

# Affidavit – Family law and child support proceedings

Federal Circuit and Family Court of Australia (Family Law) Rules 2021 – RULE 8.15

## Filed in:

- Federal Circuit and Family Court of Australia  
 Family Court of Western Australia  
 Other (specify) \_\_\_\_\_

## Type of proceedings:

- Family law proceedings  
 Other (specify) \_\_\_\_\_

## Filed on behalf of:

Full name: Stephen Christopher Cooke

## COURT USE ONLY

Client ID \_\_\_\_\_

File number NCC3896/2023

Filed at Newcastle

Filed on \_\_\_\_\_

Court location Commonwealth Law Courts Building, 61 Bolton Street, Newcastle NSW 2300

Court date \_\_\_\_\_

## Name of person swearing this affidavit:

Date of swearing \_\_\_\_ / \_\_\_\_ /2024

## Part A About the parties

### APPLICANT 1

Family name (as used now)

Cooke

Given names (as required)

Stephen Christopher

### RESPONDENT 1

Family name (as used now)

Cooke

Given names (as required)

Heather Anne

What is the contact address (address for service) in Australia for the party filing this affidavit?

You do not have to give your residential address. You may give another address at which you are satisfied that you will receive documents. If you give a lawyer's address, include the name of the law firm. You **must** also give an email address.

Clarity Lawyers

45 Hunter Street, Newcastle

State NSW

Postcode 2300

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Lawyer's code CLA7584701

Email [samantha@claritylawyers.com.au](mailto:samantha@claritylawyers.com.au)

## Part B About the independent children's lawyer (if appointed)

Independent children's lawyer family name

Given names

Firm name

## Part C About you (the deponent)

Family name (as used now)	Given names
Cooke	Stephen Christopher

Gender	Usual occupation (if applicable)
<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> X	Parent and Homemaker

What is your address?

You do not have to give your residential address if you are concerned about your safety. You may give another address at which you are satisfied that you will receive documents.

213 Morgan Street		
Merewether		
	State NSW	Postcode 2291

## Part D Evidence

### Background

1. I am the Applicant Father in these proceedings. I was born on 27 October 1981, and I am currently 42 years of age.
2. Heather Anne Cooke (“**Heather**”) is the Respondent Mother in these proceedings. Heather was born on 31 July 1978 and is currently 45 years of age.
3. Heather and I began living together on 24 September 2011 #Heather says living together in May 2012??# and were married on 26 September 2012.
4. There are two (2) children to the relationship, namely:
  - a. Christian Finn Cooke, born 20 August 2014 and currently 9 years of age (“Christian”); and
  - b. Joshua Finn Cooke, born 27 January 2017 and currently 6 years of age (“Joshua”)(Collectively referred to as “**the children**”).
5. Heather and I separated on a final basis on 17 November 2023 and lived under one roof until Heather moved out, taking the children against my wishes, on 2 December 2023. She would not tell me where the children would be staying.
6. After Heather moved out on 2 December 2023, she did not allow me to see the children again until 20 December 2024.
7. On 12 January 2024 Heather and I attended Family Dispute Resolution at which we were unable to reach substantive agreement on parenting or property matters. However, so I could see the children again, I agreed to an “interim/interim” arrangement which remains in place whereby the children live with Heather and spend time with me as follows:

Commented [A1]: Ask Stephen

- a. During Week 1, from the conclusion of school or 3.00pm on Thursday to the commencement of school (or 9am) on the following Monday; and
- b. During Week 2, from the conclusion of school (or 3.00pm on Thursday to the commencement of school (or 9.00am) on the following Friday.

### **Parenting During the Relationship**

8. Christian was born on 20 August 2014. I was working at this time [in what role working what hours?](#) and Heather had short maternity leave for less than 3 months [then did what for work?](#). A nanny then cared for Christian for 9 months.
9. In September 2015, we moved to Australia from Canada as a family. I assumed the role as primary homemaker [and ceased work?](#) and parent and Heather returned to work full-time [as?? Was this a joint decision due to earning capacity or what? Wife says it was because of visa issues aka giving no credit to a joint family decision for you to be the primary carer.](#) →
10. In January 2017, Joshua was born. Heather was home for several weeks after giving birth, but I remained the primary carer during this time.
11. For the duration of the relationship, I was the primary homemaker and parent whilst Heather worked full-time to support the family financially. I managed tasks like cooking, cleaning, and washing, although the latter posed some challenges. Heather had a specific way of washing clothes in the machine, and she insisted that it was the only proper method for doing so, along with other associated domestic duties.
12. Monday to Friday mornings serve as the precursor to the school day at Merewether Heights, starting promptly at 9:25 AM. Josh typically rises between 5:30 to 6:30 AM, while Christian wakes around 6:30 to 7:00 AM. As the boys rotate bathroom use, I prepare coffee for Heather and I and breakfast, tailored to each child's preferences. While Joshua enjoys options like blueberry yogurt or Vegemite Muffin, Christian tends to stick with cold cereal despite attempts to introduce healthier alternatives, possibly influenced by his ADHD diagnosis. Lunch preparation involves non-peanut Milo protein bars, protein shakes, veggies, fruit, and occasional snacks like jerky. My morning tasks includes gathering outfits and shoes, assisting with homework, administering medications including Christian Ritalin, puffer with spacer, and providing supplements like Vitamin C. Sunscreen, bug screen, and weekly nail care are also part of the routine to ensure the boys are ready for the day ahead with the timing adjusted to ensure all tasks are completed by 8:30 AM allowing an ample amount of time to walk to school together. In 2023 the boys attendance records were excellent, Christian attended 96.5% and Joshua attended 99.3%. Special appointments prompt earlier departures, with Tuesdays requiring departure by 8:15 AM for Lab Learning appointments and Thursdays by 8:45 AM for Christian's drum lessons.
13. During school hours, I managed various tasks such as grocery shopping, house cleaning, laundry duties, and handling appointments and medications. Additionally, I volunteered periodically at the school canteen in Merewether Heights, starting around March 22, 2022. My involvement was as

needed, assisting with food preparation, till operations, and guiding children through purchases. This experience was not only fulfilling for me but also brought joy to my sons, Christian and Joshua, who were excited to see me contributing to their school community.

