

Form F30 (Rule 10-4(2) and (7))

This is the 1st affidavit
of Angela Jane Smith in this case
and was made on JUN/20/2015

Court File No.: 123456
Court Registry: Kelowna

In the Supreme Court of British Columbia

Claimant: Angela Jane Smith

Respondent: James John Keith

AFFIDAVIT

[Rule 21-1 of the Supreme Court Family Rules applies to all forms.]

I, Angela Jane Smith, self-employed landscaper, of 7723 Hallow Street, Kelowna, BC, swear (or affirm) that:

1. I am the claimant in this action, and as such have personal knowledge of the facts and matters herein, except where stated to be based upon information and belief, and where so stated I have named the source of the information, and believe the same to be true.
2. The claimant and I began cohabiting on or about JUN/01/2003.
3. The claimant and I were married on AUG/20/2005.
4. The claimant and I separated on MAY/10/2015.
5. The claimant and I are parents of the following children, who I refer to as "the children":
 - a. Judy Bell Smith born 13/JUNE/2008;
 - b. Jason Gregory Smith born 22/JAN/2006.

Parenting Arrangements

6. I swear this affidavit because:
 - a. I am applying to this Court to determine parenting arrangements.
7. There are no previous agreements or orders in place about guardianship or parenting arrangements.

8. The respondent and I have attempted to resolve our current dispute through dispute resolution as follows:
we attended two mediation sessions at the Family Justice Centre. We were not able to resolve the parenting issues.
9. The respondent and I are each guardians of the children under the Family Law Act because we have lived together with the children.
10. Before separation, the respondent and I shared the care of the children as follows:
I carried out the majority of the day-to-day care of the children. I was responsible for taking the children to school and most medical or dental appointments, and I regularly dealt with the children's teachers and caregivers. The respondent and I shared evening and weekend responsibilities with the children, such as putting the children to bed. We are both involved in the children's extracurricular activities.
11. Since separation, the respondent and I have shared the care of the children as follows:
I have continued to do most of the day-to-day care of the children during the school week. The respondent and I have each taken the children to appointments or activities when they fall in our parenting time.
12. Since separation, the parenting schedule has been as follows:
On alternating weeks, the children spend Monday to Friday with me, and have an overnight with the respondent on Wednesday. The children spend Friday after school until Monday morning with the respondent. On the second week, the children spend Wednesday after school until Friday morning, with the respondent and the remainder of the time with me.
13. On or about July/7/2015 , the following event occurred:
I was advised by Sarah King, Principal of Meadowlark Elementary School, that the children had been late or absent from school on six occasions over the last month.
14. Attached as Exhibit A are copies of the children's attendance records for the month of May 2015, showing that the children were late or absent for school 6 times on days when the respondent had the children in their care.
15. The children attend Meadowlark Elementary School in Kelowna. They attend the out-of-school care program located at the school on days when the respondent or I work.
16. The children have the following interests or activities:
Judy has dance on Tuesday evenings and often has dance competitions or practices on weekends. Jason takes math tutoring on Monday after school, and plays community-level soccer on weekends.
17. The children's relationships with other family members are
None of the children's grandparents live nearby. My sister, the children's aunt, Karen Smith, lives in Kelowna and often cares for the children.
18. The children have said the following to me about their wishes:

I have not asked the children directly about their views or wishes about a future parenting schedule. On July 7, 2015, Judy told me that she doesn't like to be at the respondent's house on weekdays. Jason has told me that he likes to spend most school days with me, but wants to spend some school days with the respondent.

