

# MAKING AN APPLICATION TO COURT FOR THE MAINTENANCE OF AN ADULT CHILD

A self-help kit for  
carer parents and adult children

Caxton Legal Centre Inc.

© Copyright Caxton Legal Centre Inc.

1 Manning Street

South Brisbane Qld 4101

Telephone: (07) 3214 6333

Facsimile: (07) 3846 7483

Internet: [www.caxton.org.au](http://www.caxton.org.au)

The Queensland Law Handbook Online

[www.queenslandlawhandbook.org.au](http://www.queenslandlawhandbook.org.au)

This kit is current at 1 November 2016.

## Disclaimer

This publication is intended to give general information about the subject of law that it deals with. While every effort has been made to ensure accuracy, the law is constantly changing. No responsibility is accepted for any loss, damage or injury, financial or otherwise, suffered by any person acting or relying on information contained in or omitted from this publication.

# CONTENTS

- 2 Important terms
- 3 Who should use this kit?
- 3 What is an adult child maintenance application?
- 3 Who can make an adult child maintenance application?
- 3 Who can be the respondent(s)?
- 3 What is the relevant legislation?
- 3 What do I need to show to succeed?
- 5 The Federal Circuit Court
- 5 Preparing for court
- 7 Going to court
- 8 Telling the Child Support Agency
- 9 Contact points

## SAMPLE DOCUMENTS

### 11 For carer parents:

Initiating Application (Family Law)

Affidavit by the carer parent (with instructions)

Affidavit by the adult child in support of the carer parent application

Coversheet for birth certificate, marriage certificate or divorce order

Annexure marking sheet

### 32 For adult children:

Initiating Application (Family Law)

Affidavit by adult child (with instructions)

Coversheet for birth certificate, marriage certificate or divorce order

Annexure marking sheet

## IMPORTANT TERMS

**Adjournment:** an application to postpone a court date. The respondent and applicant must attend court and ask the judge for an adjournment.

**Adult child maintenance:** payments to support the education of a child over the age of 18 made by one of the child's parents.

**Affidavit of Service:** a form proving that court documents have been provided to the other side; available on the Family Law Courts website.

**Affidavit:** a written document that sets out in numbered paragraphs the facts relating to a case. The affidavit must be signed by the person who has written it in front of a qualified witness such as a lawyer or justice of the peace.

**Applicant:** the person who brings the application or appeal in a court or tribunal.

**Carer parent:** a parent who the child resides with more than 50% of the time.

**Divorce order:** an order made by the court dissolving a marriage which becomes effective one month after it is made.

**Respondent:** the person whom an application or appeal is brought against in a court or tribunal.

## WHO SHOULD USE THIS KIT?

Use this kit if you are:

- the carer parent of a child who is about to, or has turned 18 years old, and the said child is about to undertake, or is undertaking, tertiary education
- a child who is about to or has turned 18 years old, and you are about to undertake or you are undertaking tertiary education.

Where a child (who is about to turn 18 years old or who has turned 18) has a mental illness or physical disability, it is recommended that you seek further legal advice from a solicitor on your specific circumstances.

## WHAT IS AN ADULT CHILD MAINTENANCE APPLICATION?

A child support assessment/child support agreement ceases to be in force when a child turns 18 years. If a child turns 18 years old while they are still attending full-time secondary school, an application for an extension until the last day of school can be made to the Child Support Registrar. However, this application must be made after the child turns 17 years but before they turn 18, unless there are special circumstances.

Accordingly, if a child has turned 18 years old and is still in the process of completing their education, then, unless you can reach agreement with the other parent for such maintenance/child support to continue, you will need to apply to the court for an order for the continuation of such maintenance/child support.

## WHO CAN MAKE AN ADULT CHILD MAINTENANCE APPLICATION?

You can make the application if you are:

- the carer parent and are maintaining a child who has turned or is about to turn 18 years old, and the child is undertaking tertiary education or is about to start such education
- a child and you are either 18 years old or are about to turn 18 years old in the near future, and you are undertaking tertiary education or are about to start such education.

## WHO CAN BE THE RESPONDENT(S)?

If a carer parent makes the application, the respondent is the other parent. If an adult child makes the application, the respondent (or respondents) can be either one or both of the adult child's parents.

## WHAT IS THE RELEVANT LEGISLATION?

The relevant legislation is contained in section 66L of the *Family Law Act 1975* [Cth]. This legislation provides that a court shall not make an order for the maintenance of a child who has reached 18, or an order for child maintenance that is to extend beyond the day on which the child reaches 18, unless the court is satisfied that maintenance is necessary to enable the child to complete their education or because of a mental or physical disability of the child. 'Necessary' does not mean absolutely essential. It means that the child requires maintenance, and that it is reasonable to require the parent to contribute to the maintenance, having regard to the said child's parents' financial circumstances and other relevant factors.

## WHAT DO I NEED TO SHOW TO SUCCEED?

There are a number of factors the court needs to be satisfied with before it will make an order for the respondent(s) [i.e. either one or both of the child's parents] to contribute to the child's maintenance.

The matters that are likely to be relevant to the court's decision in relation to the maintenance of a child over 18 years include:

- whether the nexus of financial dependence between the child and parents has ceased and the application amounts to a resurrection of that dependence
- the period between the application and when the previous financial dependence ceased
- whether the child is completing a course of education intended by the parents to qualify them for employment sufficient to support themselves
- other assistance, benefits or education which the child has received

- the ability of the child to complete the course in question
- the likelihood of the child completing the course in question
- the financial capacity of the child to maintain themselves until completion of the course of education
- the financial circumstances of those persons responsible for support of the child (generally the parents)
- the quality of the parental/child (filial) relationship.

Some of the above factors are considered in more detail below.

The factors that the courts take into account when determining what financial contributions should be made by the parents are mentioned in the decision of *Knezvic & Knezvic* [2005] FMCAfam 250. The case states that the court must disregard any income-tested pension, allowance or benefit received by the person the child lives with. The income and financial resources of any person who does not have responsibility to maintain the child must also be disregarded unless the court considers it appropriate to take them into account.

### Financial capacity of the child to maintain themselves

There is a general expectation that the child will endeavour to help support themselves by, at least, working on a full-time basis during the summer vacation and possibly also working on a part-time basis during the semester (subject to the demands of the course the child is undertaking). It would be beneficial to provide an affidavit from the adult child, setting out what their needs and financial circumstances are.

### Maintenance payable to enable a child to complete a course of education

The courts have traditionally regarded it as appropriate to continue to allow a child to undertake tertiary education where it is necessary to do so. The following factors are relevant:

- whether the course to be pursued by the child was going to help the child to earn an income
- whether the child appeared to be qualified to pursue and profit from the course
- whether the child had scholarship assistance or other income
- what hardship would result to the child if they had to abandon the course through lack of means

- whether the parent asked has the means to assist
- whether completion of the proposed education will contribute to the child's ability to find employment in the future.

### HECS-HELP scheme

As the payment of such fees may be deferred until the child has completed their education and is earning above a certain threshold, the courts have excluded such fees in calculating the reasonable weekly needs of the child as not being necessary for the completion of the child's education.

### Maintenance payable because of a mental illness or physical disability of the child

In cases involving children with mental or physical disabilities, medical evidence should be provided that shows the connection between the child's disabilities and the child's claimed need for continuing support. Any evidence given to the court should also indicate the child's future prognosis. There should also be evidence of the child's progress in the courses they have already undertaken.

Please note that the child's mental and/or physical disabilities do not have to be in existence at the time when that child turned 18 years old. In the case of *Re AM* [2006] FamCA 351, both parents of an adult child were ordered to pay substantial periodic maintenance payments even though the child was then 28 years old. The degenerative medical condition, which destroyed that child's capacity to undertake gainful employment and gave rise to her significant ongoing care and special needs, was diagnosed when that child was 21 years old. If this kind of situation applies to you, you should seek further specific advice for your particular situation.

### Parent/child relationship

Generally, the courts have accepted that it is not necessary for the parent/child relationship to be a warm one before adult child maintenance can be ordered. Nevertheless, the attitude of the child towards that parent is a factor that could be taken into account in special circumstances where a failure to do so would result in injustice or undue hardship to either them or someone else. Accordingly, some evidence of the nature of the relationship should be provided. This information can be included in the same affidavit by the adult child setting out their needs and financial circumstances.

# THE FEDERAL CIRCUIT COURT

You will need to file your application in the Brisbane registry of the court if you live in the Greater Brisbane Area. If you live outside this area, please check with the registry to see if it has a circuit to your area.

## PREPARING FOR COURT

### What documents will I need?

The documents that you will need are:

- an Initiating Application (for final orders)
- an affidavit
- a Financial Statement
- a marriage or birth certificate or divorce order, with a coversheet.

There are samples of the Initiating Application for carer parent and adult child applicants attached at the end of this kit.

### Where can I get the forms?

You can get copies of the above forms from the Federal Circuit Court registry or their [website](#) (see Contact points). The birth and marriage certificates are available from the [Registry of Births, Deaths and Marriages](#) (see Contact points).

The divorce order is available from the court where you were divorced.

### Preparing an Initiating Application

#### What is the correct form?

The form you will need is the [Initiating Application](#) available from the [Family Court website](#).

#### Do I need to type the application?

It is better to type this form but you can neatly handwrite it in blue or black pen.

#### How do I know what to write in the application?

See the sample document attached to this application. This is a guide only, and you should get legal advice regarding your matter.

#### Who are the applicant and the respondent?

You are the applicant.

The respondent to your application will usually be the person from whom you are trying to seek maintenance,

generally the child's natural mother or father. In certain circumstances, a court may find that a step-parent has a duty to maintain the child. Please see a solicitor for advice if this applies in your situation.

#### Is my application made against the Child Support Registrar?

No. The Child Support Registrar is not the respondent.

### Preparing an affidavit

#### What does this document do?

This form tells the court why you want to make a claim for adult child maintenance. It contains your evidence. You are required to attach certain documents to your affidavit.

#### Do I need to type the affidavit?

Yes. This form must be typed.

#### How do I know what to write in the affidavit?

The following points should be considered when writing your affidavit:

- Explain your own circumstances and reasons why you are making this application.
- Use short, clear sentences in numbered paragraphs.
- Put only one idea in each paragraph.
- Put relevant ideas in chronological order.

Use the attached sample document as a guide.