14. Our afternoons adhered to a structured routine, characterized by prompt task execution and the start of dinner preparations. Following school pickup, during our walk home, my sons Christian and Joshua would update me on their day's activities. Meanwhile, I juggled their extracurricular schedules, ensuring they made it to appointments like Lab Learning on Tuesday mornings at 8:45 AM and Reynolds & Co Studios Music on Mondays from 4:30 PM to 5:00 PM. Thursdays were packed with Hunter Ice Skating from 5:30 PM to 6:00 PM. Wednesdays were particularly busy, with Arnold's Swim and Michael Mills Tennis, both from 5:30 PM to 6:00 PM.
15. Google Timeline provides a comprehensive depiction of my activities and whereabouts throughout 2023, highlighting the significant time I dedicated to facilitating my children's engagements. Specifically, it recorded 18 hours spent at the LAB Learning Clinic during Christian's scheduled sessions, demonstrating my commitment to his educational advancement. Additionally, it indicates an hour at The Newcastle Paediatric Clinic while accompanying Christian, showcasing my attentiveness to his healthcare needs. Moreover, the timeline illustrates a total of 47.5 hours allocated to various afterschool recreational pursuits the boys were subscribed to, including swimming, music, ice skating, and tennis.

*See Appendix...Present Excell Spread sheet of Google TimeLine*

1. Booking afterschool activities for the boys was a shared responsibility, but when Heather took the lead, I often assumed the role of managing the activity. We made sure to thoroughly discuss all the activities the boys would be involved in beforehand. For instance, when it came to after-school music, Heather took the lead and organized the class together, while the purchasing of that at home instruments was separate and mostly my family supported that financially. On the other hand, I took exclusive responsibility for organizing activities like Hocker and Learn to Skate, including the purchasing of the equipment, although again, Heather and I discussed the details extensively beforehand. The same level of collaboration extended to swim classes. However, as evident from the above google timeline, I've largely been the parent primarily involved in these arrangements. Just because I've spent significant time driving the boys around doesn't diminish the parenting role during those moments and to and from sport. Along the way we've had discussions about schooling, life in general, strategies to manage and regulate behaviour, and even tackled inevitable squabbles that arose during car rides. I've helped the boys with how to tie their skates, emphasized the importance of perseverance in sports, addressed teasing incidents, and enforced discipline during activities like swimming. Furthermore, I took the initiative to apply for and submit NSW vouchers for these activities. [\(this is somewhat unhelpful – it looks like a word document – it doesn't prove in any way who booked the app, it just shows what apps were booked. I would remove this \(given 5 annexure rule and we can put it in a tender bundle if need be\)](#)

**Commented [A2]:** Were going to dump the word doc and use the cleaner printable excel spreadsheet only and I have provided a lot more detail above.

16. Addressing concerns raised in affidavit regarding my parenting: Our home's proximity (less than 3 meters from that neighbour) may have led to visibility into our home, contributing to raised concerns. Parenting young children (ages 7 and 4) poses challenges in ensuring clothing; despite efforts, occasional instances occurred. I took the initiative to have frosted windows installed during the conflict to safeguard family privacy and address visibility concerns.
17. Additionally, I acknowledge the observations made regarding my attempts at disciplining my children such as the use of the "countdown tactic". As a parent, I made a conscious decision not to resort to aggressive means of silencing my children but instead opted for patience, redirection, and intervention where necessary.
18. Regarding the incidents on the patio, I respectfully refute any suggestion of inappropriate behaviour. Our family engaged in typical recreational activities, including games like tag and hide-and-seek, which naturally involve some level of noise and activity. These interactions were part of our family's bonding and recreational time and were never intended to disturb or inconvenience others.
19. Furthermore, it's important to mention that since those incidents took place, we've had two new neighbours move in. The second one is still residing next door, and thankfully, we haven't encountered any problems with them, in fact, they're lovely people. This indicates that the issues we faced before might have been caused by specific interactions and dynamics with the previous occupants.
20. Upon arrival at home, after school, the boys organized their stuff, I checked school messages, cleaned lunch items, and the boys cleaned up. I would start making dinner no later than 4:00pm
21. On weekends, I would often take the children bike riding, inline skating, scooting and we would also play with Lego, some video games. Heather would join as well if able.
22. On the weekends, unless Heather had work commitments, I would wake up with the children giving Heather an opportunity to sleep in. Despite acknowledging her hard work, I've noticed times when Heather seems to sleep in due to drinking too much the night before. I've tried to help by bringing breakfast and medication to her bedside, but sometimes she remained in bed. I've expressed concern and suggested she reduce her workload, but she seemed stuck in a cycle of burnout.
23. Heather would often complain that she was tired whenever the children became too much for her to handle, compounded I believe having had a few drinks beforehand. Heather would then place responsibility on me to look after the children for the remainder of the afternoon or evening while she retreated upstairs to her bedroom and shut the door. Sometimes I'd later to check in on her to find her doing her own thing on social media, not sleeping at all which frustrated me quite a bit as was spending very little meaningful time with her and felt I was doing all the hard yards on my own with respect to parenting the boys.
24. Throughout our relationship, it often felt like I was constantly at Heather's beck and call. After dinner, when she retires to the couch, I found myself consistently fetching her drinks, snacks, and tending to the kids. While I understand the importance of unwinding after a long day and our role

reversal, I couldn't help but feel overlooked. Heather never offered to reciprocate or take over for a bit, especially with the demanding needs of the children pre and post dinnertime. I often reflected as to how little I was able to relax in the evening, I always seemed to be on my feet, essentially playing the role of a butler, and I have done so with very little complaint. I just want to express that, while I harbor no resentment, I feel the need to acknowledge that my efforts in this regard were never reciprocated.

~~2. I often felt like a slave to Heather which made me feel inferior. She would often make me fetch her drinks and snacks.~~

On 24 June 2023, I expressed to Heather that I was feeling neglected, had felt this way for quite some time and a desire to improve the relationship which started as a discussion escalating into an argument that ended with Heather announcing our relationship was over. Later, **in a hurtful moment, Heather said to the children something to the effect of: "Daddy doesn't love you."** She also directed a statement to me, saying, *"I'll have to speak to my accountants and organize buying you out."* I pleaded with Heather to reconsider and reaffirmed my desire to stay married to her and keep things status quo.