19. The children's emotional well-being appears to be:
Judy appears to be struggling with the separation. She has been crying and getting angry more often. Her teacher, John Cross, told me that Judy has appeared to be tired on many school days, particularly on weeks in which she spend nights with the respondent. Jason appears to be adjusting to the separation.
20. My living arrangements are that I live in the family residence, located at 7723 Hallow Street, Kelowna, BC, in the 3 bedroom upper portion of the house. We rent the lower portion out to a mother with three children who go to the same school. Both families share the yard, and the children are play-mates.
21. My work schedule is flexible, as I am self-employed as a landscaper, and I do not expect it to change.
22. My non-work, non-parenting commitments are minimal, as I attend drop -in soccer when it fits my schedule and I do not expect this to change.
23. The schedule of the respondent is that the respondent goes to work at about 9:00am and leaves work at about 5pm on most weekdays. The respondent occasionally works weekends.
24. I am concerned about the respondent's ability to exercise his parental responsibilities because the children are regularly not getting to school on time and appear to be tired at school, according to Judy's teacher, John Cross.
25. I am not aware of any incidents of family violence, as the term is defined in section 1 of the Family Law Act, that affect the children.
26. I have not been and am not currently involved in any child protection proceedings under the Child, Family, and Community Services Act that may be relevant to the children's safety or concern children under my care.
27. There are no criminal offences I have been convicted of and not pardoned for, and I am not currently charged with any criminal offences.
28. I propose that each parent remain a guardian and have all of the parental responsibilities.
29. I propose the following parenting time schedule:
the children to live primarily with myself. James Keith to have generous parenting time with the children.
30. I propose the following schedule for parenting time during holidays and special days:
the respondent and I will equal share all school breaks, including Summer, Spring Break and Christmas; and will alternate all holidays, or special days.

Child support

31. I swear this affidavit because:
 - a. I am applying to this Court for child support in accordance with the child support guidelines.
 - b. I am applying to this Court for special or extraordinary expenses in accordance with section 7 of the child support guidelines.
 - c. I am applying to this Court for child support retroactive to MAY/10/2015.
32. The current child support arrangements are: No child support is being paid.
33. There are no previous agreements or orders about child support in place.
34. The respondent and I have been sharing child-related costs since separation, because we were not able to agree on child support. We have shared equally the costs related to the children's activities, school supplies, clothing, and out of school care.
35. My guideline income is \$28,000 and I do not expect it to change.
36. I am employed part time as a landscaper/ gardener. I work between 25-30 hours a week.
37. I work part time because I have the primary care of the children. The respondent and I agreed during our relationship that it was important for me to be able to pick the children up after school most days to reduce the amount of time they spend in child care.
38. I believe that the income of the respondent is \$65,000 based on these facts: made approximately \$65,000 a year during the relationship.
39. The respondent is employed full time as an electrician with Inland Electrical Company.
40. The following special or extraordinary expenses are incurred for the children:
 - a. After school care -- \$500 a month for both children;
 - b. Competitive dance -- approximately \$400 a month for Judy;
 - c. Math tutoring -- approximately \$200 a month for Jason; and
 - d. Health care and dental -- for both children.
41. The special or extraordinary expenses for child care are required because some days I am required to work past 3:00 pm and the respondent regularly works past 3:00 pm, so the children require afternoon out-of-school care.
42. The special or extraordinary expenses for healthcare are required because neither party has extended health and dental coverage through our employment. Jason will likely require braces in the next year and Judy wears eyeglasses.
43. The special or extraordinary expenses for qualifying activities are required because Judy excels at dance and dances at a competitive level.

44. My child Jason has the following challenges at school, medical problems, or special needs: he struggles with math and requires extra assistance and tutoring to maintain and improve his grades.
45. Attached as Exhibit B are copies of the applicable reports, assessments, or other documents in chronological order.