#### What do I need to attach to the affidavit?

You will need to attach photocopies of receipts at least for major items of expenses that you have paid for. If you do not have a copy of the receipt for a major item of expenditure, you should explain why you do not have a copy of the receipt.

### Preparing a Financial Statement

You will also need to submit a [Financial Statement](#) to the court, available from the Family Court of Australia website, or ring the court and have it sent to you. A sample Financial Statement is not available with this kit.

#### What does this form do?

This form gives the court details about your financial circumstances. In deciding your application, the court needs to know the financial circumstances of both of the parents of the child to enable the court to make an order that is fair between the parties.

#### Do I need to type the Financial Statement?

It is better to type this form, or you can neatly handwrite it in blue or black pen.

## How do I know what to write in the Financial Statement?

This form is very detailed. You must make sure you answer every question carefully. The Family Court of Australia publishes a [Financial Statement kit](#), which you should read before you fill in the Financial Statement.

### IMPORTANT NOTES ABOUT THE FINANCIAL STATEMENT

- Be as accurate as possible.
- Your income and expenses need to be worked out as weekly amounts. For some expenses it is easiest to work out how much you spend over the year and divide that by 52 weeks in the year.
- Complete the Financial Summary on page 2 after you have completed the rest of the form.
- If your expenses are more than your income, you will need to explain in your affidavit how you meet those expenses (e.g. by credit card) or whether you are not meeting those expenses.

## What other documents do I need?

You will have to bring to the court copies of the following documents:

- a copy of your taxation return for the last three financial years
- your taxation assessment for the last three financial years
- your bank records for the period three years up to when you filed your application
- your four most recent pay slips if you receive wages or salary payments
- your business activity statements for the previous three financial years if you own or control a business
- any other document relevant to determining your income, financial needs and financial resources.

Make sure you have these documents available.

## Preparing a birth or marriage certificate, or divorce order

You will need an original, a certified copy or a good quality photocopy of one of the following certificates:

- the birth certificate of the child
- your marriage certificate if you were married to the other parent
- your divorce order if you are divorced from the other parent.

## Preparing all the forms for court

### Should I have a solicitor check the forms once I have completed them?

Yes. A solicitor from Caxton Legal Centre, Legal Aid Queensland or any other community legal centre can check the forms once you have completed them.

Sign your forms in front of a justice of the peace.

### How many copies of the forms do I need?

You will need to file the originals plus two copies of the following documents:

- Initiating Application
- Affidavit
- Financial Statement.

You only need to file one copy of the birth certificate.

### Do I need a coversheet for my documents?

A sample coversheet is included in this kit. You will need a coversheet for the birth certificate. The affidavit, Initiating Application and Financial Statement do not require a coversheet.

## Filing the court forms

### How do I file the court forms?

Follow the steps below:

- Hand all of your court forms to the counter clerk at the filing registry of the court.
- The clerk will stamp the forms with a court stamp and number them.
- The clerk will write a time and date when you must attend court in the top right hand corner of the forms.
- Make sure you can attend court on that day. If not, ask the clerk for another date.
- The clerk will hand you back two copies of each form.
- One copy is for you to keep. The other copy is for the respondent.

### Filing fee

A filing fee is payable, however, some applicants may be exempt. Depending on their financial circumstances (this may apply to you if you are in receipt of some form

of Centrelink payment or are a concession card holder], the fee may be waived if it is going to cause financial hardship. An [Application for exemption from fees - general](#) can be obtained from the Family Court of Australia.

### **Serving the respondent with a copy of the court forms**

Before the court date, you will need to serve one copy of each court form on the respondent.

The Family Court publishes a [Service Kit](#) that will assist you. Caxton Legal Centre and Legal Aid Queensland also have valuable information on this topic.

### **Preparing and filing an Affidavit of Service**

Before the court date, you or the person who served the court forms will need to prepare and file an Affidavit of Service that sets out how you have served the respondent.

Information on how to complete the Affidavit of Service is contained in the abovementioned Service Kit.

### **Organising legal representation**

If you are worried about speaking for yourself in court, a solicitor can do this for you.

If you can afford to pay a private solicitor, Caxton Legal Centre can refer you to someone. Caxton Legal Centre cannot represent you in court.

You may qualify for Legal Aid. Contact Legal Aid Queensland on 1300 651 188.

There is also a Family Law Duty Lawyer Service at the Federal Circuit Court which may be able to give you some assistance on your day in court.

### **Response from the other parent**

The other parent can:

- agree to your application
- ignore your application
- oppose your application.

If the other parent agrees with your application, you still need to go to court and have the court approve this agreement. You and the other parent can sign Minutes of Consent that formalise your agreement. See a solicitor for advice about this.

If the other parent ignores your application, you still need to go to court and ask the court to make the orders for which you have applied in the absence of the other parent. This is called 'making orders by default'.

If the other parent opposes your application, they may file their own documents in court. Read the documents carefully and list any questions you have about the information in the forms.

### **Preparing for the hearing**

Get together all the documents you might need for the hearing, for example:

- copies of court documents you have filed for the case
- the documents mentioned above
- copies of receipts for the expenses you have claimed
- your list of questions to ask the other parent in court, particularly about their income and assets.

## **GOING TO COURT**

### **Do I have to go to court?**

Yes. You must go to court on the date written on the top right-hand corner of the court forms. You may be able to attend by telephone on some occasions. You would need to request in writing to attend by electronic communication, and you would need to make that request at least seven days beforehand and set out the reasons why you cannot attend in person. Generally, if you live a substantial distance from the court, you will be allowed to attend this way.

### **What happens if I do not go to court?**

If you do not go to court, the court might dismiss your application, unless you have made appropriate arrangements.

### **What happens on the court date?**

What happens on the first court date will depend upon the court in which you have filed your documents. You should clarify this at the time you file your documents.

There is a Family Law Duty Lawyer Service for matters in the Federal Circuit Court based at the Commonwealth Law Courts in Brisbane. This service can only assist on the day of your appearance in court.

On some occasions a matter cannot proceed on the first court date and directions have to be made about the filing of further material and the matter set for trial.

You should arrive at court at least 15 minutes before the hearing time written on your court forms. This will give you time to find your courtroom.

There will usually be a court clerk sitting in the courtroom or just outside the courtroom.

Tell the clerk your name and that you are appearing for yourself in a case.

The clerk will tell you where to wait until your case is called.

### What happens when my case is called?

You should tell the judge your name and that you are appearing for yourself in this case.

### What do I call the judge?

Judges of the Federal Circuit Court are usually called 'Your Honour'. Stand up when talking to the judge.

### What if the respondent is not there?

If the respondent is not there, the judge could:

- listen to your story and make a decision about whether to make the orders
- postpone or adjourn your case for a week or two.

The judge may tell you to contact the respondent and tell them that the case will be heard on a new date and give them one last chance to come to court.

### How do I tell my story?

You should tell the judge in a few words what your case is about, and refer them to the details in your court forms.

You may be asked to give evidence from the witness box and the respondent or their solicitor may ask you questions.

### What happens then?

The judge will ask the respondent or their solicitor if they have any objection to your application.

The respondent may give evidence from the witness box. You may then ask them any relevant questions in particular about their current financial circumstances (i.e. their income and assets).

You and the respondent or their solicitor may make a closing statement about your case. Use your notes to ask the court to make the orders you have applied for based on your evidence. Remind the judge about evidence that supports your case.

At the end of the hearing, the judge will usually sum up and state the orders made.

However, the judge may decide not to hear your matter on the day and adjourn it to another date and make directions/orders for each party to file further material.

### Where can I get more help?

This kit is not a complete legal guide. If you read this kit and need more information you could contact:

- Caxton Legal Centre or any other community legal centre
- your local Legal Aid Queensland Office (see Contact points)
- a private solicitor.

## TELLING THE CHILD SUPPORT AGENCY

### What do I need to do with the court orders?

We strongly recommend that you consider having the order registered with the Child Support Registrar for collection and enforcement. Contact Child Support as soon as possible for advice and assistance on how to register the order with them.

Child Support will not be able to start collecting adult child maintenance for you until a copy of the order has been registered with them. Please note that if you do not register the order with Child Support promptly, it may not assist you with the enforcement of any arrears that may have accrued under the order. However, you should note that Child Support would not, in any event, enforce arrears that are more than three months old.

## CONTACT POINTS

### CAXTON LEGAL CENTRE

1 Manning Street  
South Brisbane Qld 4101  
Tel: (07) 3214 6333  
Email: [caxton@caxton.org.au](mailto:caxton@caxton.org.au)  
[www.caxton.org.au](http://www.caxton.org.au)

### FAMILY COURT OF AUSTRALIA

Harry Gibbs Commonwealth Law Courts Building  
119 North Quay  
Brisbane Qld 4000  
Tel: 1300 352 000  
[www.familycourt.gov.au](http://www.familycourt.gov.au)

### FEDERAL CIRCUIT COURT OF AUSTRALIA

Harry Gibbs Commonwealth Law Courts Building  
119 North Quay  
Brisbane Qld 4000  
Tel: 1300 352 000 between 8.30 am and 5 pm  
Fax: (07) 3236 1534  
Email: [enquiries@familylawcourts.gov.au](mailto:enquiries@familylawcourts.gov.au)  
[www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/home](http://www.federalcircuitcourt.gov.au/wps/wcm/connect/fccweb/home)

Counter open: 8.45 am – 4.30 pm

### LEGAL AID QUEENSLAND

44 Herschel Street  
Brisbane Qld 4000  
Tel: 1300 651 188  
[www.legalaid.gov.au](http://www.legalaid.gov.au)

### COMMUNITY LEGAL CENTRES QUEENSLAND

Community legal centres offer free legal services and are located all over Australia. To find a community legal centre in Queensland contact Community Legal Centres Queensland.

PO Box 119  
Stones Corner Qld 4120  
Tel: (07) 3392 0092  
Email: [admin@communitylegalqld.org.au](mailto:admin@communitylegalqld.org.au)  
[www.communitylegalqld.org.au](http://www.communitylegalqld.org.au)

### REGISTRY OF BIRTHS, DEATHS AND MARRIAGES

110 George Street  
Brisbane Qld 4000  
Tel: 13 74 68  
[www.qld.gov.au/law/births-deaths-marriages-and-divorces/](http://www.qld.gov.au/law/births-deaths-marriages-and-divorces/)

Caxton Legal Centre Inc.