~~3.2.~~ On 25 June 2023, following another attempt to reconcile, Heather announced in front of the children, words to the effect of: *"guys, go get your shoes on, we have to leave."* Christian questioned Heather as to why they had to leave and Heather replied with, words to the effect of: *"If we don't leave, I may end up stabbing your father."* I asked Heather where she was taking the children and she ignored me and proceeded to drive away. 10 hours later, I decided to drive 45 minutes to Heather's mums' home in the hope of finding them there. As I was driving, I received a call from Christian who told me that he was *ok* and that he had cried the entire car ride and was screaming, words to the effect of: *"Mum take me back, I want dad."*

~~4.3.~~ On 26 June 2023, Heather dropped the children home at 8:00am for school at 9:00am. Heather left and did not explain what took place the day prior. I rushed to get the children ready as we only had an hour. Both boys were very happy to see me and I was very relieved. Christian said, "I hate mum for doing this."

~~5.4.~~ Following this event Christian developed what I believe to be "Separation Anxiety". Saying "goodbyes" became increasingly challenging for Christian. He was no longer able to say goodbye and simply break like before. For example, even now, at school drop off, after saying my goodbye, as I walk away, Christian will continually repeat (yelling if from afar), *"I love you Dad, bet I love you more than me!"*. The latter bit of that statement made me feel terrible. In most instances when Christian has made that later comment, I have returned to Christian to say, *"Buddy, I will always love you and I love you more than anything in the world."* [Does he appear upset or distressed? Need to unpack the anxiety component because this just reads like most kids saying goodbye to a parent they love.](#)

~~6.5.~~ I later discussed this with Heather, that I believe this incident may have caused Christian to develop separation anxiety to which she responded, *"oh, so now it's my fault!"*. When next I met with

Christian's Pediatrician in August 1<sup>st</sup>, 2023 I explained to him what was happening in Christian's life. That I suspected Christian may have developed separation anxiety from this event. Christian's Pediatrician directed me back to Kane Becker, Child Psychologist Oracle. where I arranged 6 appointments to work through this issue with Christian. This all occurred before Heather had joined our meeting as she was pre-occupied with work. Since our visits together I'm happy to report that we have seen improvement. (this is great however if kids are doing well, the question is asked, why would the court move them on an interim basis?).

**Commented [A3]:** Because Christian reaction is a byproduct of being removed from my care. The issue re-surface since separation.

7.6. In or around June 2023, Heather said to me, words to the effect of: "you are solely responsible for Christian's obesity" and "you never take ownership." Is he obese?? I deny that Christian is obese. Christian weighs about 32kg which is not considered obese for his age and height. Do his treaters have concerns re his weight? t. However, I believe the children are eating well and that I'm doing my best as a father. I always include a slightly steamed fresh vegetable when I make the children's dinner each night. Shortly after this incident with Heather, I purchased a digital smart scale to monitor the children's weight. ~~Christian weighs about 32kg which is not considered obese for his age and height~~ – was this recommended? ¶

**Commented [A4]:** No.

**Commented [A5]:** It's a Withings Smart Scale it makes the assessment. I have the data I can export. Unfortunately it does not appear Christian has gained a couple of kg. On June 14 2024 when I weighed him he was 32.6kg. On June 29 2024 he weighed 32.3kg. On July 10 he weighed 33.8kg and on Nov 6 2023 he weighed 34.7kg... so perhaps time to cut down on the treats. That being said the app reports stable weight for his height and age. Ill send some screenshots to Jacqueline

8.7. On another occasion around June the boys were being boisterous in our bedroom. In an effort to take control of their behaviour Heather said, "if you boys do not stop Mum and Dad are going to get a divorce!". This comment shocked me, and I told her she can't talk to the boys like that. Heather dismissed my concerns.

9.8. On the evening of 11 September 2023, upon returning home from Hockey with Joshua, I saw that Heather had dinner without me and appeared to be upset. She then asked with an angry tone "What did you do all day?" I said, "I folded and put the laundry away, made the beds, pulled the weeds in the front yard, cleaned, and put the dishes away. I also attempted to make breakfast for you this morning." I then asked, "why were you late in getting home for Joshua Hockey?" Heather replied, "it only takes 10 minutes to drive to Hockey." I said, "not this time a day, we were 8 mins late getting on the ice." Later in the bedroom she said in an angry tone "you live a pretty privileged life"

10.9. On the morning of 12 September 2023, Heather would not get out of bed. I offered to make her a coffee and attempted to discuss Christian's homework commitments. Heather then said, words to the effect of: "go away, go away and back off, you live a privileged life!"

#### 11.10. Bedtime Routine

12.11. The bedtime routine began promptly at 7:30 p.m. Both boys would typically fall asleep by 8:00 – 8:30pm in the master bedroom bed, with Mom and Dad lying on either side as a comfort barrier. I usually read two stories to the boys before bed. Joshua's favorite book to read was "Mr. Tickle", while Christian preferred a generic fairy tale book featuring popular favorites such as Snow White, Hansel & Gretel, Jack & the Beanstalk.

13.12. Separation

14.13. Heather's desire to end the relationship stemmed from my refusal to sign a document called the 'Game Plan.' This document, directed by Heather and Simon Farmer from Walsh, aimed to pledge all our joint assets for a \$1 million loan solely in Heather's name, granting her 100% ownership. Additionally, during a conference call regarding this document, Darole disclosed that the Game Plan had been put together at the direction of Heather and Simon, indicating a lack of transparency regarding my involvement. The document also misrepresented the value of my praeium investment, approximately 95% higher than the actual value. Had I signed the document, I would have been unable to represent myself, as the equity in the home would have been encumbered by the loan. Further details on this matter are expanded upon in the property section.

**Parenting Post-Separation**

In the week following separation on 17 November 2023, I approached Heather in Joshua's bedroom in an effort to have her reconsider separation for the sake of the children and the relationship we once had. I expressed my desire to Heather to fix the relationship by attending marriage counselling and by finding ways to handle the financial issues that we were facing. Heather responded with, words to the effect of: *"I am exceptional, don't I deserve to be with someone who is equally exceptional?"* It left me contemplating if my recent ADHD diagnosis had something to do with this comment or there was possibly someone else.

