regarding evidence needs to be filed by the complainant (Not in all courts). Format of complaint s given here under.

**Draft Format of Evidence by way of affidavit for and on behalf of the Complainant (Not necessary in some courts)**

IN THE COURT OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COMPLAINT NO. \_\_\_\_\_\_\_\_\_\_\_ OF 20\_\_

IN THE MATTER OF:  
Mr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

COMPLAINANT

VERSUS

Mr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

ACCUSED

**EVIDENCE BY WAY OF AFFIDAVIT FOR AND ON BEHALF OF THE COMPLAINANT**

Affidavit of Mr. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ aged \_\_\_\_years, the resident of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

I, the above named deponent, on solemn oath do hereby state, declare and affirm as under:

1. That I am the Complainant and am competent to file the present Complaint before this Hon'ble Court.
2. That I say the Complainant had extended credit facility of Rs.\_\_\_\_\_\_\_\_\_\_\_ /- to the Accused. The said credit facility was repayable as per the cheques issued by the Accused.
3. I say that the Accused had issued Cheque No. \_\_\_\_\_\_\_\_\_\_\_dated \_\_\_\_\_\_\_\_\_\_\_\_\_for Rs. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, drawn on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ in my favour towards discharge of his above said liability. The above cheque was drawn on cheques drawn \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is exhibited as EX CW1/A.
4. I say that the above cheques, on presentation, was dishonoured by the bank of the Accused vide returning memo dated \_\_\_\_\_\_\_\_\_\_\_\_stating the reason to be "Funds Insufficient". The said Returning Memo is exhibited as EX- CW1/B.
5. I say that on account of the dishonor of the said cheques, the complainant had served a legal notice dated \_\_\_\_\_\_\_\_\_\_\_\_\_upon the accused person. A Copy of the notice is exhibited as EX CW1/C. The Postal Receipt exhibited as EX-CW1/D.
6. I say that consequent to the non payment of the cheques amount so demanded by the complainant within the statutory period, the Complainant has filed the present complaint, which is well within limitation. The limitation document is exhibited as EX CW1/E.
7. I say that the complainant not filed any complaint in any other court which is pending in respect of the transaction involved in the present matter.
8. I say that in view of the facts the accused be summoned and tried as per law.
9. I say that I close my pre-summoning evidence.

DEPONENT

VERIFICATION  
Verified at New Delhi on this \_\_\_\_\_day of \_\_\_\_\_\_2013, that the contents of the above affidavit are true and correct to the best of my knowledge and belief based on the records maintained by the Institute in normal course of business. No part of it is false and nothing material has been concealed therefrom.

DEPONENT