© Copyright Caxton Legal Centre Inc.

1 Manning Street  
South Brisbane Qld 4101

Telephone: (07) 3214 6333

Facsimile: (07) 3846 7483

Internet: [www.caxton.org.au](http://www.caxton.org.au)

The Queensland Law Handbook Online  
[www.queenslandlawhandbook.org.au](http://www.queenslandlawhandbook.org.au)

**caxton**  
legal centre inc

# SAMPLE DOCUMENTS

The information in these sample documents is an example only. Individuals have to complete the forms with their own personal details and information.

## For carer parents:

Initiating Application (Family Law)

Affidavit by the carer parent (with instructions)

Affidavit by the adult child in support of the carer parent application

Cover sheet for birth certificate, marriage certificate or divorce order

Annexure marking sheet

# Initiating Application (Family Law)

Filed in:

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



**NOTE:** Initiating applications can be eFiled through the Commonwealth Courts Portal ([www.comcourts.gov.au](http://www.comcourts.gov.au)). For more information see the *Commonwealth Courts Portal User Guide*, available at [www.familycourt.gov.au](http://www.familycourt.gov.au) or [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au)

COURT USE ONLY
Client ID
File Number
Filed at
Filed on
Court location
Court date
Time
Type of hearing

**IMPORTANT:** Information for respondents to the application is on page 10.

[ **Tara Tae Fontana** ]  
Applicant's Name  
[Husband/ Father/ Wife/ Mother/ Grandparent/ Other]  
[ **Joseph Jo Fontana** ]  
Respondent's Name  
[Husband/ Father/ Wife/ Mother/ Grandparent/ Other]

## Part A The orders sought

1 Type of orders sought (mark all boxes that apply)

- Children (parenting)       Financial (property and/or maintenance)  
 Child support       Other (specify): **Adult Child Maintenance**  
 Declaration

### Filed on behalf of: The Applicant

Prepared by **The Applicant** Lawyer's Code \_\_\_\_\_

Name of law firm \_\_\_\_\_

Address for service in Australia **44 Ambrosia Street**

**Brisbane** State **Qld** Postcode **4000**

Email\* \_\_\_\_\_ DX \_\_\_\_\_

Tel **(07) 1234 5678** Fax\* \_\_\_\_\_ Attention \_\_\_\_\_

\* Please do not include email or fax details unless you are willing to receive documents from the Court and other parties in that way.

**2** Final orders sought

(State precisely and briefly the final orders sought by the applicant – give a number to each order sought)

1. That pursuant to section 60L of the Family Law Act 1975 (Cth), the Respondent Father [Joseph Jo Fontana] pay to the Applicant Mother [Tara Tae Fontana] for the maintenance of the adult child [Mary Mae Fontana] born on [insert date of birth], the sum of \$XX [insert amount] per week from the date of the filing of this application.
2. That the first of such payments is to be made within seven (7) days from the date of this order and weekly thereafter until the said adult child completes their tertiary education.
3. That the arrears of maintenance accrued from the date of filing of this application to the date of this order be paid in one lump sum payment within one month from the date of this order.
4. That the amount of maintenance provided in paragraph 1 hereof be varied on and from the instalment, next due twelve months (12) after the date of this order, and thereafter each year in accordance with the variation in the Consumer Price Index published by the Commonwealth Statistician for all groups for Australia by comparison to the Consumer Price Index as it stands on 31 December immediately preceding the date of variation as compared with the same index at the same date twelve (12) months prior thereto.
5. Such orders as the court deems meet.

**3** Interim or procedural orders sought

(These orders can only be sought in this form if you are seeking final orders as well; otherwise, leave blank. State precisely and briefly the orders sought – give a number to each order sought.)

1. That pursuant to section 60L of the Family Law Act 1975 (Cth), the Respondent Father [Joseph Jo Fontana] pay to the Applicant Mother [Tara Tae Fontana] for the maintenance of the adult child [Mary Mae Fontana] born on [insert date of birth], the sum of \$XX [insert amount] per week from the date of the filing of this application.
2. That the first of such payments is to be made within seven (7) days from the date of this order and weekly thereafter until the said adult child completes their tertiary education.
3. That the arrears of maintenance accrued from the date of filing of this application to the date of this order be paid in one lump sum payment within one month from the date of this order.
4. That the amount of maintenance provided in paragraph 1 hereof be varied on and from the instalment, next due twelve months (12) after the date of this order, and thereafter each year in accordance with the variation in the Consumer Price Index published by the Commonwealth Statistician for all groups for Australia by comparison to the Consumer Price Index as it stands on 31 December immediately preceding the date of variation as compared with the same index at the same date twelve (12) months prior thereto.
5. Such orders as the court deems meet.

## Part B Details of the Parties

### Details of Applicant/s

	Applicant 1	Applicant 2
<b>4</b> Family name as used now		
<b>5</b> Given names		
<b>6</b> Sex	<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Male <input type="checkbox"/> Female
<b>7</b> Residential address (incl postcode)		
	You do not have to state your residential address or your telephone number if you are concerned about family violence. You can repeat your contact address for service if you wish.	
<b>8</b> Telephone number (home and mobile)		
<b>9</b> Date of birth (day/month/year)	/ /	/ /
<b>10</b> Usual occupation		
<b>11</b> Mark box as applicable for each applicant	<input type="checkbox"/> present in Australia <input type="checkbox"/> ordinarily resident in Australia <input type="checkbox"/> an Australian citizen <input type="checkbox"/> domiciled in Australia	<input type="checkbox"/> present in Australia <input type="checkbox"/> ordinarily resident in Australia <input type="checkbox"/> an Australian citizen <input type="checkbox"/> domiciled in Australia
<b>12</b> Description	<input type="checkbox"/> husband/father <input type="checkbox"/> wife/mother <input type="checkbox"/> party to a de facto relationship that has broken down <input type="checkbox"/> Other (specify): _____ _____	<input type="checkbox"/> husband/father <input type="checkbox"/> wife/mother <input type="checkbox"/> party to a de facto relationship that has broken down <input type="checkbox"/> Other (specify): _____ _____
<b>13</b> Is an interpreter required?	<input type="checkbox"/> No <input type="checkbox"/> Yes If Yes, state language & dialect: _____ _____	<input type="checkbox"/> No <input type="checkbox"/> Yes If Yes, state language & dialect: _____ _____
<b>14*</b> Is the applicant of Aboriginal and/or of Torres Strait Islander origin?	<input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal and Torres Strait Islander	<input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal and Torres Strait Islander

\* You are not required to answer this question, but it will greatly assist the Court if you do. The information sought is being collected to assist the Court in planning and delivering client services. It is possible that you may be contacted to participate in a review of a particular aspect of the Court's services, although your right not to participate will be respected. The information you provide may be shared with researchers approved by the Court, and may be included in publications in statistical form in a way that does not identify you.

# Details of Respondent/s

## Respondent 1

## Respondent 2

<b>15</b> Family name as used now		
<b>16</b> Given names		
<b>17</b> Sex	<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Male <input type="checkbox"/> Female
<b>18</b> Residential address (incl postcode)	You do not have to state your residential address or your telephone number if you are concerned about family violence. You can repeat your contact address for service if you wish.	
<b>19</b> Date of birth (day/month/year)	/ /	/ /
<b>20</b> Usual occupation		
<b>21</b> Mark box as applicable for each respondent	<input type="checkbox"/> present in Australia <input type="checkbox"/> ordinarily resident in Australia <input type="checkbox"/> an Australian citizen <input type="checkbox"/> domiciled in Australia	<input type="checkbox"/> present in Australia <input type="checkbox"/> ordinarily resident in Australia <input type="checkbox"/> an Australian citizen <input type="checkbox"/> domiciled in Australia
<b>22</b> Description	<input type="checkbox"/> husband/father <input type="checkbox"/> wife/mother <input type="checkbox"/> party to a de facto relationship that has broken down <input type="checkbox"/> Other (specify): _____ _____	<input type="checkbox"/> husband/father <input type="checkbox"/> wife/mother <input type="checkbox"/> party to a de facto relationship that has broken down <input type="checkbox"/> Other (specify): _____ _____
<b>23</b> Is an interpreter required?	<input type="checkbox"/> No <input type="checkbox"/> Yes If Yes, state language & dialect: _____ _____	<input type="checkbox"/> No <input type="checkbox"/> Yes If Yes, state language & dialect: _____ _____
<b>24*</b> Is the applicant of Aboriginal and/or of Torres Strait Islander origin?	<input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal and Torres Strait Islander	<input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal and Torres Strait Islander

\* You are not required to answer this question, but it will greatly assist the Court if you do. The information sought is being collected to assist the Court in planning and delivering client services. It is possible that you may be contacted to participate in a review of a particular aspect of the Court's services, although your right not to participate will be respected. The information you provide may be shared with researchers approved by the Court, and may be included in publications in statistical form in a way that does not identify you.

## Part C Relationship of Parties

<b>25</b> Date parties commenced to live together (day/month/year)	/ /	or	<input type="checkbox"/> Not applicable
<b>26</b> Date of marriage (day/month/year)	/ /	or	Not applicable
<b>27</b> Date of final separation (day/month/year)		or	Not applicable
<b>28</b> Date of divorce (day/month/year)	/ /	or	Not applicable

## Part D Children

(Complete details for each child. If more space is required for extra children, attach an extra page)

	Child 1	Child 2
<b>29</b> Family name		
<b>30</b> Given names		
<b>31</b> Date of birth (day/month/year)	/ /	/ /
<b>32</b> Sex	<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Male <input type="checkbox"/> Female
<b>33</b> Mother's family name		
<b>34</b> Mother's given names		
<b>35</b> Father's family name		
<b>36</b> Father's given names		
<b>37</b> With whom does the child live?		
	Child 3	Child 4
<b>38</b> Family name		
<b>39</b> Given names		
<b>40</b> Date of birth (day/month/year)	/ /	/ /
<b>41</b> Sex	<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Male <input type="checkbox"/> Female
<b>42</b> Mother's family name		
<b>43</b> Mother's given names		
<b>44</b> Father's family name		
<b>45</b> Father's given names		
<b>46</b> With whom does the child live?		

## Part E For applications for parenting orders

- 47** Has the applicant obtained a certificate from a registered family dispute resolution practitioner? (Refer to section 60I of the *Family Law Act 1975*).

