|  |  |
| --- | --- |
| No. of Witness Statement | 01 |
| On behalf of: | INSERT YOUR TITLE AND NAME IN **LOWER CASE** HERE |
| Date: |   |
| No. of Exhibits: | 0 |

**IN THE FAMILY COURT SITTING AT C1 LEAVE BLANK WE WILL COMPLETE THIS**

**Case No.**

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

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

**YOUR TITLE AND NAME [IN CAPITAL LETTERS]**

***Applicant***

***-and-***

**THE RESPONDENT’S TITLE AND NAME [IN CAPITAL LETTERS]**

***Respondent***

|  |  |  |
| --- | --- | --- |
|  | **FIRST WITNESS STATEMENT OF** **MAKE SURE YOU INSERT YOUR TITLE & NAME IN CAPITAL LETTERS HERE** |  |

I, **[INSERT YOUR TITLE AND NAME IN CAPITAL LETTERS]**, of [address – in lower case] [a confidential address disclosed to the Court] IF THE YOUR ADDRESS IS BEING WITHHELD FROM THE RESPONDENT, **DO NOT** PUT IT HERE, YOU MUST USE THE SECOND PHRASE PROVIDED, make this statement believing the contents to be true and knowing that it will be placed before the Court as evidence.

1. The Respondent, **[INSERT RESPONDENT’S TITLE AND NAME IN CAPITAL LETTERS]**, and I are associated persons within Section 62(3) of the Family Law Act 1996 because ASSOCIATION. [This should be the nature of the relationship i.e. because he is my son OR because she is my daughter. You must only put one category of association here]
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. EITHER: 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. OR: I fear that if the Respondent was made aware of the hearing, he/she would either deter me from making the application or prevent me from doing so through intimidation or manipulation. I have suffered (DELETE AS APPROPRIATE) verbal, emotional and physical abuse by the Respondent. Most recently, on X date, (INCLUDE VERY BRIEF SUMMARY OF THE MOST RECENT INCIDENT e.g. the Respondent came to my home and was verbally abusive towards me. He threatened to kill me and then punched my face.) I therefore seek urgent protection by way of a Non-Molestation Order.
3. The Respondent and I live at separate addresses and we have never lived in the same house. OR The Respondent and I are currently living at the same address, as detailed above OR The Respondent and I both usually reside in the family home however the Respondent is/was subject to bail conditions preventing him/her from residing there. He/she stopped residing in the family home on X date as a result of these bail conditions OR The Respondent and I live at separate addresses although we did live in the same house previously when we were growing up. YOU NEED TO MAKE IT CLEAR HERE WHAT THE CURRENT LIVING ARRANGEMENTS ARE. The Respondent has no legal right or interest in the property at which I reside. (if appropriate.)

**Brief background**

1. I was born on DATE and am **X years of age**. **ALL AGES MUST BE WRITTEN IN BOLD.** I am employed as ……/unemployed. I have/suffer from [ANY KNOWN SERIOUS OR SIGNIFICANT MEDICAL CONDITIONS, BOTH PHYSICAL & RELATING TO YOUR MENTAL HEALTH (SPECIFY WHAT), DISABILITIES, LEARNING DIFFICULTIES (SPECIFY WHAT), DRUG/ALCOHOL ADDICTIONS]. IF YOU HAVE PHYSICAL OR MENTAL DIFFICULTIES THAT MAKE YOU **PARTICULARLY** VULNERABLE, THEN INCLUDE THAT; E.G. USE A WHEELCHAIR, HAVE MOBILITY PROBLEMS, SUICIDAL FEELINGS.

MAKE SURE YOU USE FULL SENTENCES. DELETE SENTENCE RE MEDICAL CONDITIONS IF YOU DO NOT HAVE ANY.