15.14. I have traditionally shouldered most household duties as outlined in this Affidavit. However, Heather has recently taken on the responsibility of grocery shopping for the boys, a task I previously managed as the primary caregiver. [what did she say and do re this?](#), This change was forced by the cancellation of my credit card by Heather. Despite her efforts, I've observed a shortage of groceries for packing school lunches, likely due to her unfamiliarity with the task and as a result the kids were having to go to school with incomplete lunches including containing unfamiliar items. As a result, the lunches weren't getting eaten. [\(did he then go to shops and buy more feed\)](#)

16.15. In June or July, before our separation, Heather suggested separating the children, with her taking Joshua and me taking Christian. I objected, emphasizing the importance of keeping them together as brothers. I responded, "you can't separate the kids, they're brothers. And what about me, wouldn't you miss me?" Heather paused for a moment before saying "Yes, but we need to do what is in the best interest of the kids." Then I said "what is in the best interest for the kids is to keep the kids together, they are brothers. We need to keep the family together." Heather said

**Commented [A6]:** On November 17<sup>th</sup> when she cancelled my credit card

**Commented [A7]:** Said nothing instead. She cancelled my method to pay for things so I was no longer able to grocery shop for the boys. Consequently, she had to do the shopping in this regard.

**Commented [A8]:** no

“well, I think it is still worth considering as an option”, leaving me feeling confused about her suggestion.

17.16. Heather has also discussed future parenting arrangements with the children in the absence of any agreement between us. On 28 November 2024 at 7:00pm while watching TV in our Master Bedroom, Christian said, words to the effect of: *“I heard Granny and Mum talking today saying that they need a TV, they’re going to take this TV Dad. Dad, you’ll need another TV”*

18.17. Chrisitan appeared distressed and adversely affected by the separation. How?

19.18. On Sunday, November 19th, Heather insisted we go to Telstra Katora Mall to separate the phone bill. Both kids initially seemed fine, but ten minutes in, Christian appeared unwell. I took him to the car while Angela cheered him up over a video call. When asked why he was at the mall, Christian hesitated and said, 'I don't want to talk about it, it makes me sad.'

20.19. Not long before Heather left, she initiated a dialogue, expressing the necessity of preparing the children. Initially, I assumed the discussion revolved around the children's transition between two homes and ensuring their comfort with the arrangement. However, the conversation abruptly halted when, in response to my inquiry about who would be stepping into my extensive role, Heather simply said, "Me possibly having an affair is not important," "It doesn't matter," and "It's none of your business who I decide to have a relationship with..." Heather having declined to provide further details in this regards left me questioning how I was possibly able to adequately prepare the boys for a transition without crucial information considering my involvement with the boys during Heathers work hours and here limited availability to pick up the children from school previously raised a lot of questions to which I would have no answers. It's important to note, during our conversation, I made no accusation of infidelity towards Heather. However, her response indicated that my inquiry was perceived as such. I was hoping Granny, Heather's mother, would have been named as she was familiar to the boys and had previously done the same for Heather's sister when her marriage broke down. I advised Heather I am not comfortable with the children being in the care of a stranger in the likely circumstances that Heather is unable to look after the children whilst she is working long hours to which Heather responded something to the effect of “my judgment of a person in this regard should suffice” As there was very little to discuss as no new information was being divulged, me asking to complete a task with not enough information, the conversation ended with me leaving the room.

21.20. During the relationship Heather often controlled who I see and when I see them. One such example, on 17 November 2023, Heather organized a play date for Chrisitan without consulting me first despite the fact she had arranged for me to be the facilitator. I received a message from a close friend saying: *“I think the girls organized a play date with Lucas at yours at 10 tomorrow. Just checking if it is still good?”* I responded and said: *“Sorry Dan. Not a good weekend for me. Heather's a go though.”*

**Commented [A9]:** During the period between December 2<sup>nd</sup> and before an undertaking was in place to return the kids to Heather, the boys and I had very little contact with one another. Any interaction in-between were very emotional for Christian. The first opportunity I think to see Joshua and Christian was me just showing up to the School Christmas assembly. When Christian saw me he disengaged entirely from his friends denying there requests to continue to play with him announcing “no, I want my dad.” It was an extrardinary experience for Joshua and Christian when Heather removed the boys away from me. Other subsequent meetup in the interim were the same. The fear of the unknown as to when they would be seeing me again is likely what the contributing factor.

22-21. Heather abrupt departure facilitated by Adam whom I had considered a dear friend did leave me questioning the few friendships that remained. **I'm over that now.** I've doubled down in strengthening the two friendships I have developed during my relationship with Heather and have already started on developing new friendships and new work relationships to integrate back into the workforce utilizing tools such as "Meet-Up" at attend networking events related the industry I wish to break into. **#remove?# it is not exactly relevant...but if the mother's case is that he has funds available from his parents, we may need to unpack**

**Commented [A10]:** There is no loan arrangement. My folks did lend me some money, but the moment I was able to draw upon my investment I was able to pay them back, so that's all settled no, no debt. Additionally, before I had access to these fund, my sister used her money to purchase the boys cloths as Heather essentially removed all of their clothing.

23-22. **the 'loan' arrangement i.e how much, repaid when, whether they can lend him more or not** On 27 November 2023, On November 27, 2023, while helping the children with their school shoes, I overheard Christian teasing Joshua with words to the effect of: "mum told me last night that she loves me more than you Joshua" to which Joshua replied with words to the effect of: "well mum says she only loves you Christian when you do your homework." Such exchanges weren't surprising, as I've witnessed Heather tell the children she doesn't love them when they misbehave. I have also witness Heather periodically banish Christian from our bedroom for misbehaving for the night with statements like, "I do not love you anymore, you sleep on your own tonight," Whenever this occurred, I adjusted the routine and stayed with him in his bed, offering comfort as I put him to sleep. It's important to note, this occurred at a time Christian still had not transitioned into sleeping in his own bed and at the time was still very much accustom to going to sleep for the night between both parents.