No  Yes

If yes, attach a copy of the certificate to this application and go to Part F of this form.

If no, to obtain an exemption from filing a certificate you must either complete and file the form *Affidavit - non-Filing of Family Dispute Resolution Certificate* or include the factual basis for the exemption in the affidavit you file in support of any order you are seeking.

**48** Has the applicant received advice from a family counsellor or a family dispute resolution practitioner about the services and options (including alternatives to court action) available in circumstances of abuse or violence? (Refer to section 60J of the *Family Law Act 1975*).

No  Yes

## Part F Other court cases and orders

### Ongoing cases

**49a** Are there any ongoing cases in this or any other court about family law, child support, family violence or abuse in relation to a child, or child welfare issues that involve any of the parties or children listed in this application?

No  Yes

If yes, provide the following details for each ongoing case. (Attach extra pages as required.)

- b** Court name and place
- c** Next Court date
- d** Name of parties
- e** State the nature of the orders sought (eg property settlement, parenting orders, child support)

<p style="text-align: center;">/ /</p>

### Existing orders, agreements or undertakings

**50a** Are there any existing orders, agreements, parenting plans or undertakings to a court about family law, child support, family violence or abuse in relation to a child (including family violence orders which have applied to a child or a member of the child's family), or child welfare issues concerning any of the parties or children listed in this application?

No  Yes

If yes, either **attach copies** of any orders, agreements, parenting plans or undertakings or provide details below.

(If there is more than one order etc, attach extra pages as required.)

- b** Court name and place
- c** Date
- d** Names of parties to the order, agreement, parenting plan or undertaking

<p style="text-align: center;">/ /</p>

## Part G For property and/or spouse/de facto spouse maintenance applications

If the parties were in a de facto relationship that has broken down, complete Part H

- 51** Have the parties entered into a financial agreement or a part VIIIAB Financial Agreement under the *Family Law Act 1975* or under any relevant state or territory legislation?

No  Yes

- 52** If either party has a superannuation interest, have the parties entered into a binding superannuation agreement in relation to that superannuation interest?

No  Yes

- 53** Is any party currently bankrupt or currently a debtor in bankruptcy proceedings started by either a creditor's petition or a debtor's petition or currently a debtor subject to a personal insolvency agreement?

No  Yes

- 54** Is there a proceeds of crime order or current forfeiture application in relation to any of the property of any of the parties?

No  Yes

If yes, attach a sealed copy of the order or application.

## Part H De facto relationship jurisdiction – financial causes

Complete **all** the boxes below if relying on the Court's jurisdiction to make orders for the benefit of a party to de facto relationship that has broken down.

### Entitlement to apply and geographic requirements

- 55a** Did your de facto relationship break down on or after 1 March 2009 or if resident in South Australia on or after 1 July 2010? \* (See important notes for completing Part H.)

No  Yes

- b** Is the period or the total of the periods of the de facto relationship at least two years?

No  Yes

- c** Is there is a child of the de facto relationship?

No  Yes

- d** Has the applicant made substantial contributions and a failure to make an order or declaration would result in serious injustice to the applicant?

No  Yes

**e** Is, or was, the relationship registered under a prescribed law of a State or Territory of Australia?

No  Yes

**f** Were both parties to the relationship ordinarily resident in one or more of the Australian Territories or New South Wales, Queensland, Victoria, Tasmania or South Australia for at least one third of the domestic relationship, or at the date the relationship broke down?

No  Yes

**g** Did the applicant make substantial contributions in one or more of the Australian Territories or New South Wales, Queensland, Victoria, Tasmania or South Australia?

No  Yes

## Part I Cross-vested jurisdiction

(Complete only if relying on cross-vested jurisdiction. Note: An affidavit **must** be filed – see Rule 4.06 of the *Family Law Rules 2004*)

**56** If relying on a cross-vesting law, specify the Territory law relied on

## Part J Lawyer's declaration

**57** If the applicant is filing this application without a lawyer, this part need not be completed. However the applicant should obtain a copy of the information brochure *Marriage, Families and Separation* from Court staff when filing the application. If a lawyer is filing the application, then the lawyer must give the applicant a copy of the brochure and sign the following declaration.

I gave the applicant(s) a copy of the courts' brochure *Marriage, Families and Separation*.

\_\_\_\_\_  
Signature of lawyer

Full name of lawyer:

Date:        /        /

## Part K

# Statement of Truth of the Contents of this document

### 58 Applicant 1

### Applicant 2

<ol style="list-style-type: none"><li>1. I believe that the facts of which I have personal knowledge are true.</li><li>2. All other facts are true to the best of my knowledge, information and belief and the orders sought in this application are supported by evidence.</li><li>3. I am aware that I have a duty to the Court and to each other party to give full and frank disclosure – in a timely manner - of all information relevant to the issues in the case.</li></ol>	<ol style="list-style-type: none"><li>1. I believe that the facts of which I have personal knowledge are true.</li><li>2. All other facts are true to the best of my knowledge, information and belief and the orders sought in this application are supported by evidence.</li><li>3. I am aware that I have a duty to the Court and to each other party to give full and frank disclosure – in a timely manner - of all information relevant to the issues in the case.</li></ol>
---	---

**I have read and understood this Statement of Truth (please tick)**

**I have read and understood this Statement of Truth (please tick)**

Signature of Applicant 1

Signature of Applicant 2

Date:     /     /

Date:     /     /

# Important notice to respondent(s)

You should seek legal advice about this application.

If you do not want the Court to make the orders sought in this application or if you want the Court to make other orders, YOU MUST:

## For proceedings in the Federal Circuit Court of Australia

- file at the Court a *Response*, an affidavit, a *Notice of Risk* in parenting matters, and other relevant documents – including, in financial matters, a *Financial Statement* available from the Courts website [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au)
- deliver a copy of the response, affidavit and other relevant documents to the applicant's address for service within 14 days, and
- attend at the hearing. **Please note: If you do not attend the hearing orders may be made in your absence.**

## For proceedings in the Family Court of Australia

- at least 7 days before the Court date shown on page one of this application, file at the Court a *Response to Initiating Application* and a *Notice of Child Abuse, Family Violence or Risk of Family Violence* in parenting matters where you allege child abuse, family violence or risk of family violence, and in a financial case, a *Financial Statement*. These forms are available on the Courts' website [www.familycourt.gov.au](http://www.familycourt.gov.au)
- file an affidavit if interim or procedural orders are sought by either party. A form of affidavit in support of a response seeking or opposing interim parenting orders is available on the Courts' website [www.familycourt.gov.au](http://www.familycourt.gov.au)
- file other documents, as required, depending on the orders you seek (see Rule 4.18 of the Family Law Rules 2004)
- serve on all other parties copies of the documents filed, at least 7 days before the Court date shown on page one of this application, and
- attend at the hearing. **Please note: If you do not attend the hearing orders may be made in your absence.**

# Instructions for completion

## AFFIDAVIT

1. This form of affidavit may be used in any proceeding where no other form of affidavit is applicable under the *Federal Circuit Court Rules 2001* (Cth) (the Rules).
2. Each paragraph in this affidavit must be numbered.
3. This affidavit must be sworn or affirmed before a person authorised by law to witness the swearing of affidavits (e.g. a lawyer, notary public or justice of the peace).
4. Each page must be signed by the deponent (the person making the affidavit).
5. Any alteration in the affidavit must be initialled by the deponent and the witness.
6. You must complete address for service details in the footer on page 1. All correspondence concerning the affidavit will be sent to the mailing address inserted, and all documents in the proceedings will be deemed to have been served on you if posted to that address. If your address details change, you must file a notice of address for service within seven days and serve a copy on all other parties (see rule 6.02 the Rules).
7. If the facts in the affidavit are supported by a document, a copy of the document must be attached to this affidavit. This document is then referred to as an ‘annexure’. If there is more than one annexure refer to each by a number or letter (e.g. Annexure 1 or Annexure A). The annexure should also have page numbers. If there is more than one annexure, the page numbers must run consecutively until the last page of the last annexure. If it is impractical to annex a document, it may be separately identified as an exhibit (see rule 15.28).
8. Each annexure must include a statement signed by the witness identifying the annexure as the document referred to in this affidavit. The wording of the statement is as follows:

This is the document referred to as [*insert annexure identification*] in the affidavit of [*insert deponent's name*] sworn/affirmed at [*insert place*] on [*insert date*] before me [*witness to sign and provide name and qualification*].

The statement must be signed at the same time as the affidavit and by the same witness.
9. The court may strike out any material which cannot be used in evidence if it is unnecessary, scandalous or contains opinions of persons not qualified to give them (see rule 15.29).
10. If the deponent does not have an adequate command of English, a translator must read or give in writing a translation of the affidavit and oath/affirmation in a language which is understood, and must certify in the signing clause that they have done so. Use the alternative jurat for the swearing/affirming of the affidavit and the translator’s certificate.
11. Once complete, you need to file the original and a copy of this affidavit for each party to the matter with the court registry. The court will keep the original and return the copies to you. You will need to serve a copy on the other party or parties and keep a copy for your records.