1. The Respondent, ASSOCIATION, is employed as …../unemployed. He/she was born on DATE and is **X years of age**. He/she lives at ADDRESS or if confidential put I do not know where he/she is currently residing. However, his/her address has been disclosed by the police on a confidential basis to the National Centre for Domestic Violence, who can provide it to the court upon request. He/she suffers from [ANY KNOWN SERIOUS OR SIGNIFICANT MEDICAL CONDITIONS, BOTH PHYSICAL & RELATING TO MENTAL HEALTH (SPECIFY WHAT), DISABILITIES, LEARNING DIFFICULTIES (SPECIFY WHAT) DRUG/ALCOHOL PROBLEMS]. MAKE SURE YOU USE FULL SENTENCES. DELETE SENTENCE RE MEDICAL CONDITIONS IF THE RESPONDENT DOES NOT HAVE ANY.
2. I previously applied for, and was granted, a Non-Molestation Order in respect of the Respondent, on X/in X. The case number is [IF KNOWN]. The Respondent was/is subject to a Restraining Order/Domestic Violence Protection Order imposed on/in X. The Respondent is/was previously subject to a Non-Molestation Order/Restraining Order in respect of a previous partner/a family member (state who i.e. mother/sister). I am aware that the Respondent has previous convictions for offences of [INCLUDE ANY KNOWN CRIMINAL CONVICTIONS]. DELETE IF NOT APPLICABLE.
3. I have X child/children; NAME, who was born on [DOB [USE FULL DATE]] and is **X years of** **age.** DO NOT NEED TO GIVE AGE IF ADULT CHILDREN, JUST SAY “ADULT”. My child/ren reside/s with me. INCLUDE IF ANY OF THE CHILDREN HAVE ANY SERIOUS/SIGNIFICANT MEDICAL CONDITIONS OR DISABILITIES.

**YOU ONLY NEED TO INCLUDE THE ABOVE PARAGRAPH IF THE CHILD/CHILDREN RESIDE WITH YOU OR THEY WITNESSED INCIDENTS OR ARE OTHERWISE RELEVANT TO THE CONTENTS OF THE WITNESS STATEMENT**

1. 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. [THIS PARAGRAPH SHOULD ONLY BE AMENDED IF THE APPLICATION IS TO GO ‘ON NOTICE’]

**Brief history of the relationship**

**PLEASE ENSURE EACH PARAGRAPH IN THE STATEMENT IS NUMBERED**

1. My relationship with the Respondent was [THIS IS GOING TO DEPEND ON THE NATURE OF YOUR RELATIONSHIP WITH THE RESPONDENT: FOR EG, IF IT IS A PARENT/CHILD RELATIONSHIP OR SIBLING RELATIONSHIP WHERE YOU GREW UP TOGETHER. YOU WILL NEED TO INCLUDE A VERY **BRIEF** PARAGRAPH OF WHAT THE RELATIONSHIP WAS LIKE IN CHILDHOOD] EXPLAIN what it was like, if there are positive statements to be made. THIS PARAGRAPH SHOULD BE SHORT. Our relationship began to change around ………

AVOID USING EMOTIVE LANGUAGE, KEEP IT AS FACTUAL AS POSSIBLE

KEEP SENTENCES AND PARAGRAPHS SHORT

**PLEASE NOTE**

The remainder of the statement needs to deal with the history of the abuse with paragraphs, where relevant, on the following:

* Controlling behaviour (e.g. over appearance, finances, relationship with family and friends, going through your phone/social media accounts, dominating you, manipulating information about you given to professionals, threats to commit suicide, being extremely jealous) – keep this brief UNLESS THE NATURE OF THE ABUSE HAS BEEN COERCIVE AND CONTROLLING BEHAVIOUR RATHER THAN ACTUAL VIOLENCE OR THREATS OF VIOLENCE. IN THAT CASE, THE REMAINDER OF THE STATEMENT SHOULD DEAL WITH THAT
* Verbal abuse – keep this brief
* Any threats made to you (or children, if there are any)

Please note that any paragraphs dealing with descriptions of general patterns of behaviour that occurred should be kept brief, but include examples of the type of behaviour being described, e.g. if the Respondent was controlling over you and isolated you, *how* did the Respondent do this? Try to include a specific incident of this occurring if possible.

The majority of the witness statement should then deal with specific incidents of abuse, where possible. In particular, these should focus on incidents that have occurred within the last year or so, providing dates wherever possible. If there have been more than 5 specific incidents in the last year, then concentrate on the last 5.

