

FAMILY LAW ACT 1975

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

AT NEWCASTLE

No. (P)NCC3896/2023

BETWEEN

**STEPHEN CHRISTOPHER COOKE
(Applicant)**

AND

**HEATHER ANNE COOKE
(Respondent)**

AND

INDEPENDENT CHILDREN'S LAWYER

ORDER 18/12/2024

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BETWEEN:

STEPHEN CHRISTOPHER COOKE (Applicant)

AND:

HEATHER ANNE COOKE (Respondent)

AND:

INDEPENDENT CHILDREN'S LAWYER

BEFORE:

JUDICIAL REGISTRAR FURNER

DATE:

18 December 2024

MADE AT:

NEWCASTLE

UPON APPLICATION MADE TO THE COURT by Mr Cooke, appearing on his own behalf as the Applicant and Ms Sneddon, Solicitor for and with the Respondent, and Ms Markham for the Independent Children's Lawyer, all appearances by way of Webex.

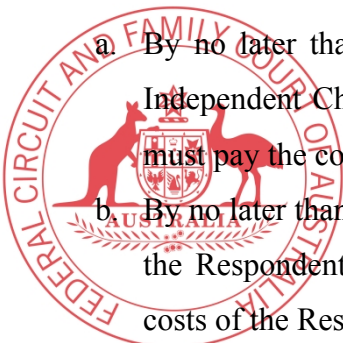
THE COURT ORDERS THAT:

Application in a Proceeding – Single Expert Report

1. The applicant may provide the property settlement Orders dated 13 September 2024 to the Single Expert for consideration in the preparation of the Single Expert Report referred to in Orders made 15 October 2024.
2. Time for compliance with Order 2 of Orders dated 15 October 2024 is extended to 23 December 2024.
3. The Application in a Proceeding filed on 7 November 2024 is otherwise dismissed.

Costs

4. In respect of the Application in a Proceeding filed on 7 November 2024 and the court event on 18 December 2024:
 - a. By no later than **4.00pm on 20 January 2025**, and to an account nominated by the Independent Children's Lawyer in writing to the applicant within 7 days, the applicant must pay the costs of the Independent Children's Lawyer fixed in the sum of **\$465.00**.
 - b. By no later than **4.00pm on 20 January 2025**, and to an account nominated on behalf of the Respondent in writing to the applicant within 7 days, the applicant must pay the costs of the Respondent, fixed in the sum of **\$2,435.81**.



Liberty to Re-List

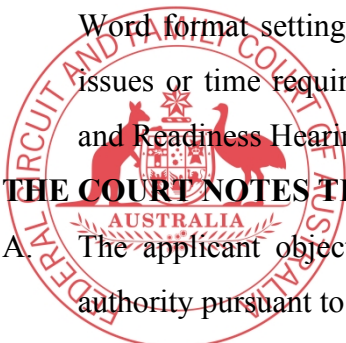
5. The Independent Children's Lawyer is granted liberty to seek that the proceedings be re-listed for procedural directions on 7 days' notice to each other party, by contacting Chambers (casemanager.JRFurner@fcfcoa.gov.au).

Compliance and Readiness Hearing

6. The Compliance and Readiness Hearing listed on 3 February 2025 is *vacated*.
7. The proceedings are listed for a Compliance and Readiness hearing on **7 April 2025 at 2.30pm AEST** in the Newcastle Registry of the Federal Circuit and Family Court of Australia (Division 2) before His Honour Judge Betts.
8. In accordance with the [Central Practice Direction – Family Law Case Management](#), no less than 7 days prior to the listing, each party must file and serve:
 - a. An Amended Application or Response as appropriate, setting out the precise orders sought, if the most recently filed Application or Response is not current;
 - b. An undertaking as to disclosure in accordance with Rule 6.02 of the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021*; and
 - c. A Certificate of Readiness in the approved form.
9. No less than 5 days prior to the listing, the parties or their legal representatives must confer in order to be able to advise the Court of the following matters at the Compliance and Readiness Hearing:
 - a. the factual issues requiring determination at a Final Hearing;
 - b. the main legal and factual contentions advanced in relation to each issue in dispute;
 - c. in parenting matters, the capacity of each party to contribute to the cost of a single expert report instead of a family report;
 - d. the proposed witnesses (including expert witnesses) and their availability;
 - e. whether interpreters are required;
 - f. whether the matter is appropriate to be heard by videoconference;
 - g. whether expert evidence can be given by videoconference;
 - h. the estimated length of the Final Hearing and proposed trial plan; and
 - i. whether any other step is required in order for the matter to proceed to a Final Hearing.
10. No later than **4.00pm on 4 April 2025** the parties shall provide a draft minute in Microsoft Word format setting out with precision any procedural orders sought to aid the limiting of issues or time required for the Final Hearing, by email to the Chambers of the Compliance and Readiness Hearing Judge at Associate.JudgeBetts@fcfcoa.gov.au.


THE COURT NOTES THAT:

- A. The applicant objects to the provision of the Single Expert Report to a child protection authority pursuant to Order 11(a) of the Orders dated 15 October 2024.



- B. If the Compliance and Readiness Hearing does not proceed or the matter is unable to be listed for Final Hearing as a consequence of the non-compliance of one party, consideration will be given to a grant of leave to the complying party or parties to proceed on an undefended basis and to orders for costs.
- C. If the contents of a Certificate of Readiness are found not to be accurate, consideration will be given to a grant of leave to the non-defaulting party or parties to proceed on an undefended basis and to orders for costs.
- D. Any adjournment of the Compliance and Readiness Hearing event is at the discretion of the presiding Judge, and such requests must be made in writing jointly to the presiding Judge's chambers no less than 7 days prior to the Compliance and Readiness Hearing.

By the Court



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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