

**FAMILY LAW ACT 1975**

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

**AT NEWCASTLE**

**No. (P)NCC3896/2023**

**BETWEEN**

**STEPHEN CHRISTOPHER COOKE  
(Applicant)**

**AND**

**HEATHER ANNE COOKE  
(Respondent)**

**AND**

**INDEPENDENT CHILDREN'S LAWYER**

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ORDER 7/4/2025

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FILE NO: (P)NCC3896/2023

BETWEEN:

STEPHEN CHRISTOPHER COOKE (Applicant)

AND:

HEATHER ANNE COOKE (Respondent)

AND:

INDEPENDENT CHILDREN'S LAWYER

BEFORE:

HIS HONOUR JUDGE BETTS

DATE:

7 April 2025

MADE AT:

NEWCASTLE

UPON APPLICATION MADE TO THE COURT by the Applicant appearing self-represented by video-link and Ms Shedden, Solicitor appearing for and with the Respondent and Ms Markham as the Independent Children's Lawyer by telephone-link.

**THE COURT ORDERS THAT:**

1. Upon the oral application of the Independent Children's Lawyer and by consent of both parents, pursuant to section 102NA(1)(c)(iv) of the *Family Law Act* 1975, the requirements of section 102NA(2) of the Act are to apply and the parties are prohibited from personally cross-examining each other at trial.

**Final hearing date/s:**

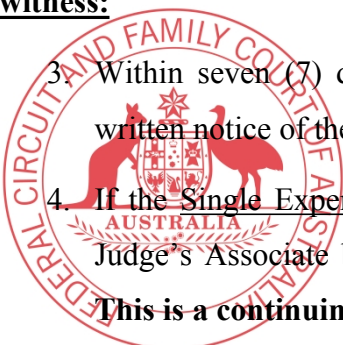
2. The proceedings are listed for final hearing before Judge Costigan at Newcastle commencing at **10.00am on 17 November 2025**, with three (3) days allocated.

**Liaising with the Court Child Expert / Family Report writer and any applicable single expert**

**witness:**

3. Within seven (7) days, the Independent Children's Lawyer must give the Single Expert written notice of the final hearing dates.
4. If the Single Expert raises any availability issues, then the parties are to contact the trial Judge's Associate by email as soon as possible to request a re-listing of the proceedings.

**This is a continuing obligation.**



5. Unless otherwise ordered, the parties are not to provide the Single Expert with any documents post-dating the most recent Family Report or Single Expert report. **A Court Child Expert or Court-appointed Family Report writer cannot ordinarily be expected to read updated material given time constraints and the Court's limited resources.**

**Filing and service of trial material:**

6. Whenever practical, all documents required to be filed and served, and all other documents sought to be relied upon at the final hearing, must be filed or provided (as applicable) in a text-searchable PDF format to the Court and to each other party.
7. A party who seeks to rely upon any material that has not been filed or served in accordance with these Orders, or which otherwise fails to comply with the *Federal Circuit and Family Court of Australia (Family Law) Rules*, will require the leave of the trial Judge.
8. By no later than twenty-eight (28) days prior to the final hearing date, each party shall file and serve:
  - a. any Amended Initiating Application or Amended Response to Initiating Application setting out with precision the final orders sought; and
  - b. one (1) updated and consolidated trial Affidavit of each party;
  - c. one (1) updated and consolidated trial affidavit of any witness/es whose evidence the party intends to rely upon;  
  
with all such affidavits to comply with the requirements of the *Federal Circuit and Family Court of Australia (Family Law) Rules*, including as to spacing and font sizes.
9. By no later than 4.00pm, one (1) clear business day prior to the final hearing, each party shall file and serve an Outline of Case Document setting out:
  - a. A list of the documents to be relied upon by that party;
  - b. A list of the issues for determination;
  - c. A brief chronology listing significant events that are relevant to the issues to be determined by the Court;
  - d. In a parenting case, a brief summary of that party's contentions with respect to the specific provisions of the *Family Law Act 1975* said to be relevant;
  - e. A list of authorities which that party intends to cite to the Court during the presentation of any arguments, together with copies of any unreported decisions to which it is intended to refer;
  - f. A precise minute of the orders sought by the party.