**Remove this instruction sheet before filing**

**FEDERAL CIRCUIT COURT OF AUSTRALIA**

**REGISTRY: BRISBANE**

File number: .....
COURT USE ONLY
Court Location
Court date
Court time

**TARA TAE FONTANA**  
Applicant

**JOSEPH JO FONTANA**  
Respondent

.....  
Other party (if applicable)

*\* Repeat as necessary for additional parties*

**AFFIDAVIT**

**Name of deponent:** TARA TAE FONTANA

**Date sworn / affirmed:** ...../...../.....

I, (full name) TARA TAE FONTANA of (address, including State or Territory) 44 Ambrosia Street Brisbane, QLD 4000 and (occupation) Part-time Office Worker make oath and say / affirm:

1. I am the Applicant in these proceedings.
2. The Respondent and I were married on the XX (day) of XX (month) of XX (year). Prior to this we lived in a de facto relationship for two years. There is one child from the marriage, Mary Mae Fontana, born on the XX (day) of XX (month) of XX (year). OR

---

Filed on behalf of TARA TAE FONTANA  
 Prepared by TARA TAE FONTANA Lawyer's code \_\_\_\_\_  
 Name of law firm \_\_\_\_\_  
 Address for service in Australia 44 AMBROSIA STREET  
BRISBANE State QLD Postcode 4000  
 Email \_\_\_\_\_ DX \_\_\_\_\_  
 Tel 07 1234 5678 Fax \_\_\_\_\_ Attention \_\_\_\_\_

3. The Respondent and I cohabited in a de facto relationship between XX (day) of XX (month) of XX (year) and XX (day) of XX (month) of XX (year). OR
4. The Respondent and I have never lived together but had a relationship that led to the birth of the two children Mary Mae Fontana, born on the XX (day) of XX (month) of XX (year) and Mark Fontana, born on the XX (day) of XX (month) of XX (year).
5. I am employed on a part-time basis by XX as an XX. I have been working there for XX years. My annual gross salary is \$XXX.
6. I am now XX years old. I live in my own three-bedroom house at XX. The only other person/s living with me is/are the above named child/children. They have been living with me since separation/birth.
7. I refer to the financial statement, which is filed with this affidavit. In particular, I refer to the column entitled 'For Child' in paragraph 60 (Part N Orders for Maintenance, child support, financial enforcement). I confirm that the expenses listed under that column relate to weekly expenses that I incur, either directly or indirectly, on behalf of the said child. I say that the expenses that are specifically related to the adult child are as follows:
8. My above application is in respect of maintenance for my adult child Mary May.
9. Mary Mae is a first-year, full-time xxx (insert name of course) student at XXX (name of educational institution). The course is XX years in duration. Apart from what is left of this year, Mary Mae has another XX years of full-time study. Mary has been doing quite well in her studies and her current grade point average is XX. Annexed hereto marked with the letter 'A' is a copy of her academic record.
10. The standard academic workload for Arts/Law combined degrees is XX units/credit points. This generally involves formal contact hours (lectures, tutorials, seminars) of XX hours per week. This semester, Mary has chosen to take on an extra subject worth XX units/credit points, which means her formal contact hours are XX hours per week. In addition to this Mary May does another XX hours per week of private study at home. The recommended number of hours of private study per subject is XX hours. Mary May is currently taking XX subjects this semester.
11. Accordingly, the recommended number of hours of private study for XX subjects is XX hours per week. In addition to Marys formal contact hours and XX hours of private study, Mary May spends an additional XX hours to travel to and from university. Accordingly, Mary May's total time spent with her studies is XX hours per week. Mary May also works XX hours part-time at XXX. Thus, her total hours taken up with work and studies are XX hours per week.

12. I have been supporting Mary May financially since my separation from the Respondent (or since XXX date).
13. I say that the financial responsibility of maintaining the said child should not rest solely on me, and that the Respondent should bear a proper proportion of her reasonable weekly needs.

Sworn / Affirmed by the deponent

at (place) .....

on (date) ...../...../.....

\_\_\_\_\_  
Signature of deponent

Before me:

-----  
Signature of witness

Full name of witness: .....

Qualification of witness: .....

Affidavit\_FCC\_0313.V1

# Instructions for completion

## AFFIDAVIT

1. This form of affidavit may be used in any proceeding where no other form of affidavit is applicable under the *Federal Circuit Court Rules 2001* (Cth) (the Rules).
2. Each paragraph in this affidavit must be numbered.
3. This affidavit must be sworn or affirmed before a person authorised by law to witness the swearing of affidavits (e.g. a lawyer, notary public or justice of the peace).
4. Each page must be signed by the deponent (the person making the affidavit).
5. Any alteration in the affidavit must be initialled by the deponent and the witness.
6. You must complete address for service details in the footer on page 1. All correspondence concerning the affidavit will be sent to the mailing address inserted, and all documents in the proceedings will be deemed to have been served on you if posted to that address. If your address details change, you must file a notice of address for service within seven days and serve a copy on all other parties (see rule 6.02 the Rules).
7. If the facts in the affidavit are supported by a document, a copy of the document must be attached to this affidavit. This document is then referred to as an ‘annexure’. If there is more than one annexure refer to each by a number or letter (e.g. Annexure 1 or Annexure A). The annexure should also have page numbers. If there is more than one annexure, the page numbers must run consecutively until the last page of the last annexure. If it is impractical to annex a document, it may be separately identified as an exhibit (see rule 15.28).
8. Each annexure must include a statement signed by the witness identifying the annexure as the document referred to in this affidavit. The wording of the statement is as follows:

This is the document referred to as [*insert annexure identification*] in the affidavit of [*insert deponent's name*] sworn/affirmed at [*insert place*] on [*insert date*] before me [*witness to sign and provide name and qualification*].

The statement must be signed at the same time as the affidavit and by the same witness.
9. The court may strike out any material which cannot be used in evidence if it is unnecessary, scandalous or contains opinions of persons not qualified to give them (see rule 15.29).
10. If the deponent does not have an adequate command of English, a translator must read or give in writing a translation of the affidavit and oath/affirmation in a language which is understood, and must certify in the signing clause that they have done so. Use the alternative jurat for the swearing/affirming of the affidavit and the translator’s certificate.
11. Once complete, you need to file the original and a copy of this affidavit for each party to the matter with the court registry. The court will keep the original and return the copies to you. You will need to serve a copy on the other party or parties and keep a copy for your records.

**Remove this instruction sheet before filing**

**FEDERAL CIRCUIT COURT OF AUSTRALIA**

**REGISTRY: BRISBANE**

File number: .....
COURT USE ONLY
Court Location
Court date
Court time

**TARA TAE FONTANA**  
Applicant

**JOSEPH JO FONTANA**  
Respondent

.....  
Other party (if applicable)

*\* Repeat as necessary for additional parties*

**AFFIDAVIT**

**Name of deponent:** MARY MAY FONTANA

**Date sworn / affirmed:** ...../...../.....

I, (full name) MARY MAY FONTANA of (address, including State or Territory) 44 Ambrosia Street Brisbane, QLD 4000 and (occupation) FULL-TIME Arts/ Law student make oath and say / affirm:

1. I am the Adult Child in these proceedings.
2. I have read the affidavit of Tara Tae Fontana, the Applicant Mother, in these proceedings against Joseph Jo Fontana, the Respondent Father, and I agree with the contents therein.
3. I am currently a first year full-time [insert name of course] student at the University of X. The

---

Filed on behalf of TARA TAE FONTANA  
 Prepared by MARY MAY FONTANA Lawyer's code \_\_\_\_\_  
 Name of law firm \_\_\_\_\_  
 Address for service in Australia 44 AMBROSIA STREET  
BRISBANE State QLD Postcode 4000  
 Email \_\_\_\_\_ DX \_\_\_\_\_  
 Tel 07 1234 5678 Fax \_\_\_\_\_ Attention \_\_\_\_\_

course is X years in duration. Thus, apart from what is left of this year, I have another X years of full-time study. I have been doing quite well in my studies and my current grade point average is X. Annexed hereto and marked with the letter 'A' is a copy of my academic record printed from my student records on the university's website. At this stage, I have not obtained an official copy of my academic results from the university because it will cost me about \$XX to obtain such a copy, and I cannot afford to pay such cost.

4. The standard academic study load for the XX (insert name of course) combined degree is X units/credit points per semester. This generally involves formal contact hours (lectures, tutorials, seminars, practicals) of X hours per week. This semester I have chosen to take on an extra subject worth X units, which means my formal contact hours have increased to X hours per week. In addition to this, I do another X hours per week of private study at home.
5. The recommended number of hours of private study per subject is X hours. I am currently taking X subjects this semester. Accordingly, the recommended number of hours of private study for X subjects is XX hours per week. In addition to my XX formal contact hours and XX hours of private study, I spend an additional X hours to travel to and from University. Accordingly, my total time spent with my studies is X hours per week. As explained in paragraph 13 herein below, I work X hours part-time at XXX. Thus my total hours taken up with work and studies are XX-XX hours per week.
6. My mother has financially supported me since birth. Since I turned 18 years old, my mother has been supporting me, both financially and non-financially, during my tertiary studies.
7. Over the years my father and I had contact with each other, but the contact began to decrease when I was in my senior years of high school. However, we do maintain some telephone contact and we exchange birthday and Christmas cards.
8. I have asked my father on numerous occasions for financial assistance with my current studies and weekly needs, but he has flatly refused to make any contribution.
9. I confirm that the expenses totalling \$XX, listed under the appropriate column of my mother's financial statement filed with her application, are my reasonable and proper weekly expenses.
10. Accordingly, I say that the total amount of my reasonable and proper weekly needs is \$X (i.e. the total of the amounts under the appropriate column in my mother's financial statement and the notional 'accommodation component').
11. I further say that the above amount does not take into account any income that I may be able to earn from my part-time/casual employment during the university term and during the summer vacation break. I say that in view of my study load, it would not be reasonable to expect that I could work for more than X hours per week during university semester time. I say that I have

worked in part-time/casual jobs since I was X years old. I worked at X for X years from when I was X to X years old. I have worked at X's for the past X years. At the present time, I work approximately X hours per week casually at X's, and I earn appropriately \$X gross per week. An amount of \$X per week is taken out of my pay for tax. Thus, my net weekly earnings are \$X per week. Accordingly, my net weekly shortfall is \$X. My mother is currently meeting an amount of \$X per week of my abovementioned net expenses.

12. During the University summer vacation from early December to late February, I should be able to work more hours at X. For the financial year ended 30 June 20XX, my gross earnings at X were \$X. Annexed herewith and marked with the letter 'B' is a true copy of my PAYG Payment Summary for the 20XX-20XX financial year.
13. I say that the financial responsibility for my maintenance during my tertiary studies should not rest solely on my mother, and that my father should be responsible for a proper portion of my reasonable and proper weekly needs.
14. Accordingly, I say that the orders my Mother has sought in her application are reasonable and I support and humbly request that this Honourable Court make the orders sought in her application.

Sworn / Affirmed by the deponent

at (place) .....

on (date) ...../...../.....

\_\_\_\_\_  
Signature of deponent

Before me:

-----  
Signature of witness

Full name of witness: .....

Qualification of witness: .....