24-23. The above events and other more recent events, detailed below, make me very worried about Heather's willingness and ability to co-parent and facilitate my relationship with the children. The following has occurred since separation, and I find each deeply concerning (Annexed hereto and marked # are the documents related to the following events):

- a. On 19 January 2024, Christian revealed that Heather had changed my profile picture on her phone to a photo of me crying quote Christian, "So when mommy pushes the little circle, its a picture of you crying." and "On the phone to call people. It says Steve and there's a picture of you crying" and "It's in the little circle so when she taps it, there's a picture of you crying and then whenever we call you, I can see the picture and then when you pick up the phone, it goes away." Disturbed, I asked, via my lawyers, that the photo be removed and deleted.
- b. On 6 March 2024, an issue arose between Heather and me regarding a Facebook post. The confusion stemmed from Facebook initially indicating that she had shared the post directly with me, prompting a notification on my end and also suggested that she had shared the comment publicly. The post contained a quote about self-worth and the need to let go in order to rise above. I was deeply concerned about how this might impact my image, so I reached out to Heather via email, kindly requesting her not to post such content.  
Heather, through her solicitors, denied sending the message directly and implied that I had been monitoring or harassing her Facebook activity, which is entirely untrue. Prior to this

incident, my intention in contacting Heather was to preserve our shared Facebook memories. After reading her post, I decided that I did not want to be associated with or have it mistakenly attributed to me in any way, so I politely asked her to remove it. Despite the sentimentality attached to our shared posts, I had chosen not to unfriend Heather until this point. However, given the misunderstanding and the accusations made by Heather, I felt it necessary to do so in order to avoid further conflicts.

- c. On 6 March 2024, I received an invitation from Walsh's Chartered Accountants for a meeting with Heather and our financial planner, which seemed normal given our intertwined finances. Hesitant to communicate directly with Heather, I sought legal advice and subsequently responded to Walsh's inquiring about the meeting's agenda. Heather, adding her lawyers to the email, replied "Stephen you will not be present at my planned meeting with Simon to discuss my financial goals. Nor will you be privy to the agenda, nor receiving a recording of this meeting. Your request is a breach of my privacy. It constitutes ongoing harassment. Additionally you are not to contact me on any issue other than parenting unless through our respective solicitors.". This accusation surprised me, as I had merely responded to an invitation extended to me and never harassed Heather.
- d. On 6 March 2024 at 6:06 pm at Arnold Swim Centre, Josh said to me on the way out *"Mom says she going to vomit, she doesn't want to see you."* He then said *"I dare you to touch mom."* I said to Josh *"No, that's probably not a good idea buddy"*.
- e. On March 12, 2024, Christian had a paediatrician appointment with Dr. Elder. Originally I had scheduled his appointment for February 22, 2024, at 10:30 AM and communicated his appointment time via Signal messaging to Heather.
- f. On October 20 2023 I had scheduled Christian paediatrician appointment with Dr. Elder for February 22, 2024, at 10:30 AM and communicated the details of the appointment booking to Heather via Signal messaging.  
See Appendix...
- g. On February 1, 2024 I called the practice to confirm and Kelly, receptionist stated the appointment was confirmed for March 12 at 4:00pm not noticing the appointment had been rescheduled.
- h. On the appointment day, March 12, 2024, I arrived early at the office. Some small talk ensued with the staff until Heather arrived. Upon arrival, Heather immediately insisted I leave, stating, "You can't be here, you need to leave" Surprised I asked, "Why can't I be here?" Heather continued to say "no" and was starting to create a scene. I could see that the interaction was distressing to Christian and Joshua and I said, "ok, I'm leaving". It was at that moment I stood up, I apologised to all and told the boys "I will see you guys tomorrow" and left with Christian vocalising his disappointment, saying "nooooooo"
- i. Historically, Christian and I would attend these meetings with Dr. Alison Freeth without Heather being present, so I was genuinely surprised when I was asked to leave.

- j. When Heather had joined our meeting on August 1<sup>st</sup> with Dr. Elder, I had already discussed Christian's separation anxiety from the June incident and the recommendation to connect with Oracle before her arrival which I subsequently followed through with the booking of Christian sessions.
- k. I also believe it's important to address here Heather's affidavit where she suggests that I am incapable of following through in booking appointments and cites the process of seeking Christian's ADHD diagnosis as an example. It's frequently broadcasted on ABC news about the challenges children and adults face in obtaining an ADHD diagnosis. This isn't solely an issue in Australia; it's a global phenomenon. To insinuate that I am inadequate in this regard seems unjust when the reality is that anyone who isn't a doctor with connections struggles to expedite the process.
- l. Previously, she had not typically attended such appointments. During a previous meeting where she joined late, I discussed Christian's separation anxiety before her arrival and received recommendations from Dr. Elder such as reaching out to Oracle which I later followed through with.
- m. On 17 March 2024 I took Joshua and Christian for a walk. Unprompted, Christian said "Mum said you went to her appointment to harass her". Then, later that evening at bath time, Joshua said "Mum said it would be helpful if you died".

- Think we need more evidence generally re time with kids, going well, set up at home, comfortable, will facilitate rel between kids and heather, his capacity to do ALL The things

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**Commented [A11]:** I agree. Over the Christmas Holiday I captured and put together a presentation which does just that. Probably need to list all the playdates I have arranged with the kids

### **Issues of Risk**

25-24. On 6 September 2023, Heather was upstairs waiting for the kids and I to join her in bed. (did she normally put them to bed? [Doesn't] help primary carer case) I was downstairs preparing our nighttime water bottles as I do every night before joining them to read a book. When I heard Christian scream and then yell words to the effect of: "You hit me, I'm bleeding and I can taste blood." I immediately rushed upstairs and consoled Christian who confirmed mom had slapped him. I later questioned Heather about what had happened to which she simply stated that she wanted a divorce. She did not speak about the incident. Did you see blood in his mouth?

**Commented [A12]:** Bedtime routine involved both parents. There were times Heather wasn't helpful and I have to put both kids to bed myself breaking the typical routine. Thanks for noticing this! The bedtime routine, every night for years was for me to announce it and fill everyone bottle with water, including Heathers. I would then bring up all 4 water bottles with me and hop in bed with Heather and the kids and proceed to read the boys their books or if a weekend, put on a brief 15 min show either Bluey, Bing! Or Hoopla!

**Commented [A13R12]:** ... Or Thomas the Train

26-25. On 18 November 2023, Heather appeared to have lost her temper and I witnessed her strike Christian across the face whilst we were watching a movie as a family. I raised these concerns with our family doctor but did not go into specifics as I did not want to make things worse.

27-26. I observed Heather consuming alcohol in excess most days during the relationship. Heather consumed one sometimes two bottles of wine most nights and I have no reason to believe this has changed. On nights in which she has been drinking, Heather can become quite mean and insensitive to both myself and the children. The nights in which Christian has been typically slapped occur

because I believe she is mentally and physically exhausted from work and drinking is a factor. I note that Heather told the Child Impact Report writer that she “*ceased drinking alcohol mid-week in July 2023*”. This is not correct, she often asked me to purchase alcohol for her, sometimes when speaking and sometimes by text message like those annexed where she asked if we had wine.