Whilst historic incidents of violence are relevant, if there have been any, you should put less detail about these incidents, than you put for incidents that occurred within the past few months or the 5 most recent incidents. This is because the judge needs to see why the court’s intervention is necessary now, not 5/10/15/20 years ago, for example.

THEREFORE

1. If there has been violence, but it has mostly occurred more than a year ago, you may want to follow the structure below:
* First incidence of violence/worst incidence of violence/last incident of violence with short paragraphs covering violent/abusive behaviour in the periods in between the first/worst/most recent incidents. Obviously you need to include the most recent incident of violence in detail
* **Then set out the details of the other abuse over the last year since the last incident of violence. This is because if the violence is old, then there needs to be more recent abuse to justify the Court granting the order.**

1. If there have been more recent incidents of violence – i.e. occurring within the last year – include the last 5 incidents in detail, with dates if you can remember them.
* You can use the same format for these incidents of violence as is outlined under the paragraph below about the first incident of violence, with short paragraphs covering any other relevant abusive behaviour in the periods between these incidents.
* In order that the statement is not too lengthy, you can put in less detail about the first and worst incident of violence if those are over a year.

**MUST BE IN CHRONOLOGICAL ORDER AND NUMBERED PARAGRAPHS**

**THE STATEMENT NEEDS TO BE DETAILED BUT CONCISE, IDEALLY NO MORE THAN TEN PAGES. INFORMATION IRRELEVANT TO THE ABUSE AGAINST YOU SHOULD BE LEFT OUT.**

**The first incident of violence**

1. The first incidence of violence occurred in ……
* When did it happen? Be as accurate as possible and use dates
* What led up to the incident? BE BRIEF ABOUT THIS
* The incident itself (what happened. How long did it continue for? What brought it to an end?)
* Were there any witnesses?
* What action did you take afterwards (eg called police, sought medical attention, spoke to other agencies)?
* IF YOU HAVE REPORTED ANY INCIDENT TO THE POLICE, THEN INCLUDE THE CRIME REFERENCE NUMBER IN THE APPROPRIATE PLACE IN THE WITNESS STATEMENT.  **For eg ‘I reported this to the Police, the crime reference number is ……..**
* If you did not seek any help, explain why
* What action did police take, if involved?
* Did you suffer any injuries? (include the treatment required, recovery period and if these injuries are still evident)

THIS SHOULD BE KEPT TO ONE PARAGRAPH IF AT ALL POSSIBLE, PARTICULARLY IF IT IS OVER A COUPLE OF YEARS AGO. HOWEVER IF IT HAPPENED WITHIN THE LAST YR OR IS ONE OF THE 5 MOST RECENT INCIDENTS, THEN YOU SHOULD GO INTO MORE DETAIL.

**The period between the first incident and the worst incident**

1. Details of intervening period This should be a SHORT paragraph or two summarising the behaviour in this period, PARTICULARLY IF THIS IS OVER A YEAR OR TWO AGO. Obviously if there has been a significant incident in this period which is not the first/worst/most recent – then that should be included

**The worst incident of violence**

1. The worst incident of violence occurred in …..[repeat using above format]

**The period between the worst incident and the most recent incident**

1. Details of intervening period – This should be a paragraph or two summarising the behaviour in this period. Obviously if there has been a significant incident in this period which is not the first/worst/most recent – then that should be included.
* If there have been more recent incidents of violence – i.e. occurring within the last year – try to include as many of those incidents as possible, preferably with dates if you can remember them.

However concentrate on the 5 most recent incidents

* You can use the same format for these incidents of violence as is outlined under the first incident of violence above, with short paragraphs covering any other relevant abusive behaviour in the periods between these incidents.