# Coversheet

## About the document being filed:

Name of document or form:

\_\_\_\_\_

Rule number under which the document is filed:

\_\_\_\_\_

### Filed in:

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

Court location

\_\_\_\_\_

File number

\_\_\_\_\_

Client ID

\_\_\_\_\_

### COURT USE ONLY

Filed at

\_\_\_\_\_

Filed on

\_\_\_\_\_

## About the parties

### APPLICANT

Family name as used now

\_\_\_\_\_

Given names

\_\_\_\_\_

### RESPONDENT

Family name as used now

\_\_\_\_\_

Given names

\_\_\_\_\_

## Address for service of person filing

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.

_____	
State	Postcode
Phone	Fax*
DX	Lawyer's code
Email*	

\* Please do not include email or fax addresses unless you are willing to receive documents from the Court and other parties in that way.

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

Independent children's lawyer family name

Given names

\_\_\_\_\_

Firm name

\_\_\_\_\_

# Document to be filed pursuant to Rule 24.01(1)(h) of the Family Law Rules

Mark [X] the box which applies

- Family violence order  
 Other order (specify) \_\_\_\_\_

This document may be attached to the front of one of the documents listed above pursuant to Rule 24.01(1)(h) of the Family Law Rules. It must not be attached to any other document.

Please type or print clearly and mark [X] all boxes that apply.

**Filed in:**

- Family Court of Australia  
 Federal Circuit Court of Australia  
 Family Court of Western Australia  
 Other, specify \_\_\_\_\_

**Filed on behalf of:**

\_\_\_\_\_  
 (insert full name)

- Applicant  
 Respondent  
 Independent children's lawyer

File number \_\_\_\_\_

Filed at \_\_\_\_\_

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

Court location \_\_\_\_\_

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

Time \_\_\_\_\_

## About the parties

**1 APPLICANT 1**

Family name as used now

Given names

**APPLICANT 2**

Family name as used now

Given names

**RESPONDENT 1**

Family name as used now

Given names

**RESPONDENT 2**

Family name as used now

Given names

Independent children's lawyer name (if applicable)

**2**

**3 NOTE: YOU DO NOT NEED TO COMPLETE ITEM 3 IF YOU HAVE ALREADY PROVIDED A CONTACT ADDRESS**

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

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.

State	Postcode
Phone	Fax*
DX	
Lawyer's code	
Email*	

\* Please do not include email or fax addresses unless you are willing to receive documents from the Court and other parties in that way.

FEDERAL CIRCUIT COURT OF AUSTRALIA  
AT BRISBANE

FILE NO:

XXXXX  
APPLICANT NAME

AND

XXXX  
RESPONDENT NAME

THIS IS THE DOCUMENT REFERRED TO AS ANNEXURE " " IN THE AFFIDAVIT OF  
XXXX SWORN/AFFIRMED ON XXXXXXXX.

SWORN/AFFIRMED BEFORE:

.....  
NAME:  
QUALIFICATION: LAWYER/JUSTICE OF THE PEACE

## SAMPLE DOCUMENTS

The information in these sample documents is an example only. Individuals have to complete the forms with their own personal details and information.

### For adult children:

Initiating Application (Family Law)

Affidavit by the adult child (with instructions)

Cover sheet for birth certificate, marriage certificate or divorce order

Annexure marking sheet

# Initiating Application (Family Law)

Filed in:

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



**NOTE:** Initiating applications can be eFiled through the Commonwealth Courts Portal ([www.comcourts.gov.au](http://www.comcourts.gov.au)). For more information see the *Commonwealth Courts Portal User Guide*, available at [www.familycourt.gov.au](http://www.familycourt.gov.au) or [www.federalcircuitcourt.gov.au](http://www.federalcircuitcourt.gov.au)

COURT USE ONLY
Client ID
File Number
Filed at
Filed on
Court location
Court date
Time
Type of hearing

**IMPORTANT:** Information for respondents to the application is on page 10.

[ **Mary May Fontana** ]  
Applicant's Name  
[Husband/ Father/ Wife/ Mother/ Grandparent/ Other]  
[ **Joseph Jo Fontana** ]  
Respondent's Name  
[Husband/ Father/ Wife/ Mother/ Grandparent/ Other]

## Part A The orders sought

1 Type of orders sought (mark all boxes that apply)

- Children (parenting)       Financial (property and/or maintenance)  
 Child support       Other (specify): **Adult Child Maintenance**  
 Declaration

### Filed on behalf of: The Applicant

Prepared by **The Applicant** Lawyer's Code \_\_\_\_\_

Name of law firm \_\_\_\_\_

Address for service in Australia **44 Ambrosia Street**

**Brisbane** State **Qld** Postcode **4000**

Email\* \_\_\_\_\_ DX \_\_\_\_\_

Tel **(07) 1234 5678** Fax\* \_\_\_\_\_ Attention \_\_\_\_\_

\* Please do not include email or fax details unless you are willing to receive documents from the Court and other parties in that way.

**2** Final orders sought

(State precisely and briefly the final orders sought by the applicant – give a number to each order sought)

1. That pursuant to section 66L of the Family Law Act 1975 (Cth), the Respondent Father [Joseph Jo Fontana] pay to the Applicant Adult Child [Mary May Fontana] for the maintenance of the Applicant Adult Child [Mary Mae Fontana] born on [insert date of birth], the sum of \$XX [insert amount] per week from the date of the filing of this application.
2. That the first of such payments is to be made within seven (7) days from the date of this order and weekly thereafter until the said adult child completes their tertiary education.
3. That the arrears of maintenance accrued from the date of filing of this application to the date of this order be paid in one lump sum payment within one month from the date of this order.
4. That the amount of maintenance provided in paragraph 1 hereof be varied on and from the instalment, next due twelve months (12) after the date of this order, and thereafter each year in accordance with the variation in the Consumer Price Index published by the Commonwealth Statistician for all groups for Australia by comparison to the Consumer Price Index as it stands on 31 December immediately preceding the date of variation as compared with the same index at the same date twelve (12) months prior thereto.
5. Such orders as the court deems meet.

**3** Interim or procedural orders sought

(These orders can only be sought in this form if you are seeking final orders as well; otherwise, leave blank. State precisely and briefly the orders sought – give a number to each order sought.)

1. That pursuant to section 66L of the Family Law Act 1975 (Cth), the Respondent Father [Joseph Jo Fontana] pay to the Applicant Adult Child [Mary May Fontana] for the maintenance of the Applicant Adult Child [Mary Mae Fontana] born on [insert date of birth], the sum of \$XX [insert amount] per week from the date of the filing of this application.
2. That the first of such payments is to be made within seven (7) days from the date of this order and weekly thereafter until the said adult child completes their tertiary education.
3. That the arrears of maintenance accrued from the date of filing of this application to the date of this order be paid in one lump sum payment within one month from the date of this order.
4. That the amount of maintenance provided in paragraph 1 hereof be varied on and from the instalment, next due twelve months (12) after the date of this order, and thereafter each year in accordance with the variation in the Consumer Price Index published by the Commonwealth Statistician for all groups for Australia by comparison to the Consumer Price Index as it stands on 31 December immediately preceding the date of variation as compared with the same index at the same date twelve (12) months prior thereto.
5. Such orders as the court deems meet.

## Part B: Details of the Parties

### Details of Applicant/s

	Applicant 1	Applicant 2
<b>4. Family name as used now</b>		
<b>5. Given names</b>		
<b>6. Sex</b>	<input type="checkbox"/> male <input type="checkbox"/> female	<input type="checkbox"/> male <input type="checkbox"/> female
<b>7. Residential address</b> (incl postcode)		
	You do not have to state your residential address or your telephone number if you are concerned about family violence. You can repeat your contact address for service if you wish.	
<b>8. Telephone number</b> (home and mobile)		
<b>9. Date of birth</b> (day / month / year)	/    /	/    /
<b>10. Usual occupation</b>		
<b>11. Mark box as applicable for each applicant</b>	<input type="checkbox"/> present in Australia <input type="checkbox"/> ordinarily resident in Australia <input type="checkbox"/> an Australian citizen <input type="checkbox"/> domiciled in Australia	<input type="checkbox"/> present in Australia <input type="checkbox"/> ordinarily resident in Australia <input type="checkbox"/> an Australian citizen <input type="checkbox"/> domiciled in Australia
<b>12. Description</b>	<input type="checkbox"/> husband/father <input type="checkbox"/> wife/mother <input type="checkbox"/> party to a de facto relationship that has broken down <input type="checkbox"/> Other (specify):	<input type="checkbox"/> husband/father <input type="checkbox"/> wife/mother <input type="checkbox"/> party to a de facto relationship that has broken down <input type="checkbox"/> Other (specify):
<b>13. Is an interpreter required?</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes. If Yes, state language & dialect:	<input type="checkbox"/> No <input type="checkbox"/> Yes. If Yes, state language & dialect:
<b>14. *Is the applicant of Aboriginal and/or of Torres Strait Islander origin?</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal and Torres Strait Islander	<input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal and Torres Strait Islander

\*You are not required to answer this question, but it will greatly assist the Court if you do. The information sought is being collected to assist the Court in planning and delivering client services. It is possible that you may be contacted to participate in a review of a particular aspect of the Court's services, although your right not to participate will be respected. The information you provide may be shared with researchers approved by the Court, and may be included in publications in statistical form in a way that does not identify you.

## Details of Respondent/s

	Respondent 1	Respondent 2
<b>15. Family name as used now</b>		
<b>16. Given names</b>		
<b>17. Sex</b>	<input type="checkbox"/> male <input type="checkbox"/> female	<input type="checkbox"/> male <input type="checkbox"/> female
<b>18. Residential address</b> (incl postcode)		
	You do not have to state your residential address or your telephone number if you are concerned about family violence. You can repeat your contact address for service if you wish.	
<b>19. Date of birth</b> (day / month / year)	/ /	/ /
<b>20. Usual occupation</b>		
<b>21. Mark box as applicable for each respondent</b>	<input type="checkbox"/> present in Australia <input type="checkbox"/> ordinarily resident in Australia <input type="checkbox"/> an Australian citizen <input type="checkbox"/> domiciled in Australia	<input type="checkbox"/> present in Australia <input type="checkbox"/> ordinarily resident in Australia <input type="checkbox"/> an Australian citizen <input type="checkbox"/> domiciled in Australia
<b>22. Description</b>	<input type="checkbox"/> husband/father <input type="checkbox"/> wife/mother <input type="checkbox"/> party to a de facto relationship that has broken down <input type="checkbox"/> Other (specify):	<input type="checkbox"/> husband/father <input type="checkbox"/> wife/mother <input type="checkbox"/> party to a de facto relationship that has broken down <input type="checkbox"/> Other (specify):
<b>23. Is an interpreter required?</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes. If Yes, state language & dialect:	<input type="checkbox"/> No <input type="checkbox"/> Yes. If Yes, state language & dialect:
<b>24. *Is the respondent of Aboriginal and/or of Torres Strait Islander origin?</b>	<input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal and Torres Strait Islander	<input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal and Torres Strait Islander

\* You are not required to answer this question, but it will greatly assist the Court if you do. The information sought is being collected to assist the Court in planning and delivering client services. It is possible that you may be contacted to participate in a review of a particular aspect of the Court's services, although your right not to participate will be respected. The information you provide may be shared with researchers approved by the Court, and may be included in publications in statistical form in a way that does not identify you.