Spousal Support

46. I swear this affidavit because:
 - a. I am applying to this Court for spousal support in accordance with the federal spousal support advisory guidelines.
 - b. I am applying to this Court for spousal support retroactive to MAY/10/2015.
47. The current spousal support arrangements are:

Spousal support has been paid by the respondent as follows: the respondent has given me \$300 a month since separation.
48. There is no written agreement about spousal support.
49. My role during the relationship was as follows:

I was employed outside the home as a gardener/ landscaper. I stayed home to care for the children until our youngest child was 2 years old, after which I began to work part-time and increased my employment periodically.
50. I was responsible for most of the housework and childcare.
51. The respondent's role during the relationship was as follows:

The respondent worked full time and had the following family responsibilities: shared care of the children in the evenings and weekends.
52. My educational background is high school.
53. The respondent's educational background is trades certification for electrician.
54. During the relationship, the respondent had the following opportunities: the respondent completed a trades program to become an electrician at British Columbia Technology Institute (BCIT) during the relationship.
55. Prior to having children, the respondent attended BCIT while I worked full-time to support both of us.
56. I plan to re-train or upgrade my skills and employability by taking additional landscaping courses in landscape design and business management.
57. My future employment plans are to grow my landscaping business. I hope to eventually incorporate my business and have additional employees.
58. I need spousal support because I am not yet able to be self-sufficient through my employment.

Interim distribution of property

59. I am applying to this Court for an order pursuant to section 89 of the Family Law Act to provide me with an interim distribution of family property to fund family dispute resolution or a court proceeding under the Act.
60. I require an interim distribution of family property to fund family dispute resolution or all or part of this court proceeding because I do not have access to adequate resources to hire a lawyer to assist me in resolving our family law matters or to provide me with legal advice.
61. I am seeking interim distribution of the following property: division of the investment portfolio held in joint names with the Investor's Group Account number ending in *8796.
62. I do not believe an interim distribution of family property will prejudice the other party's entitlement because the Investor's Group portfolio is family property and we are each entitled to 50 percent of it.
63. Attached as Exhibit C are copies of the joint Investor's Group statement dated June 1, 2015.

Exclusive occupation of the family home

64. I am applying to this Court for an order pursuant to section 90 of the Family Law Act for exclusive occupation of the family residence located at 7723 Hallow Street, Kelowna, BC.
65. I am seeking exclusive occupation of the family residence because the children and I have remained living in the family residence since separation.
66. On June 17, 2015, the respondent told me that he was going to move back into the family residence, without my consent. I do not agree to live in the same residence as the respondent. There is no other place the children and I can reside or stay. I believe living in the same residence as the respondent will cause undue family stress and would not be in the best interest of the children.

Temporary orders to protect property

67. I am applying to this Court for an order pursuant to section 91 of the Family Law Act, Rule 12-4 of the Supreme Court Family Rules, and Section 39 of the provincial Law and Equity Act, that the respondent be restrained from disposing of, transferring, encumbering, assigning, or otherwise dealing with any property at issue or in which either party has or may have an interest in pending final determination of this action, without consent in writing from the claimant or without order of this Court.
68. I am seeking this order because I am concerned that the respondent may dispose of assets in the respondent's name. The respondent told me on June 17, 2015 that he was going to sell our boat, with an estimated value of \$20,000, without my consent.

Conduct orders respecting property

- 69. I am applying to this Court for an order pursuant to section 226 of the Family Law Act to require the respondent to make payments respecting rent, mortgage, specified utilities, taxes, insurance, and/or other expenses related to a residence.
- 70. I am seeking this order to require the respondent to make the following payments: half of the mortgage on the family residence, half of the property taxes, and half of the insurance.
- 71. I am seeking this order because I am not receiving adequate financial support at this time and I am unable to pay the jointly held debts and household bills.
- 72. I am applying to this Court for an order pursuant to section 226 of the Family Law Act to prohibit the respondent from terminating specified utilities for a residence, as follows: the Telus phone and internet.
- 73. I am seeking this order because the Telus phone and internet is held in the respondent's name.
- 74. Attached as Exhibit D are copies of the household bills, including the mortgage on the family residence, property taxes, insurance, and Telus.

Sworn (or affirmed) before me at
_____, British Columbia

On ____/____/____

A commissioner for taking
Affidavits in British Columbia

[your name here]