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| No. of Witness Statement | 01 |
| On behalf of: | Miss 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 :-***

**MISS ANNE KATHERINE SMITH**

***Applicant***

***-and-***

**MR ANDREW COLIN SMITH**

***Respondent***

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

I, **MISS 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 he is my brother.
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. 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.

**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 brother, is a teacher. He was born on 2nd February 1980 and is **39 years of age**. He lives at 456 A Street, Townshire, County, CD4 5RT. The Respondent abuses alcohol and drugs, including cannabis and cocaine.
3. The Respondent has a number of criminal convictions recorded against him for offences of theft, burglary and actual bodily harm. The Respondent has received prison sentences in relation to these convictions.
4. The Respondent and I lived together from birth until 1998, when the Respondent moved out of our family home.
5. I set out below a brief history of the abuse I have suffered from the Respondent to establish why I need the protection of a Court order. This statement is being prepared on short notice so that an emergency order 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. My relationship with the Respondent was fine during our childhood. The Respondent’s behaviour began to change in 1996, when he was 16 years old. At this time, the Respondent began to abuse alcohol and drugs, which caused his behaviour to deteriorate. He became verbally abusive towards our parents and me. He would frequently go out at night and return in the early hours of the following morning, intoxicated. Whilst in this state, he would shout and punch doors in the family home.
2. The Respondent would demand money from our parents at least once a week to fund his drug addiction. If they refused, he would become aggressive and physically intimidating towards them. He would stand close to them and shout at them. He would often throw objects, such as cups and plates, at the walls in our home. The Respondent would pick up the broken pieces of china and threaten to cut our parents with them. In 1997, I started a part-time job delivering newspapers and the Respondent began to demand money from me as well as our parents. If I refused, he would shout at me and intimidate me in the same manner as detailed above.
3. Between 1997 and 1998, the Respondent was violent towards me on a regular basis. This would usually occur after he had returned home intoxicated and under the influence of drugs. He would then come into my bedroom and hit my arms and my stomach whilst I was in bed so I could not move away from him. I often sustained marks and bruises after these incidents. The Respondent threatened that he would “stab” me if I told our parents about his violence towards me. I was terrified that he would act on his threats, so I did not tell anyone about his physical abuse.
4. In 1998, when the Respondent was 18 years old, he moved out of our family home. Thereafter, he began to abuse drugs on a more frequent basis, which caused his violent behaviour escalated and he became involved in criminal activities. Between 1999 and 2015, the Respondent received numerous criminal convictions, as detailed above. He served prison sentences in relation to these convictions. As the Respondent was imprisoned often during this period, we had little contact.
5. In April 2015, the Respondent was released from prison following the end of his sentence. In September 2015, our father passed away. The Respondent and I subsequently resumed contact, as our mother needed support. Initially, the Respondent’s behaviour towards me was amicable. He had previously received treatment for his drug and alcohol addiction, which had subsequently improved his behaviour. However, in February 2016, the Respondent’s drug and alcohol abuse resumed. Consequently, his aggression towards me recommenced. I would often receive text messages and voicemails from the Respondent, in which he would verbally abuse me. For example, he would call me a “bitch” and a “tramp”.
6. Between 2016 and 2019, the Respondent attended my property on a weekly basis. He would shout at me from outside my house and bang on the front door. He wanted me to provide him with money so that he could buy drugs. I was terrified of him, so I never answered the door. However, the Respondent would then open the letterbox on my front door and shout threats at me. He would threaten to “cut [my] throat” and “smash [my] knee caps in” if I did not answer the door. I was too scared to call the police on these occasions, as I feared that the Respondent would hurt me if I did. Due to the Respondent’s behaviour, I moved to my current address in November 2019. I did not tell the Respondent my new address
7. On 25th December 2019, the Respondent and I went to our mother’s house to celebrate Christmas. The Respondent drank throughout the day and subsequently became intoxicated. In the evening, our mother gave me a housewarming gift for my new home. When he saw this, the Respondent became enraged that our mother knew my address when he did not. He started shouting and called me a “tight bitch”. He came close to my face and raised his fist at me. I thought that he was going to hit me, so I left the room and started to gather my belongings to leave the house.
8. The Respondent followed me out into the hallway and pushed me with such force that I fell onto the floor. I landed on my arm. I was in extreme pain and I later had to go to the 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 our mother begged me not to and I did not want to cause her any further distress.
9. Following the incident in December 2019, I tried to minimise my contact with the Respondent, as I was scared that he would be violent towards me again. However, he continued to send me abusive and threatening text messages. Between January 2020 and August 2020, the Respondent called me and sent me messages every day. In his calls and messages, the Respondent would demand money from me, claiming that I owed him. If I did not answer his calls, the Respondent would leave abusive voicemail messages on my phone, calling me a “tight-fisted bitch” and a “money-grabbing whore”. He would send me text messages of a similar nature if I did not reply to his texts. On a few occasions, I gave him money, as I hoped that if I did so he would cease his harassment. However, the Respondent continued to abuse me.
10. The worst incident of violence occurred on 21st August 2020. The Respondent and I were at our mother’s 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 threatened 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 that the Respondent would harm me if I did.
11. Between 21st August 2020 and 1st December 2020, the Respondent continued to call me send me abusive messages daily. In early October 2020, the Respondent discovered my address through a mutual friend and started to attend my property twice a week, abusing me in the same manner as detailed in paragraph 13.
12. On one occasion around October 2020, the Respondent came to my home unannounced. I opened the door, as I was expecting a friend to visit me. The Respondent instigated an argument and became aggressive. He threw me to the floor, causing me to sustain bruises on my back. I threatened to call the police, so the Respondent left. I did not call the police, as I was scared it would escalate matters.
13. Thereafter, the Respondent’s harassment persisted. He would send me verbally abusive messages daily, in which he called me a “bitch”, a “slag” and other derogatory terms. In early November 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.
14. Following this, there were around four occasions when the Respondent came to my home unannounced. On these occasions, he banged on my door and shouted outside. On one occasion in mid-November 2020, the Respondent came to my property and was verbally abusive towards me, shouting at me from outside. He picked up a brick, as if to throw it through my window. My neighbour came outside so the Respondent stopped and left. On another occasion, later in November 2020, the Respondent arrived at my property and threatened to kill me. I did not report this to the police initially, as I was terrified of what the Respondent would do if I did.
15. The most recent incident of violence occurred on 1st December 2020, when the Respondent came to my property intoxicated. He started shouting at me, calling me a “bitch”. I opened my front door and told him to leave. I tried to shut the front door. However, the Respondent put his foot in doorway so that it would not shut. He then 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 my 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 my house, 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 my home. The bail conditions are due to end on 1st January 2021.
17. Although the Respondent lives some distance away from me, this has not stopped him from abusing me. The Respondent comes to the area where I live, to visit friends and I am concerned that he will use that opportunity to further abuse me.
18. 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.
19. I respectfully ask the Court to make this order because I want to feel safe again. I am terrified that, once the bail conditions end, the Respondent will resume his violent and abusive behaviour towards me unless an order is put in place to protect me.

**Without Notice Application**

1. In all the circumstances, I ask the Court to make this order.
2. I am making this application without notice under section 45of 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 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 that 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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# LITIGANT IN PERSON