### **Circumstances of Urgency and Best Interests of the Children**

28:27. On 24 November 2023, I instructed my solicitors to write to Heather setting out my proposal for the care of the children and inviting Heather to respond or in the alternative attend mediation to discuss the issue.

29:28. On Friday, 1 December 2023 at 4:58pm, my solicitor received a response from a solicitor instructed by Heather. **Annexed hereto and marked “#”** is a copy of the letter in response from Heather’s solicitor. I believe the timing of the letter in response was strategic on Heather’s behalf and contributed to what occurred over the weekend of 2 and 3 December 2023 as noted below.

30:29. On the morning of 2 December 2023, the children and I were setting up and decorating the Christmas tree. I briefly left home to go to the pharmacy. As I returned home, I observed bags and boxes of personal belongings being packed by Heather and then being placed into 5 vehicles, in attendance were Heather’s sister (Carol Kelly-Finn), her sister’s boyfriend (Adam Potts) and another person unknown to me. Heather took many expensive items from the home and left very little of the children’s belongings without consulting me or allowing the chance for us to reach agreement as to the division of chattels. **Annexed hereto and marked “#”** is a photograph I took on this day.

31:30. I sent a message to Heather clearly stating I did not consent to the children leaving and that I would bring an urgent recovery application. [ANNEX](#)

32:31. Upon moving out, Heather left a pregnancy test kit on our bathroom floor. I observed that 2 of 3 tests from the kit were missing. We have not had sex in 8 months. I believe that Heather deliberately left this kit in our bathroom floor to taunt me and perhaps provoke me to an emotional response which she could use against me. **Annexed hereto and marked “#”** is a photograph of this test kit on the bathroom floor. [I would delete this entire paragraph.](#)

33:32. As Heather was vacating the home, I telephoned the police. I was worried about the safety of the children leaving the home in the context of risk issues and Heather physically assaulting Chrisitan in the recent past. The police turned up and said that Heather was allowed to leave, they did not address the issue of the safety of the children. The provided me with information about family violence including financial abuse.

34:33. Heather still has not told me where she is currently residing. I hold strong concerns about the safety and well-being of the children who have been removed from their home and placed in an unfamiliar environment, potentially residing with a male figure unknown to them. [Why would they be residing with a male?](#)

35:34. On 4 December 2023 I was relieved to receive a phone call from Joshua at bedtime during which it was clear that he had attended school that day. Concerningly Joshua said to me “*why did*

**Commented [A14]:** It’s ugly and ultimately makes me look bad. Deleting it however makes me possibly look bad if the other side argues it was in and then taken out. Need to discuss.

**Commented [A15]:** Could very well be a female too I suppose. It’s a dead bedroom marriage right. And Heather comments such as deserving someone who is also exceptional. Interpreting my inquiry as accusation of infidelity i.e. how is she going to fill the gap with the jobs I do. Then the pregnancy test. Week leading up too she smelled differently, musk cologne. She very well be trying to mess with me and provoke me in an effort to secure an apvo

you steal \$8,000.00 from mom? Why did you call the police to try and prevent mum from leaving?". My response was simply "sorry buddy, that's not something I can discuss with you". In hindsight it may not have been the best idea for me to call the police however I was more stressed than I have ever been in my life and very concerned. I was unable to speak to my solicitor as it was the weekend and didn't know who else to call.

Commented [A16]: Need to discuss

36-35. I believe it is in the best interests of the children to remain living in the former matrimonial home with me as I have always been their main caregiver and attachment figure. They have a consistent routine and structure and I do not think it is in their best interests to be living with Heather who works long hours and does not cope well with the children, particularly Christian.

### **Property**

37-36. I remain entirely dependent on Heather for financial support. In 2022, Heather earned a taxable income of \$477,857 per annum. I am yet to receive financial disclosure of her current taxable income though projections I have seen place it at significantly higher than last year.

38-37. Heather controlled and made all decisions regarding the finances during the relationship. I had access to a credit card which I used to make purchases to support the household. Larger purchases were always monitored and discussed between Heather and I.

39-38.

40-39. I repeatedly told Heather I wanted to return to work as a professional in I.T. (so he concedes he has capacity to work if so?), but she saw this as not prioritising our family, giving mixed messages. Initially, she suggested low-demand jobs, but later said I shouldn't work unless earning over \$140,000 due to tax reasons and the cost of replacing my homemaking duties. Consequently, I didn't work, believing Heather preferred me as the homemaker responsible for our children's care due to her work schedule.

Commented [A17]: I've given this more context but I believe I need certification to be able to launch in a meaningful \$\$\$ capacity as there is a significant gap in employment.

Commented [A18R17]: I already possess the skills just need the certs as assurances

41-40. Now that Heather has left the former matrimonial home, I have no means of supporting myself in the short term. Heather has refused my request for financial support and her lawyer suggests that I simply obtain employment. I have not been in the workforce for 8 years and would require training and further education to earn an income sufficient to meet my outgoings. I also plan to continue in my role as primary carer of the children whilst they live with me which will impact my employment prospects.

42-41. In the weeks leading up to separation Heather had been pressuring me to sign documents which I believe saw our home further encumbered and I was uncomfortable with that given how our relationship was.

43-42. Heather meets with professionals (accountants and brokers) and makes unilateral decisions about finances and then has me sign forms or documents without explaining things to me properly. In late 2023 I found that the property was refinanced in June to release significant funds.

44.43. On Friday, 3 November 2023 I attended a conference call at Heather's office with both Heather and Darole Evans, Mortgage Broker – Walshs. During this conference call, I learned that there had been more discussions about buying into the medical practice Heather works for and about buying an investment property. I was not previously privy to these discussions, despite me recently asking her at home about it and being told that there were no new developments. During the call, Darole hinted that this buy-in might involve a substantial cost. When I later asked Heather about it after the call, she suggested around \$500,000.

Commented [A19]: This is a blend of two separate issues

45.44. What struck me the most though during the call, was the revelation that Heather would be the exclusive owner of the new investment property. This, I was told, was due to being able to secure a favourable tax break. This was particularly surprising because up until this point, we had always maintained a 50/50 partnership in all our investments.