**Parties are not obliged to use the approved form for the Outline of Case Document but may do so if they wish.**

**Objections to evidence:**

10. By no later than 4.00pm, one (1) clear business day prior to the final hearing, the parties shall serve any objections to evidence. Parties are to confer about objections prior to commencement of the final hearing.

**Subpoenas & Tender Bundles:**

11. Any subpoenas for the purposes of the final hearing are to be returnable by no later than twenty-eight (28) days prior to the final hearing.

12. By no later than seven (7) days prior to the final hearing, each party shall send to the trial Judge's Associate a bundle of documents which that party proposes to tender at the hearing and for that purpose:

a. the parties' legal representatives and the Independent Children Lawyer (if appointed) are granted leave to copy all physical material or obtain all electronic material marked as a subpoena packet in the proceedings, including by electronic access.

**This leave does not extend to a self-represented litigant or to a party personally;**

b. the documents are to be indexed, arranged chronologically and paginated, with the index to identify for each document the subpoena packet number, and the page number for the packet;

c. whenever practical, the bundle is to be emailed to the Associate of the trial judge in a text-searchable PDF format;

d. the tender bundle is to remain in the possession of legal representatives only and no documents from the bundle are to be released directly to the parties or to any witnesses without an order of the Court;

e. if either party becomes self-represented they may contact the Registry after today's date they may arrange to view the tender bundle in the subpoena viewing room prior to the final hearing;

f. the tender bundle will be initially marked for identification only. Documents will only be admitted as exhibits as directed by the trial Judge.

**Payment of Hearing Fee**

13. Unless a fee waiver has been obtained:



- a. the Applicant is to pay to the Family Law Courts at Newcastle the setting down fee/and the fee for day three of hearing, by no later than seven (7) days prior to the final hearing;
- b. the Respondent is required to pay the daily hearing fee for the second day of hearing/and the fee for day four of the hearing, by no later than seven (7) days prior to the final hearing;
- c. if the final hearing runs for longer than four (4) days, the Applicant is to pay the fee for day five (5) of hearing, the Respondent is to pay the hearing fee for day six (6) of hearing and so on.

### **Costs Notices**

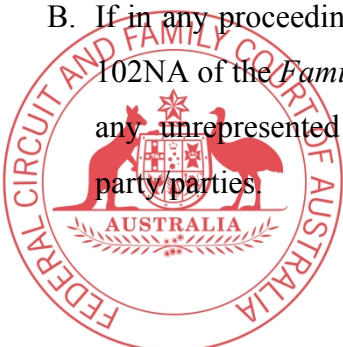
14. No later than seven (7) days prior to the first day of the final hearing, each party's legal representative shall provide to their client written notice of:
  - a. The client's actual costs, both paid and owing, up to and including the final hearing. In the case of paid costs, the costs notice is to identify the source of the funds;
  - b. The estimated final costs of the party up to and including the final hearing; and
  - c. Any expenses paid or payable to an expert witness or, if those expenses are not known, an estimate of expenses.
15. A copy of the Costs Notice must be provided to the trial Judge's Associate on the business day before the first day of the final hearing.

### **Trial Plan:**

16. Prior to the final hearing date, the parties are to agree upon a Trial Plan. As a minimum, the Trial Plan must record when each party's case will finish. Absent such agreement, the trial Judge may appoint a finishing time for each party's case.

### **THE COURT NOTES THAT:**

- A. These Orders do not derogate from any registry requirement for the execution and production of an undertaking prior to copy access being permitted.
- B. If in any proceedings there are allegations of family violence and the provisions of section 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.



- C. 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 date.
- D. Further information about the legislation and the Scheme can be found at Part 4 of the attached Family Violence Information Sheet.
- E. If s.102NA applies and a party becomes unrepresented after trial directions have been made, that party is required to promptly advise the Court and each other party.

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](http://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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