**The most recent incident of violence**

1. The most recent incident of violence occurred in …..[repeat using above format]
2. Since then, the Respondent has ….. YOU SHOULD INSERT A PARAGRAPH HERE ABOUT WHAT, IF ANYTHING, HAS HAPPENED SINCE THE MOST RECENT INCIDENT OF VIOLENCE: FOR EXAMPLE – ABUSIVE OR THREATENING TEXTS/VOICEMAILS, SILENT CALLS, STALKING (GIVE EXAMPLES), COMING TO YOUR HOME, ABUSIVE BEHAVIOUR

Please note, if the majority of the most recent behaviour from the Respondent has been harassment, you will need to include:

* The dates and/or times of calls/messages/emails
* How many messages/calls the you received on a given day/over a specific period
* The contents of any messages/emails and/or what was said on any calls you answered
* Whether you responded to any of the messages/emails and/or answered any of the calls
* Any other relevant information regarding the Respondent’s harassment, including whether it was reported to the police and whether the police took any action

THE FOLLOWING 5 PARAGRAPHS SHOULD BE REMOVED IF NOT RELEVANT/APPROPRIATE

1. Social Services are involved with the family and have recommended that the Respondent have no contact with me AND/OR my/our child/children to due to concerns over my/their safety. ONLY USE THIS PARAGRAPH IF SOCIAL SERVICES HAVE SAID THAT IN RESPECT OF CURRENT/RECENT HISTORY OR EVENTS (IE DO NOT USE IF SS SAID THAT IN THE PAST AND THEN CLOSED THE CASE)
2. Although the Respondent lives some distance away from me, this has not stopped the Respondent from abusing me. The Respondent comes to the area where I live for work reasons/to visit other members of our family and I am concerned that he/she will use that opportunity to further abuse me. AMEND AS APPROPRIATE/DELETE IF YOU DO NOT KNOW WHERE THE RESPONDENT IS LIVING. THIS PARAGRAPH IS ONLY NECESSARY IF YOU AND THE RESPONDENT LIVE MILES AWAY IN DIFFERENT TOWNS OR CITIES.
3. The reason why there has been a delay in making this application is [INSERT THE REASON/S HERE AND GIVE SOME DETAIL IF RELEVANT ESPECIALLY IF THE APP BEEN IN HOSP DUE TO DV eg: The Respondent has been in hospital [PUT WHY], I have been in hospital [PUT WHY], the Respondent has been on bail which is coming to an end]
4. I have been subjected to domestic abuse from the Respondent over an extended/lengthy period of time. Whilst I knew that I was being abused, I have only now gained the courage to make this application.
5. In X/On XXX, the Respondent was previously sent a letter warning him/her to stop his/her abusive behaviour however, he/she has continued to abuse me. OR: The Respondent was previously warned about his/her behaviour towards me by the police in X/On XXX, however, he/she has continued to abuse me

**PLEASE NOTE:**

IF THERE HAS BEEN LITTLE OR NO ACTUAL VIOLENCE BUT THE ABUSE HAS CONSISTED OF COERCIVE CONTROLLING BEHAVIOUR, THEN YOU MUST INCLUDE A PARAGRAPH HERE THAT SUMMARISES THE CUMULATIVE EFFECT OF THE ABUSE ON YOU AND HOW IT HAS MADE YOU FEEL [FOR EXAMPLE – UNABLE TO COPE, CONTROLLED, ISOLATED, BECOME TOTALLY DEPENDANT UPON THE RESPONDENT, LOST ABILITY TO MAKE ANY DECISIONS FOR MY SELF OR IN MY BEST INTERESTS]

**PLEASE NOTE:**

INSERT PARAGRAPH HERE ABOUT ANY EMOTIONAL/PSYCHOLOGICAL/BEHAVIOURAL/ PHYSICAL EFFECT ON ANY CHILD OR CHILDREN DUE TO THE RESPONDENT’S BEHAVIOUR

**PLEASE NOTE:**

INSERT PARAGRAPH HERE IN YOUR OWN WORDS AS TO WHY NEED THE ORDER/S. AVOID USING EXCESSIVE EMOTIVE LANGUAGE. FOCUS ON THE SAFETY AND PRACTICAL IMPACT.

**Without Notice Application**

1. In all the circumstances, I ask the Court to make this order.

[THE FOLLOWING THREE PARAGRAPHS DEAL WITH THE 3 SPECIFIC FACTORS LISTED IN S45(2) WHEN THE COURT IS CONSIDERING WHETHER TO GRANT AN ORDER WITHOUT NOTICE.