## Part C: Relationship of Parties

<b>25. Date parties commenced to live together</b> (day / month / year)	/ /	or <input type="checkbox"/> Not applicable
<b>26. Date of marriage</b> (day / month / year)	/ /	or <input type="checkbox"/> Not applicable
<b>27. Date of final separation</b> (day / month / year)	/ /	or <input type="checkbox"/> Not applicable
<b>28. Date of divorce</b> (day / month / year)	/ /	or <input type="checkbox"/> Not applicable

## Part D: Children

(Complete details for each child. If more space is required for extra children, attach an extra page)

	Child 1	Child 2
29. Family name		
30. Given names		
31. Date of birth (day / month / year)	/ /	/ /
32. Sex	<input type="checkbox"/> male <input type="checkbox"/> female	<input type="checkbox"/> male <input type="checkbox"/> female
33. Mother's family name		
34. Mother's given names		
35. Father's family name		
36. Father's given names		
37. With whom does the child live?		

	Child 3	Child 4
38. Family name		
39. Given names		
40. Date of birth (day / month / year)	/ /	/ /
41. Sex	<input type="checkbox"/> male <input type="checkbox"/> female	<input type="checkbox"/> male <input type="checkbox"/> female
42. Mother's family name		
43. Mother's given names		
44. Father's family name		
45. Father's given names		
46. With whom does the child live?		

## Part E: For applications for parenting orders

47. Has the applicant obtained a certificate from a registered family dispute resolution practitioner? (Refer to section 60I of the *Family Law Act 1975*).

No     Yes

If yes, attach a copy of the certificate to this application and go to Part F of this form.

If no, to obtain an exemption from filing a certificate you must either complete and file the form *Affidavit - Non-Filing of Family Dispute Resolution Certificate* or include the factual basis for the exemption in the affidavit you file in support of any order you are seeking.

48. Has the applicant received advice from a family counsellor or a family dispute resolution practitioner about the services and options (including alternatives to court action) available in circumstances of abuse or violence? (Refer to section 60J of the *Family Law Act 1975*).

No  Yes

## Part F: Other court cases and orders

### Ongoing cases

49a. Are there any ongoing cases in this or any other court about family law, child support, family violence or abuse in relation to a child, or child welfare issues that involve any of the parties or children listed in this application?

No  Yes

If yes, provide the following details for each ongoing case. (Attach extra pages as required.)

49b. Court name and place

49c. Next Court date

/ /

49d. Names of parties

49e. State the nature of the orders sought (eg property settlement, parenting orders, child support)

### Existing orders, agreements or undertakings

50a. Are there any existing orders, agreements, parenting plans or undertakings to a court about family law, child support, family violence or abuse in relation to a child (including family violence orders which have applied to a child or a member of the child's family), or child welfare issues concerning any of the parties or children listed in this application?

No  Yes

If yes, either **attach copies** of any orders, agreements, parenting plans or undertakings or provide details below.

(If there is more than one order etc, attach extra pages as required.)

50b. Court name and place

50c. Date

/ /

50d. Names of parties to the order, agreement, parenting plan or undertaking

## Part G: For property and/or spouse/de facto partner maintenance applications

If the parties were in a de facto relationship that has broken down, complete Part H

**51. Have the parties entered into a financial agreement or a part VIIIAB Financial Agreement under the *Family Law Act 1975* or under any relevant state or territory legislation?**

No  Yes

**52. If either party has a superannuation interest, have the parties entered into a binding superannuation agreement in relation to that superannuation interest?**

No  Yes

**53. Is any party currently bankrupt or currently a debtor in bankruptcy proceedings started by either a creditor's petition or a debtor's petition or currently a debtor subject to a personal insolvency agreement?**

No  Yes

**54. Is there a proceeds of crime order or current forfeiture application in relation to any of the property of any of the parties?**

No  Yes

If yes, attach a sealed copy of the order or application.

## Part H: De facto relationship jurisdiction – financial causes

(subsection 4(1) of Family Law Act 1975 defines de facto relationship cause)

Complete **all** the boxes below if relying on the Court's jurisdiction to make orders for the benefit of a party to de facto relationship that has broken down.

### Entitlement to apply and geographic requirements

**55a. Did your de facto relationship break down on or after 1 March 2009 or if resident in South Australia on or after 1 July 2010? \*** (See important notes for completing Part H)

No  Yes

**55b. Is the period or the total of the periods of the de facto relationship at least two years?**

No  Yes

**55c. Is there is a child of the de facto relationship?**

No  Yes

**55d. Has the applicant made substantial contributions and a failure to make an order or declaration would result in serious injustice to the applicant?**

No  Yes

**55e Is, or was, the relationship registered under a prescribed law of a State or Territory of Australia?**

<input type="checkbox"/> No	<input type="checkbox"/> Yes
-----------------------------	------------------------------

**55f. Were both parties to the relationship ordinarily resident in one or more of the Australian Territories or New South Wales, Queensland, Victoria, Tasmania or South Australia for at least one third of the domestic relationship, or at the date the relationship broke down?**

<input type="checkbox"/> No	<input type="checkbox"/> Yes
-----------------------------	------------------------------

**55g. Did the applicant make substantial contributions in one or more of the Australian Territories or New South Wales, Queensland, Victoria, Tasmania or South Australia?**

<input type="checkbox"/> No	<input type="checkbox"/> Yes
-----------------------------	------------------------------

## **Part I: Cross-vested jurisdiction**

(Complete only if relying on cross-vested jurisdiction. Note: An affidavit *must* be filed – see Rule 4.06 of the *Family Law Rules 2004*)

**56. If relying on a cross-vesting law, specify the Territory law relied on**

--

## **Part J: Lawyer's declaration**

**57. If the applicant is filing this application without a lawyer, this part need not be completed.** However the applicant should obtain a copy of the information brochure *Marriage, Families and Separation* from Court staff when filing the application. If a lawyer is filing the application, then the lawyer must give the applicant a copy of the brochure and sign the following declaration.

I gave the applicant(s) a copy of the Family Law Courts' brochure *Marriage, Families and Separation*.

\_\_\_\_\_  
Signature of lawyer

Full name of lawyer:

Date:        /        /

## Part K: Statement of Truth of the Contents of this document

58. Applicant 1	Applicant 2
<ol style="list-style-type: none"> <li>1. I believe that the facts of which I have personal knowledge are true.</li> <li>2. All other facts are true to the best of my knowledge, information and belief and the orders sought in this application are supported by evidence.</li> <li>3. I am aware that I have a duty to the Court and to each other party to give full and frank disclosure – in a timely manner - of all information relevant to the issues in the case.</li> </ol>	<ol style="list-style-type: none"> <li>1. I believe that the facts of which I have personal knowledge are true</li> <li>2. All other facts are true to the best of my knowledge, information and belief and the orders sought in this application are supported by evidence.</li> <li>3. I am aware that I have a duty to the Court and to each other party to give full and frank disclosure – in a timely manner - of all information relevant to the issues in the case.</li> </ol>

**I have read and understood this Statement of Truth (please tick)**

**I have read and understood this Statement of Truth (please tick)**

---

**Signature of Applicant 1**

---

**Signature of Applicant 2**

Date        /        /

Date        /        /

# IMPORTANT NOTICE TO RESPONDENT(S)

You should seek legal advice about this application.

If you do not want the Court to make the orders sought in this application or if you want the Court to make other orders, **YOU MUST:**

## For proceedings in the Federal Circuit Court of Australia

- file at the Court a response, an affidavit and other relevant documents – including, in financial matters, a *Financial Statement*
- deliver a copy of the response, affidavit and other relevant documents to the applicant's address for service within 14 days, and
- attend at the hearing. **Please note: If you do not attend the hearing orders may be made in your absence.**

## For proceedings in the Family Court of Australia

- at least 7 days before the Court date shown on page one of this application, file at the Court a *Response to Initiating Application* and in a financial case, a *Financial Statement*. These forms are available at any family law registry or on the Family Law Courts' website [www.familylawcourts.gov.au](http://www.familylawcourts.gov.au)
- file an affidavit if interim or procedural orders are sought by either party. A form of affidavit in support of a response seeking or opposing interim parenting orders is available at any family law registry or on the Family Law Courts' website [www.familylawcourts.gov.au](http://www.familylawcourts.gov.au)
- file other documents, as required, depending on the orders you seek (see Rule 4.18 of the *Family Law Rules 2004*)
- serve on all other parties copies of the documents filed, at least 7 days before the Court date shown on page one of this application, and
- attend at the hearing. **Please note: If you do not attend the hearing orders may be made in your absence.**

# Instructions for completion

## AFFIDAVIT

1. This form of affidavit may be used in any proceeding where no other form of affidavit is applicable under the *Federal Circuit Court Rules 2001* (the Rules).
2. Each paragraph in this affidavit must be numbered.
3. This affidavit must be sworn or affirmed before a person authorised by law to witness the swearing of affidavits; for example, a lawyer, notary public or Justice of the Peace.
4. Each page must be signed by the deponent (the person making the affidavit).
5. Any alteration in the affidavit must be initialled by the deponent and the witness.
6. You must complete address for service details in the footer on page 1. All correspondence concerning the affidavit will be sent to the mailing address inserted and all documents in the proceedings will be deemed to have been served on you if posted to that address. If your address details change, you must file a notice of address for service within seven days, and serve a copy on all other parties; see Rule 6.02.
7. If the facts in the affidavit are supported by a document, a copy of the document must be attached to this affidavit. This document is then referred to as an ‘annexure’. If there is more than one annexure refer to each by a number or letter; for example – ‘Annexure 1’ or ‘Annexure A’. The annexure should also have page numbers. If there is more than one annexure, the page numbers must run consecutively until the last page of the last annexure. If it is impractical to annex a document, it may be separately identified as an exhibit; see Rule 15.28.
8. Each annexure must include a statement signed by the witness identifying the annexure as the document referred to in this affidavit. The wording of the statement is as follows:

*This is the document referred to as [insert annexure identification] in the affidavit of [insert deponent's name] sworn/affirmed at [insert place] on [insert date] before me [witness to sign and provide name and qualification].*

The statement must be signed at the same time as the affidavit and by the same witness.
9. The Court may strike out any material which cannot be used in evidence; for example, if it is unnecessary, scandalous or contains opinions of persons not qualified to give them. See Rule 15.29.
10. If the deponent does not have an adequate command of English, a translator must read or give in writing a translation of the affidavit and oath/affirmation in a language which is understood, and must certify in the signing clause that he or she has done so. Use the alternative jurat for the swearing/affirming of the affidavit and the translator’s certificate.
11. Once complete, you need to file the original and a copy of this affidavit for each party to the matter with the court registry. The Court will keep the original and return the copies to you. You will need to serve a copy on the other party or parties and keep a copy for your records.

