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| No. of Witness Statement | 01 |
| On behalf of: | Mrs Anne Katherine Smith |
| Date: |  |
| No. of Exhibits: | 0 |

**IN THE FAMILY COURT SITTING AT CLACTON-ON-SEA**

**Case No.**

**IN THE MATTER OF AN APPLICATION UNDER PART IV OF THE FAMILY LAW ACT 1996**

***B E T W E E N :-***

**MRS ANNE KATHERINE SMITH**

***Applicant***

***-and-***

**MR ANDREW COLIN SMITH**

***Respondent***

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|  | **FIRST WITNESS STATEMENT OF MRS ANNE KATHERINE SMITH** |  |

I, **MRS ANNE KATHERINE SMITH**, of 123 A Street, Townsville, Countyshire, AB1 2CD, make this statement believing the contents to be true and knowing that it will be placed before the Court as evidence.

1. The Respondent, **MR ANDREW COLIN SMITH**, and I are associated persons within Section 62(3) of the Family Law Act 1996 because we are married.
2. I am making this Witness Statement in support of my application to this Court, made without notice to the Respondent for a Non-Molestation Order and an Occupation Order. I fear that if the Respondent was made aware of the hearing, or there was any delay in obtaining protection, I would be at risk of significant harm. I have suffered verbal, emotional and physical abuse by the Respondent. Most recently, on 1st December 2020, the Respondent came to my home and was verbally abusive towards me. He punched my stomach and my face, and then threatened to kill me. He was arrested then released on conditional bail, which ends on 1st January 2020. I therefore seek urgent protection by way of a Non-Molestation Order and an Occupation Order.
3. The Respondent and I live at separate addresses. The Respondent and I lived together between summer 2010 and 21st March 2020, at my registered address. I continue to reside there. The Respondent moved out on 22nd March 2020.
4. The matrimonial home, for which I seek an occupation order, is a three-bedroom house, which the Respondent and I own privately. The mortgage is in both our names. The mortgage is with Santander bank.

**Brief background**

1. I was born on 1st February 1983 and am **36 years of age**. I am employed as a nurse. I have anxiety and depression, for which I take medication. My mental health conditions have been exacerbated by the Respondent’s behaviour.
2. The Respondent, my husband, is a teacher. He was born on 2nd April 1982 and is **37 years of age**. He lives at 456 A Street, Townshire, County, CD4 5RT. The Respondent abuses alcohol and drugs, including cannabis and cocaine.
3. I have two children with the Respondent, namely: SALLY SMITH, who was born on 4th May 2013 and is **seven years of age**; and SAMMY SMITH, who was born on 5th June 2015 and is **four years of age**. The Respondent is named on our children’s birth certificates, therefore, has parental responsibility for SALLY and SAMMY. SAMMY has cerebral palsy and is a wheelchair user. Our children reside with me.
4. I set out below a brief history of the abuse I have suffered from the Respondent to establish why I need the protection of Court orders. This statement is being prepared on short notice so that emergency orders can be obtained and, as such, it may not contain all the incidents that have occurred. I have tried to include the main incidents, however, I reserve my right to expand my evidence. Therefore, I seek permission to make a further statement if necessary to support my application and any future Court proceedings.