46.45. Later that evening, I shared my concerns regarding securing a substantial loan in which I had no interest. I also brought up her previous desire to leave the marriage only expressed a few months ago. She reassured me that this arrangement was in our best interest and continued to say, "in the event of a divorce, this would actually simplify matters—I would retain the buy-in into the practice and the investment property, while you would keep the house."

47.46. I conveyed my reluctance toward this proposed arrangement then reaffirm my commitment to making our relationship work, I emphasized that I did not want a divorce. And I doubted whether this plan of Heather's truly had my best interests in mind.

48.47. As I prepared dinner in the kitchen for the kids moments later, Heather joined us reiterating her optimism about our future together, repeating twice, "I believe we will be together for a very long time."

49.48. On 7 November 2023, I sent an email to Heather and the accountants advising of my decision to decline signing a document that was to be sent to Westpac Bank. It was my understanding that this document titled "Game Plan" would have pledged all out joint assets and securities, including the former matrimonial home, to Westpac Bank as security to issue a \$950,000 loan to Heather. When Heather returned home that evening from work, she greeted me with an icy stare, and she chose not to engage in conversation with me. Heather slept on the floor of Joshua's bedroom that night.

50.49. On 8 November 2023, Heather sent me a text message as follows: "If I can't use the equity in the house for an investment property, can I use the equity in the house to buy into the business? I'm going to need a sizeable personal loan." In response, I said: "Seriously cannot expect us to discuss this over a text message. We'll have to make time for a proper conversation when the kids are not around, preferably when they are at school." Heather then responded: "Not really, it's pretty simple. Can I use the equity in the house to buy a proven and profitable business? The risks aren't the same as an investment property." **Annexed hereto and marked "#"** is a copy of these text messages.

51.50. Heather pressures me and coerces me into doing things and claims the money is hers and assures me that its fair and in my best interest. I haven't had the capacity to say "No" before these

November meetings where everything decided seemed to be very one sided. It was a high pressure situation and I was punished for my refusal to sign.

52-51. Heather has made investments in my name, only since the separation have I been able to access the account, which I don't understand and the value differs significantly from the value on the document I was given with the broker. Heather treats me as an employee she can dispose of or fire. She believes all of the assets of the marriage are solely hers and fails to recognize my contribution. Heather makes all the decisions about our lifestyle, if and when I can return to Canada, where we live, and how household income is spent.

53-52. On 17 November 2023, Heather unilaterally removed the following sums from our joint accounts:

- a) \$38,470.58 from the account ending #2594;
- b) \$178,201.51 from the account ending #5063; and
- c) \$163,967 from the account ending #7778.

54-53. Although this Court's Orders of 29 January 2024 required further disclosure about the above accounts by 4pm on 5 February 2024, it has not been received yet.

55-54. When Heather left the home on Saturday, she took all valuable items and where there were duplicates, she took the better. I asked her if she could take an alternative coffee machine (we had two) and her response was "I paid for everything in this house so I get to choose and you don't".

56-55. On 14 December 2023, Heather offered Spousal Maintenance of \$5,000 per month, on the basis that I would pay the utilities and Heather would pay the mortgage. The offer was contingent upon me providing documentary evidence of my attempts to secure paid employment at least once a month from the date of the first payment. I accepted the amount but did not agree to provide the requested documentary evidence as I have been out of the workforce for over 10 years and recognised that I would need to undertake additional studies to re-enter the workforce. Heather pressed her requirement for documentary evidence and, via her solicitors indicated that she was content to await a court determination in relation to spousal maintenance. **Annexed hereto and marked #** is [the letter from Delaney Roberts to Clarity Lawyers dated 18 December 2023](#).

57-56. On #date#, I became aware of an investment #provide details of investment – why you were unaware of it, how it came about, how much accessed thus far, how much left. Also how long would this last Stephen if you used it to meet living expenses – day to day, utilities, mortgage.

57. In the context of a property pool in the vicinity of \$2,000,000 and in circumstances where Heather earns approximately \$10,000 per week, I seek that this Honourable Court make the interim orders as sought in my Amended Initiating Application, being that the above sums be returned to the accounts that they were removed from, that Heather continue to meet all outgoings associated with the home and my car and pay spousal maintenance to me. I further seek the release of \$50,000 to my solicitor's trust account to assist in the payment of my legal fees.

58. [Need to unpack more his expenses, his current financial position, why he cannot get ANY job and the money](#)

### **Responses to Heather's Affidavit**

59. Heather states in her affidavit at paragraphs 20 and 23 that I repeatedly failed several courses then withdrew from university. She does not note however that I successfully completed 5 courses and achieved both Distinction and High Distinction nor that I failed only two courses at a time when our children were attending daycare and were frequently unwell and in need of my care. I tried to balance family responsibilities, including assuming nighttime care duties for our children to allow Heather, who had a demanding role as a cardiologist, the rest needed to perform effectively in her profession. I reluctantly withdrew from university because it became apparent that I could not dedicate the time needed to studies and care for two then, very young children.
60. In paragraph 29 of her Affidavit, Heather describes me as a person who “did not appear interested in caring for the children but he also did not want to study or get a job”. This is not true and I make two specific observations in this regard:
- a) Prior to my relocation to Australia, I held a position that yielded a higher income compared to Heather's at the time ([doesn't help spouse maintenance claim](#)). My role involved serving as an Aon Account Executive, managing a client portfolio comprising Fortune 500 companies across Canada. Heather requested that I relinquish my job and homeland to assist her in establishing herself in Newcastle, Australia, while I took on the responsibility of raising our children. I agreed to do so and, since 2015, have been the primary carer and attachment figure for our children. While I have forgone nearly a decade of professional work to nurture our children, I feel it is necessary because it is inconceivable to imagine that, as a Cardiologist, given her demanding schedule (departing the house 2-3 hours before school, returning 1-3 hours after school, and working weekends), Heather could fulfill the role of child-rearing as I have. I do not believe it is in our children's best interests to attend after school care in circumstances where I can and want to continue my role caring for them. [Side note – there is no evidence re her demanding work schedule / on call schedule – can we unpack that?](#)
  - b) Since separating I have been pursuing CompTIA certificates in Network+ and Security+, essential qualifications often sought after for securing positions within the government's cybersecurity sector. My objective is to successfully attain these certifications and leverage my practical experience and growing network to secure an IT Help Desk position. Concurrently, I aim to further my training with the aspiration of eventually transitioning into a DevOps role. My goal is to obtain appropriate training, take on a role that can be worked around our children's needs and to eventually become financially self-sufficient. [How long is this going to take? If this is the case, why cant he accept the 5k SM offer and apply for jobs once a month? It doesn't matter if he isn't successful but if his evidence is he wants a job, I would be securing the money now on the basis of the job search. We can discuss this on the phone but I would be seriously trying to resolve the SM app. It also puts him in a better position](#)