**Remove this instruction sheet before filing**

**FEDERAL CIRCUIT COURT OF AUSTRALIA**

**REGISTRY: BRISBANE**

File number: .....
<b>COURT USE ONLY</b>
Court Location
Court date
Court time

**MARY MAY FONTANA**  
Applicant

**JOSEPH JO FONTANA**  
Respondent

.....  
Other party (if applicable)

*\* Repeat as necessary for additional parties*

**AFFIDAVIT**

**Name of deponent:** MARY MAY FONTANA

**Date sworn / affirmed:** ...../...../.....

I, (full name) MARY MAY FONTANA of (address, including State or Territory) 44 AMBROSIA STREET BRISBANE, QLD, 4000 and (occupation) FULL-TIME STUDENT make oath and say / affirm:

1. I am the Applicant Adult Child in these proceedings.
2. The respondent and my mother, Tara Tea Fontana, first met in XX year. They were married on the XX day of XX month XX year, and they separated in or around XX year, when I was X years old. Their divorce became absolute in or about XX year. OR

---

Filed on behalf of Mary May Fontana  
 Prepared by Mary May Fontana Lawyer's code \_\_\_\_\_  
 Name of law firm \_\_\_\_\_  
 Address for service in Australia 44 Ambrosia Street  
Brisbane State QLD Postcode 4000  
 Email \_\_\_\_\_ DX \_\_\_\_\_  
 Tel 07 1234 5678 Fax \_\_\_\_\_ Attention \_\_\_\_\_

3. The Respondent and my mother Tara Tea Fontana cohabited in a de facto relationship between XX day of XX month XX year and XX day of XX month XX year. There is one child from the relationship, Mary May Fontana, born on the day of month year.
4. The Respondent and my mother Tara Tea Fontana never lived together but had a relationship that led to the birth of the two children, Mary May Fontana, born on the XX day of XX month XX year and Mark Fontana, born on the XX day of XX month XX year.
5. I am the only child of the respondent and my mother. My mother has been my full time carer since I was born. The respondent did pay some child maintenance for me to my mother, pursuant to a Court order. However, the child maintenance ceased when I turned 18 years of age in XX year.
6. I am currently a first year full-time [insert name of course] student at the University of X. The course is X years in duration. Thus, apart from what is left of this year, I have another X years of full-time study. I have been doing quite well in my studies and my current Grade Point Average is X. Annexed hereto and marked with the letter "A" is a copy of my academic record printed from my student records on the University's website. At this stage, I have not obtained an official copy of my academic results from the University because it will cost me about \$XX to obtain such a copy, and I cannot afford to pay such cost.
7. The standard academic study load for the XX (insert name of course) combined degree is X units/credit points per semester. This generally involves formal contact hours (lectures, tutorials, seminars, practicals) of X hours per week. This semester I have chosen to take on an extra subject worth X units, which means my formal contact hours have increased to X hours per week. In addition to this, I do another X hours per week of private study at home.
8. The recommended number of hours of private study per subject is X hours. I am currently taking X subjects this semester. Accordingly, the recommended number of hours of private study for X subjects is XX hours per week. In addition to my XX formal contact hours and XX hours of private study, I spend an additional X hours to travel to and from University. Accordingly, my total time spent with my studies is X hours per week. As explained in paragraph 13 herein below, I work X hours part-time at XXX. Thus my total hours taken up with work and studies are XX-XX hours per week.
9. My mother has financially supported me since birth. Since I turned 18 years old, my mother has been supporting me, both financially and non-financially, during my tertiary studies.
10. Over the years my father and I had contact with each other, but the contact began to decrease when I was in my senior years of high school. However, we do maintain some telephone contact and we exchange birthday and Christmas cards.

11. I have asked my father on numerous occasions for financial assistance with my current studies and weekly needs, but he has flatly refused to make any contribution.
12. I refer to my Financial Statement, which is filed with this my affidavit. In particular, I refer to the column entitled 'For You' in paragraph 60 (Part N - Orders for maintenance, child support, financial enforcement). I confirm that the expenses totalling \$XX listed under that column are my reasonable and proper weekly expenses. However, as I am currently living with my mother, I say that an appropriate amount for my accommodation cost (which I would be incurring if my mother would charge me rent or if I would live in rental accommodation) is the sum of \$X per week.
13. Accordingly, I say that the total amount of my reasonable and proper weekly needs is \$X (i.e. the total of the amounts under the column 'For You' and the notional 'accommodation component'). Under the item entitled 'education expenses', I have included amounts for textbooks, photocopying and the student service charges. I have elected to defer my HECS fees, for the time being, because neither my mother nor I are able to pay them up-front. I would prefer to be able to pay upfront, as there is a XX% discount for paying them now, and I would not have a huge HECS debt upon graduation. However, I have not included the HECS fees in working out my education expenses.
14. I further say that the above amount does not take into account any income that I may be able to earn from my part-time/casual employment during the university term and during the summer vacation break. I say that in view of my study load, it would not be reasonable to expect that I could work for more than X hours per week during University semester time. I say that I have worked in part-time/casual jobs since I was X years old. I worked at X for X years from when I was X to X years old. I have worked at X's for the past X years. At the present time, I work approximately X hours per week casually at X's, and I earn appropriately \$X gross per week. An amount of \$X per week is taken out of my pay for tax. Thus, my net weekly earnings are \$X per week. Accordingly, my net weekly shortfall is \$X. My mother is currently meeting an amount of \$X per week of my abovementioned net expenses.
15. During the University summer vacation from early December to late February, I should be able to work more hours at X. For the financial year ended 30 June 200X, my gross earnings at X were \$X. Annexed herewith and marked with the letter "B" is a true copy of my PAYG Payment Summary for the 200X-200X financial year.
16. I say that the financial responsibility for my maintenance during my tertiary studies should not rest solely on my mother, and that my father should be responsible for a proper portion of my reasonable and proper weekly needs.

17. Accordingly, I say that the orders I have sought in my application are reasonable and I humbly request that this Honourable Court make the orders sought in my application.

Sworn / Affirmed by the deponent

at (place) .....

on (date) ...../...../.....

\_\_\_\_\_  
Signature of deponent

Before me:

-----  
Signature of witness

Full name of witness: .....

Qualification of witness: .....



# Coversheet

## About the document being filed:

Name of document or form:

\_\_\_\_\_

Rule number under which the document is filed:

\_\_\_\_\_

### Filed in:

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

Court location

\_\_\_\_\_

File number \_\_\_\_\_

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

### COURT USE ONLY

Filed at \_\_\_\_\_

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

## About the parties

### APPLICANT

Family name as used now

\_\_\_\_\_

Given names

\_\_\_\_\_

### RESPONDENT

Family name as used now

\_\_\_\_\_

Given names

\_\_\_\_\_

## Address for service of person filing

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.

_____	
State	Postcode
Phone	Fax*
DX	Lawyer's code
Email*	

\* Please do not include email or fax addresses unless you are willing to receive documents from the Court and other parties in that way.

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

Independent children's lawyer family name

Given names

\_\_\_\_\_

Firm name

\_\_\_\_\_

# Document to be filed pursuant to Rule 24.01(1)(h) of the Family Law Rules

Mark [X] the box which applies

- Family violence order  
 Other order (specify) \_\_\_\_\_

This document may be attached to the front of one of the documents listed above pursuant to Rule 24.01(1)(h) of the Family Law Rules. It must not be attached to any other document.

Please type or print clearly and mark [X] all boxes that apply.

**Filed in:**

- Family Court of Australia  
 Federal Circuit Court of Australia  
 Family Court of Western Australia  
 Other, specify \_\_\_\_\_

**Filed on behalf of:**

\_\_\_\_\_  
 (insert full name)

- Applicant  
 Respondent  
 Independent children's lawyer

File number \_\_\_\_\_

Filed at \_\_\_\_\_

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

Court location \_\_\_\_\_

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

Time \_\_\_\_\_

## About the parties

**1 APPLICANT 1**

Family name as used now

Given names

**APPLICANT 2**

Family name as used now

Given names

**RESPONDENT 1**

Family name as used now

Given names

**RESPONDENT 2**

Family name as used now

Given names

Independent children's lawyer name (if applicable)

**2**

**3 NOTE: YOU DO NOT NEED TO COMPLETE ITEM 3 IF YOU HAVE ALREADY PROVIDED A CONTACT ADDRESS**

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

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.

State	Postcode
Phone	Fax*
DX	
Lawyer's code	
Email*	

\* Please do not include email or fax addresses unless you are willing to receive documents from the Court and other parties in that way.

FEDERAL CIRCUIT COURT OF AUSTRALIA  
AT BRISBANE

FILE NO:

XXXXX  
APPLICANT NAME

AND

XXXX  
RESPONDENT NAME

THIS IS THE DOCUMENT REFERRED TO AS ANNEXURE " " IN THE AFFIDAVIT OF  
XXXX SWORN/AFFIRMED ON XXXXXXXX.

SWORN/AFFIRMED BEFORE:

.....  
NAME:  
QUALIFICATION: LAWYER/JUSTICE OF THE PEACE