**Brief history of the relationship**

1. The Respondent and I were in a relationship between in January 2010 and 22nd March 2019. We married on 18th June 2014.
2. My relationship with the Respondent was fine for the first five years. Our relationship began to change in 2015, when I discovered messages on the Respondent’s phone, revealing that he was having an affair with another teacher at his school. Initially, when I confronted the Respondent about the messages, he denied being unfaithful to me. However, when I told him that I would end our relationship if he did not tell me the truth, he admitted to having an affair. He apologised and promised the affair had finished. I believed him, so I forgave him.
3. However, our relationship deteriorated thereafter. The Respondent became controlling towards me. The Respondent began to criticise my clothes and would not allow me to wear anything that he thought was too revealing. If I tried to leave the house to meet up with my friends or family, he would start shouting at me until I was too scared to leave. Eventually, I stopped arranging to meet my friends and family because I wanted to avoid arguing with him. I became isolated.
4. The Respondent would also verbally abuse me. For example, he would call me a “slag” and a “bitch”. He would tell me “No one else would ever want [me]”. This affected my self-confidence and I started to believe what he said to me.
5. During arguments, the Respondent often threatened me. He would come close to my face and shout at me. When he did this, he would tell me that if I ever ended our relationship, he would “cut [my] throat” and “smash [my] knee caps in”.
6. The first incident of violence occurred around Christmas 2017, during an argument that the Respondent and I had whilst in our home. Whilst he was shouting at me, the Respondent verbally abused me and called me a “slut”. He then approached me and pushed me across the hallway with such force that I fell onto the floor. I landed on my arm. I was in extreme pain. I later had to go to hospital, where an x-ray showed that my arm was broken. The Respondent never apologised for this incident. I did not call the police because I believed it was an isolated incident.
7. Thereafter, the Respondent was violent towards me on a regular basis. Due to the frequency of these incidents, I cannot recall many specific instances or dates. However, I remember an argument during which the Respondent pushed my chest, causing me to fall onto the floor. I sustained a bruised eye following this incident. I called the police on a few occasions regarding the Respondent’s violence, but no further action was taken as the only witnesses were our children. I did not want them to be involved in criminal proceedings.
8. The worst incident of violence occurred on 21st March 2020. The Respondent and I were in the family home, when he became angry with me without warning. He started to shout at me; I felt intimidated, so I left the house. The Respondent followed me outside and screamed at me, saying that he was going to “slash [my] throat”. He grabbed my throat, pinned me against a wall and tried to strangle me. The Respondent only released me because a neighbour came out of their property as they had heard the Respondent shouting at me. I did not call the police following this incident, as I was too scared as to what the Respondent might do to me if I did.
9. On 22nd March 2020, I told the Respondent that I wanted to end our relationship. He was angry and shouted at me, but eventually accepted my decision. The Respondent moved out of our home that evening and I decided to change the locks.
10. After the Respondent had moved out of the family home, I initiated divorce proceedings. However, he began to send me abusive text messages, emails and voicemail messages on a daily basis. He would visit our children at my home and used this as an opportunity to further abuse me.
11. On one occasion around May 2020, the Respondent visited our children at my home. He instigated an argument and became aggressive. He threw me to the floor, causing me to sustain bruises. The Respondent then left. I was too scared to call the police.
12. In the subsequent months, the Respondent continued to harass me. He would send me verbally abusive messages daily, in which he called me a “shit mum”, a “bitch” and other derogatory terms. In October 2020, I reported the Respondent’s abusive messages to the police, as I could no longer cope. They arrested the Respondent for harassment. I was provided with a crime reference number: AB/123KAS-19. However, the Respondent was subsequently released with no further action taken.
13. Following this, the Respondent would come to the home frequently to visit our children. I allowed this, as I did not want to upset our children. The Respondent continued to be abusive towards me during these visits. On one occasion in early November 2020, the Respondent visited our children at the home. He began speaking about other women, in attempt to make me jealous. I tried to go upstairs to allow him to spend time with our children. However, the Respondent barged past me and prevented me from going. He then spoke to me in an intimidating manner. I remained quiet during the rest of the visit, and the Respondent left later that day.
14. Thereafter, the Respondent’s harassment persisted. I told him I no longer wanted child contact visits to occur at the family home, which made the Respondent angrier. His behaviour escalated and he became increasingly aggressive. On around four occasions, the Respondent came to my home and banged on the door repeatedly. He shouted outside, but eventually left.
15. The most recent incident of violence occurred on 1st December 2020. The Respondent came to the family home, drunk and asking to see our children. I refused. He started shouting at me, calling me a “slag”. I told him to leave, and tried to shut the front door. The Respondent put his foot in the doorway so that it would not shut. He pushed the door open and shoved me into the wall. He punched my stomach, causing me to bend over in pain. He then grabbed my shoulders, forcing me to stand up straight, and punched my face, causing my head to hit the wall behind me. I begged the Respondent to stop and to leave the house. He released me and went to leave the house. As he was leaving, he threatened me, saying that he would be “back later to finish the job”. This terrified me and I was still shaking an hour later.
16. As soon as the Respondent left, I called the police. They took my statement and later arrested the Respondent. He was released subject to bail conditions, stating he could not contact me or come near the family home. The bail conditions are due to end on 1st January 2021.
17. The reason why there has been a delay in making this application is that the Respondent has been on bail, which is coming to an end.
18. Whilst there are on-going Family proceedings in respect of Divorce proceedings, the next hearing date is on 15th February 2021. This application cannot wait until that hearing as I am at risk of harm and need immediate protection from the Respondent.
19. I need this order because I want to feel safe again. I am terrified that, once the bail conditions end, the Respondent will continue to harass and physically abuse me unless an order is put in place to protect me.

