

FAMILY LAW ACT 1975

**IN THE FEDERAL CIRCUIT AND
FAMILY COURT OF AUSTRALIA
(DIVISION 2)**

AT BRISBANE

No. (P)NCC3896/2023

BETWEEN

**STEPHEN CHRISTOPHER COOKE
(Applicant)**

AND

**HEATHER ANNE COOKE
(Respondent)**

AND

INDEPENDENT CHILDREN'S LAWYER

**ORDER 8/8/2024
(IN CHAMBERS)**

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STEPHEN CHRISTOPHER COOKE (Applicant)

AND:

HEATHER ANNE COOKE (Respondent)

AND:

INDEPENDENT CHILDREN'S LAWYER

BEFORE:

SENIOR JUDICIAL REGISTRAR RICE

DATE:

8 August 2024

MADE AT:

BRISBANE (IN CHAMBERS)

UPON THE COURTS' OWN MOTION in Chambers and there being no need for an appearance by or on the behalf of the parties.

1. Pursuant to the orders of Judicial Registrar Furner dated 23 July 2024, the parties and their legal representatives (if any) shall attend a full day confidential Family Dispute Resolution Conference commencing at **9.00am AEST on 18 September 2024** with a Registrar (as Family Dispute Resolution Practitioner) of the Federal Circuit and Family Court of Australia.
2. The parties and their legal representatives (if any) shall attend Part 1 of the confidential Family Dispute Resolution Conference with a Registrar (as Family Dispute Resolution Practitioner) on **13 September 2024** at the following times:
 - a. the Applicant at **3.00pm AEST**; and
 - b. the Respondent at **3.45pm AEST**

and unless otherwise directed by the Registrar conducting the Family Dispute Resolution Conference, the Independent Children's Lawyer's appearance shall be excused from this part of the Family Dispute Resolution Conference.



3. Part 1 of the confidential Family Dispute Resolution Conference shall proceed by telephone and each party must, within 7 days of the date of these orders, notify the Court of their best contact telephone number (and include details of the file name and Court file number) by email to **DisputeResolutionParenting@fcfcoa.gov.au**
4. Not later than **4.00pm AEST on 6 September 2024**, each party must:
 - a. ensure that all documents required to be exchanged between parties pursuant to Chapter 6 of the *Federal Circuit and Family Court Rules* have been exchanged;
 - b. ensure that any private expert report that is relevant to the proceedings has been filed;
 - c. provide to the Court (by email to **(DisputeResolutionParenting@fcfcoa.gov.au)**) and to the other party a single collated bundle of documents comprising:
 - i. a Confidential Outline of Case (Dispute Resolution);
 - ii. a detailed minute of Orders Sought;
 - iii. details of any previous or current family violence orders; and
 - iv. a copy of any document exchanged between the parties which is directly relevant to an issue remaining in dispute (with relevant passages highlighted).
5. The parties and the Independent Children’s Lawyer shall otherwise comply with any other order or direction made by the Registrar necessary to facilitate the Family Dispute Resolution Conference.
6. The Registrar may vacate the Family Dispute Resolution Conference on 18 September 2024 in the event:
 - a. of non-attendance by either party at Part 1 of the Conference (on 13 September 2024 pursuant to Order 2 herein); or
 - b. that pursuant to Regulation 29 of the *Family Law (Family Dispute Resolution Practitioners) Regulations 2008*, the Registrar is no longer satisfied that the conference is appropriate.



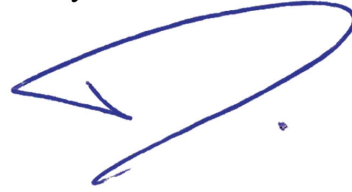
IT IS NOTED:

- A. Not later than 4.00pm AEST on 11 September 2024 the lawyer for each party must give the party for whom they act a written notice of:
- a. The party's actual costs, both paid and owing, up to and including the Family Dispute Resolution Conference; and
 - b. The estimated future costs of the party up to and including each future court event, including trial; and
 - c. Any expenses paid or payable to an expert witness or, if those expenses are not known, an estimate of the expenses.
- B. For the purposes of the Family Dispute Resolution Conference, the parties are referred to s 131 of the Evidence Act 1995 and ss 10J and 10H of the *Family Law Act 1975* and to the Court's [Family Dispute Resolution Fact Sheet](#).
- C. The Confidential Outline of Case (Dispute Resolution) is a confidential without prejudice document prepared for the purpose of the Family Dispute Resolution Conference only. It is **not** to be filed or relied upon after the conclusion of the conference.
- D. Part 1 of the Family Dispute Resolution Conference referred to in Orders 2(a) and 2(b) above is the first part of the Conference and is confidential. The other party will not be in attendance.
- E. The structure and duration of the Family Dispute Resolution Conference ordered pursuant to Order 1 hereof will be at the discretion of the Registrar and will vary depending on the nature of the issues for consideration. Unless otherwise advised:
- a. parties and their legal representatives in half day conferences are expected to be available until at least 2.00pm and at the specific times requested by the Registrar; and



- b. parties and their legal representatives in full day conferences are expected to be available for the entirety of the day and at the specific times requested by the Registrar.

By the Court

A handwritten signature in blue ink, consisting of a large, sweeping loop that tapers to a point on the left and ends with a small dot on the right.

Registrar



Family Violence Information Sheet

This information sheet contains important information for litigants who have experienced, or are alleged to have perpetrated, family violence. This information is not a substitute for legal advice.

About family violence

Family violence means violent, threatening or other behaviour that coerces or controls a member of the person's family (the family member), or causes them to be fearful (section 4AB *Family Law Act 1975*).

The Federal Circuit and Family Court of Australia (the Court) takes family violence very seriously. Protecting family members from the effects of family violence and ensuring the safety of all people engaged in the family law system, including when attending court, is a high priority for the Court.

Safety at court

Parties concerned about their safety when attending court events can contact the Court's registry in which their matter is listed to arrange a safety at court plan prior to the listing.

Legal and support services

The Family Advocacy and Support Service (FASS) is a free legal and support service provided by Legal Aid to assist family law litigants who have been affected by family violence. Litigants can attend the free Legal Aid Family Law Duty Service. For more information about FASS, see Family Advocacy and Support Services, Legal Aid, see the Legal Aid section of Find a Lawyer or contact the Court.

Cross-examination

Division 4 of Part XI of the *Family Law Act 1975* provides that **unrepresented litigants** will be **unable** to cross-examine the other party at an interim or a final hearing if there are allegations of family violence **and**:

- i. either party has been charged with or convicted with an offence involving violence or threat of violence involving the other party: section 102NA(1)(c)(i)
- ii. a final Family Violence Order applies to both parties: section 102NA(1)(c)(ii)
- iii. an injunction has been made under section 68B or section 114 of the *Family Law Act* for the personal protection of one party against another: section 102NA(1)(c)(iii), or
- iv. the Court makes an order that personal cross-examination should not be permitted: section 102NA(1)(c)(iv).

In matters involving alleged family violence which **do not** fall into the above categories, the Court may permit personal cross-examination by an unrepresented party but must ensure alternative protections, such as cross-examination via video link, are implemented: section 102NB.

These provisions apply to all proceedings under the Family Law Act, not just parenting proceedings.

Parties who are not permitted to personally cross-examine another party may retain private legal representation or apply to the Commonwealth Family Violence and Cross-Examination of Parties Scheme (the Scheme) to obtain legal representation. The Scheme is not means or merits tested, but applicants may be required to contribute to the cost of their representation. Applications are made through the relevant state or territory Legal Aid Commission. All applications to the Scheme must be made at least 12 weeks prior to the final hearing.

Unrepresented litigants who do not have legal representation either privately or through the Scheme will be unable to cross-examine the other party at the final hearing.

Further information can be found on the Court's website: www.fcfoa.gov.au/fl/fv/overview

This information sheet provides general information only and is not provided as legal advice. If you have a legal issue, you should contact a lawyer before making a decision about what to do or applying to the Court. The Federal Circuit and Family Court of Australia cannot provide legal advice.

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