

FAMILY LAW ACT 1975

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

AT NEWCASTLE

No. (P)NCC3896/2023

BETWEEN

Clarity Lawyers
Level 2, 45 Hunter Street
NEWCASTLE NSW 2300

STEPHEN CHRISTOPHER COOKE
(Applicant)

AND

Delaney Roberts Family Lawyers
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Level 2,
317 Hunter Street,
NEWCASTLE NSW 2300

HEATHER ANNE COOKE
(Respondent)

ORDER 7/3/2024

BD

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FAMILY COURT OF AUSTRALIA
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FILE NO: (P)NCC3896/2023

BETWEEN:

STEPHEN CHRISTOPHER COOKE (Applicant)

AND:

HEATHER ANNE COOKE (Respondent)

BEFORE:

JUDICIAL REGISTRAR FURNER

DATE:

7 March 2024

MADE AT:

NEWCASTLE

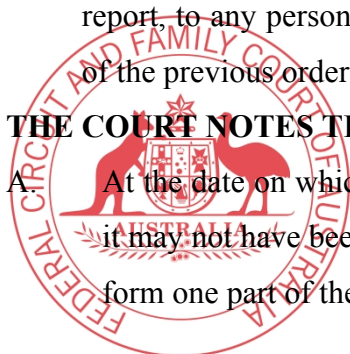
UPON THE COURT'S OWN MOTION IN CHAMBERS, THE COURT ORDERS THAT:

Single Expert Report – Release

1. Pursuant to Chapter 7 of the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* copies of the report by Mr Drew Cowen, Consultant Psychologist dated **29 February 2024** may be given to:
 - a. the parties; and/or
 - b. the lawyers for the parties; and/or
 - c. the lawyer representing the children in the proceedings under s 68L of the *Family Law Act 1975*; and
 - d. An authority established by or under a law of a State or Territory for the purposes including the provision of legal assistance; and
 - e. a Children's Court (however described) of a State or Territory; and
 - f. a prescribed child welfare authority; and
 - g. the convenor of any legal dispute resolution conference.
2. Except with the Court's permission, no person is to release the report, or provide access to the report, to any person other than those mentioned in paragraphs (a), (b), (c), (d), (e), (f) or (g) of the previous order.

THE COURT NOTES THAT:

- A. At the date on which a copy of the report is to be provided to any of those identified above, it may not have been admitted into evidence and may be untested or, if admitted, would only form one part of the evidence in the proceedings.



- B. Section 121 of the *Family Law Act 1975* provides that it is an offence punishable by imprisonment for up to one year to publish or disseminate to the public any account of family law proceedings which identifies the parties, witnesses or other people concerned with the proceedings, unless specifically authorised by the Court.
- C. If in any proceedings there are allegations of family violence and the provisions of s 102NA of the *Family Law Act 1975* apply (see attached Family Violence Information Sheet), any unrepresented party will not be permitted to personally cross-examine the other party/parties. Affected unrepresented parties may apply to the Commonwealth Family Violence and Cross-Examination of Parties Scheme (“the Scheme”) for representation but any such application must be made at least 12 weeks prior to the final hearing. Further information about the legislation and the Scheme can be found at Part 4 of the attached Family Violence Information Sheet.

By the Court



Registrar



Family Violence Information Sheet

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

About family violence

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

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

Safety at court

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

Legal and support services

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

Cross-examination

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

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

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

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

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

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

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

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

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