**Occupation Order application**

1. I am entitled to occupy the property as the mortgage is in our joint names.
2. The property was the family home.
3. The Respondent and I are associated persons under s33(1)(b)(i).

**Balance of harm test**

1. Our children and I have suffered harm as a result of the Respondent’s abuse as detailed above. If an occupation order is not made, our children and I will suffer significant harm attributable to the Respondent. This harm is greater than any harm that would be caused to the Respondent if the order were to be made.
2. I am currently residing in the family home with our two children. The property has three bedrooms and, therefore, meets our housing needs. SAMMY has cerebral palsy and is a wheelchair user. The family home has been adapted for SAMMY’s disability and has been made wheelchair accessible for him.
3. I do not have an alternative property or address where our children and I would be able to reside which would meet our housing needs. My family live in Scotland, so we would not be able to stay with them, as our children would not be able to attend their schools and it would be too far for me to travel to my place of work. Although, I have friends who live in the local area, they would not have sufficient space to accommodate our children and me. Furthermore, none of our friends’ houses would be suitable for SAMMY’s wheelchair or his other requirements.
4. The Respondent does not reside in the property. He has not resided in the property since 22nd March 2020. The Respondent is currently renting a property, which is around 20 miles away from the family home. The property where the Respondent is currently residing meets his housing needs.
5. Alternatively, the Respondent has several family members in the local area with whom he can stay. His parents live in Townshire and they have two spare bedrooms. He has friends in the local village with whom he could stay. They have spare rooms so they would have sufficient space to accommodate him.
6. I am employed part-time and earn around £1,300 per month. I have two children to support. My monthly income is insufficient to afford to secure alternative privately paid accommodation. Although, I would be able to maintain the mortgage and other payments for the family home as I have been paying these myself in any event.
7. The Respondent is employed as a teacher and earns around £2,580 per month. Therefore, the Respondent has been able to secure privately funded accommodation and will be able to continue to maintain the payments for this property.
8. If an occupation order is not made, this would affect our children’s safety and health, and mine. We do not have anywhere else where we can live so we would be forced to continue living in a home that the Respondent can access. I would be concerned for my safety and wellbeing, and that of our children, in that situation. The Respondent has physically abused me; the Respondent’s behaviour has had a detrimental effect upon my mental health.
9. It would be harmful to our children if for our safety, we were forced to leave the family home where they are settled. Our children are attending local schools, which are around a 10-minute walk from the family home. SAMMY attends a special educational needs school. SAMMY and SALLY have been affected by the behaviour of the Respondent and support is being provided by their school.
10. The conduct of the Respondent is set out above. I have tried to maintain an amicable relationship with him for the sake of our children but he has continued to abuse me.

**Without Notice Application**

1. In all the circumstances, I ask the Court to make these orders.
2. I am making this application without notice under section of the Family Law Act because I believe that I will be at risk of significant harm if the Respondent is not ordered to stop immediately. If this application were made on-notice and he were served with the application, I believe he would do me physical harm. The Respondent has been violent and aggressive. I am in imminent danger. The evidence of the harm I have already suffered is set out in my witness statement and I truly believe that unless the Court makes an order to protect me, the Respondent will continue to cause me significant harm.
3. A Non-Molestation Order and an Occupation Order granted without notice to the Respondent, will not prejudice the Respondent as it will be there to prevent the Respondent from behaving in an abusive manner which he should not be, in any event.

I believe the facts stated in this witness statement are true. **I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.**

Dated this \_\_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 2020

I believe the facts stated in this witness statement are true.

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MRS ANNE KATHERINE SMITH

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# LITIGANT IN PERSON