1. THERE IS A RISK OF SIGNIFICANT HARM TO THE APPLICANT OR RELEVANT CHILD, ATTRIBUTABLE TO THE RESPONDENT IF THE ORDER IS NOT MADE IMMEDIATELY. [THIS ONE SHOULD BE USED WHERE THERE HAS BEEN ACTUAL PHYSICAL VIOLENCE OR THREATS OF VIOLENCE IN THE MOST RECENT INCIDENT]
2. WHETHER IT IS LIKELY THAT THE APPLICANT WILL BE DETERRED OR PREVENTED FROM PURSUING THE APPLICATION IF AN ORDER IS NOT MADE IMMEDIATELY. [THIS ONE SHOULD BE USED WHEN THERE HAS BEEN COERCIVE AND CONTROLLING BEHAVIOUR, OR WHERE THERE HAS BEEN VIOLENCE IN THE PAST AND THEREAFTER CONSTANT HARASSMENT]
3. WHERE THERE IS REASON TO BELIEVE THAT THE RESPONDENT IS AWARE OF THE PROCEEDINGS BUT IS DELIBERATELY EVADING SERVICE AND THE APPLICANT OR RELEVANT CHILD WILL BE SERIOUSLY PREJUDICED BY THE DELAY INVOLVED [THIS FACTOR WILL BE MORE RARE – IT SHOULD BE USED IN CASES WHERE THE RESPONDENT HAS EVADED SERVICE IN THE PAST, OR IF THE RESPONDENT HAS/IS EVADING ARREST BY THE POLICE]

PLEASE SELECT THE APPROPRIATE PARAGRAPH – AND DELETE THE OTHERS.

IF MORE THAN ONE FACTOR APPLIES THEN, USE THE FULL WORDING FOR THE FIRST APPLICABLE PARAGRAPH AND THEN SHORTEN THE WORDING FOR THE REMAINING FACTOR/S.

FACTOR ONE

1. I am making this application without notice under section 45 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 the Respondent were served with the application, I believe he/she would do me physical harm. The Respondent has been violent and aggressive. 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.

FACTOR TWO

1. I am making this application without notice under section 45 of the Family Law Act because if I had to make it on-notice then I would feel unable to pursue this application due to the nature of the Respondent’s abusive behaviour and the effect it has had upon me. I believe that if my application was to be made on notice, the Respondent would attempt to either dissuade me from making the application or prevent me from the making the application through intimidation or manipulation. 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.

FACTOR THREE

1. I am making this application without notice under section 45 of the Family Law Act because if I had to make it on-notice then I believe that the Respondent would deliberately evade service and I/ my child/children and I would be seriously prejudiced by the delay. The Respondent has previously evaded service of Court documents /or has been evading the police to avoid being arrested. I believe that he/she would do the same if he/she was aware that I was making an application to this Court for an order to protect me from his/her abusive behaviour. 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.
2. 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 which he/she should not be, in any event.

**MAKE SURE ALL TEXT IS IN BLACK AND YOU DELETE THE ALL RED IN THE STATEMENT**

**MAKE SURE YOU COMPLETE THE FINAL PAGES**

NEVER DATE THE STATEMENT AS IT NEEDS TO BE DATED WHEN IT IS SIGNED BY YOU

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

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.**

……………………………………………………………..

[INSERT YOUR TITLE AND NAME IN CAPITAL LETTERS]

**IN THE FAMILY COURT SITTING AT C1 [LEAVE BLANK – WE WILL COMPLETE THIS]**

**Case No.**

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

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

**[INSERT YOUR TITLE AND NAME IN CAPITAL LETERS]**

***Applicant***

***-and-***

**[INSERT THE RESPONDENT’S TITLE AND NAME IN CAPITAL LETTERS]**

***Respondent***

|  |  |  |
| --- | --- | --- |
|  | **FIRST WITNESS STATEMENT OF [INSERT YOUR TITLE AND NAME IN CAPITAL LETTERS]** |  |

**LITIGANT IN PERSON**