[to have the kids with him, if we can say to the court he is financially stable due to arrangement for the SM. I note in the letter from your office he says he wants to get a job ASAP.](#)

61. In response to Heather's assertion that I would data mine all day while the children were at school, this simply isn't correct. Maintaining our home and caring for my children took up the majority of my time. To data mine, I scripted the process to automate mining in 15-minute intervals, interspersed with 10-minute breaks for cooling. Furthermore, the script was set to run solely during peak daylight hours, ensuring that mining always operated well below the power generated by the solar panels. However, when our electricity bills did escalate and Heather raised concerns, I stopped data mining. [\(this makes him sound extremely qualified in this field\)](#)
62. I am not clear what Heather is referring to in paragraph 31 of her Affidavit but, I do recall an event that happened in 2019 in which three China War ships arrived in Sydney Harbor and we joked about bitcoin. But that occurred two years prior to our mining / bitcoin endeavor so I am not clear what the relevance of this is other than to raise doubts about my mental health. [DENY this if so](#)
63. In paragraph 36 Heather maintains that I did not tend to the children as if I was the primary parent. [I would delete the rest of the paragraph and simply deny and explain how he did tend to them as the primary carer](#) In my view, our children had two parents and we each contributed to their well-being so I tended to the children as if I was the primary carer within a relationship where Heather also played a part. Her medical expertise and organisational skills are strong-points of Heather's which I appreciated then and now. However, the reality is that these strengths do also mean she can be controlling and, during our relationship many decisions were made by Heather, not because she was the primary carer or attachment figure, but because she was the more dominant personality.
64. At paragraph 37, Heather says that in June 2023 my GP diagnosed me with anxiety. This is not entirely correct. I discussed with him my struggles with eating and sleeping due to a stressful situation at home. When he inquired about its duration of the symptoms, I mentioned it was temporary, withholding specific details as Heather, who worked nearby, was acquainted with the doctors. The GP prescribed situational anxiety medication to be taken only if needed and suggested alternative long-term options. At that time I didn't require the medication, and Heather and I appeared to reconcile.
65. At paragraph 38 Heather suggests I am uninformed and **unaffected by my ADHD**, [I deny this a view I disagree with](#). I am neither uneducated nor unaware, but I am learning. Diagnosed with ADHD only recently, in September last year, I am still familiarising myself with its specifics and managing it with my psychologist's help. Despite being new to my ADHD diagnosis, which came after years of successful parenting, I recognise its impact and find the medication beneficial. The medication I am taking is also helpful [– which is WHAT](#). As Christian also has been diagnosed with ADHD, I am doing all I can to learn about it because, as my doctor, Dr Moisey pointed out, while I have only a low level of ADHD and am medicated at low dosage, my understanding of my own diagnosis has the potential to help Christian. [I say that ADHD does not impact my parenting capacity.](#)

Commented [A20]: Need to discuss

66. At paragraph 39 of her Affidavit I am described as being a parent who wishes to be the “friend” or “fun” parent. In part, this is true as I do have a positive and fun relationship with our children. But, now that Heather and I are no longer together, I acutely aware that this dynamic will need to be adjusted as there will no longer be the balance which naturally occurs when two parents are living in the same home. I always have and always will ensure our children have boundaries as I know they are necessary to ensure they become well-adjusted people. However, I anticipate that our new dynamic will require me to be stronger with the boys than I had to be previously. [How does he discipline discipline etc and unpack how he does this. He is making unnecessary concession here saying his dynamic will need to change – this does not support a residence app.](#)

67. I vehemently deny the false allegations made against me in Heather's affidavit dated February. Specifically, her claims in paragraphs 37 and 45 regarding my alcohol consumption and adherence to my prescribed ADHD medication regimen are unequivocally untrue. Throughout our relationship, and presently, I have maintained a moderate level of alcohol consumption, contrary to her assertions of excessive intake. Additionally, I diligently adhere to my prescribed ADHD medication regimen. Upon receiving Heather's affidavit, I immediately sought legal counsel and took proactive measures to refute these baseless claims and immediately agreed to arrange and go for testing so that I could show that I didn't drink without any suggestion that I had taken time to “clean up”. On February 8th, 2024, I voluntarily underwent comprehensive drug and alcohol testing administered by reputable agencies renowned for their accuracy and reliability. The results of these tests (these can be provided to the court upon request), including a hair follicle test conducted by Psychemedics and a urine test by Laverty Pathology, conclusively demonstrated that my alcohol consumption was below the cutoff level, with a measurement of 2pg/mg. Furthermore, the concurrent urine drug test confirmed the presence of my prescribed ADHD medication. These results are available for submission to the court upon request, further solidifying my denial of Heather's unfounded allegations.

68. [I deny any allegations made by Heather that I sexually harassed her or pressured her in any way to engage in sexual intercourse. I have never and would never sexually harass Heather as indicated in paragraph 46 of her Affidavit. However, I was deeply worried by our lack of, not just sex but intimacy and I did seek to attend counselling and wanted to have a physical relationship with her. But, I have never coerced Heather into sexual activity and am profoundly saddened by her remarks on this matter. Heather, however, before separation made numerous inappropriate comments to the children regarding sex. On one occasion she said to the children “Daddy is not happy because mommy doesn't want to have sex with him” and on another occasion she said “Daddy is not happy because his penis isn't getting serviced”. On one occasion #approx date#, Christian was so distressed by Heather's remarks that he came to me and said “Daddy stop asking Mummy for sex”. Again, I expressed to Heather how incredibly inappropriate and outrageous I felt it was to discuss such matters with the children. I also note that, while I had hoped to delay the discussion of sex for many years, since separation I found myself needing to talk to our children about this topic](#)

