

ONTARIO

Superior Court of Justice, Family Court

(Name of court)

at 161 Elgin Street, Ottawa, Ontario, K2P 2K1

Court office address

Court File Number

FC-15-2446

Form 35.1: Affidavit in Support of Claim for Custody or Access, dated

May 3, 2018

Applicant(s)

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Jonathan William Kiska
1244 Lampman Cr., Ottawa, Ontario, K2C 1P8
phone: 613-723-0010 jonathankiska@gmail.com

Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Wade Smith
700-116 Lisgar Street, Ottawa, Ontario K2P 0C2
phone: 613-237-3444 wsmith@bellbaker.com

Respondent(s)

Full legal name & address for service — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

Deirdre Ann Moore
7 Vanson Avenue
Ottawa, Ontario, K2E 6A9
613-261-3520 Deirdre_CFA@iCloud.com

Lawyer's name & address — street & number, municipality, postal code, telephone & fax numbers and e-mail address (if any).

n/a

FILED SUPERIOR COURT
OF JUSTICE AT OTTAWA

MAY 03 2018 D/c

Affidavit in Support of Claim for Custody or Access

(If you need more space, attach extra pages.)

DÉPOSÉ À LA COUR

SUPÉRIEURE DE JUSTICE À OTTAWA

My name is (full legal name) Deirdre Ann Moore

My date of birth is (d, m, y) 28/09/65

I live in: (name of city, town or municipality and province, state or country if outside of Ontario)

The City of Ottawa, Province of Ontario

I swear/affirm that the following is true:

PART A:

TO BE COMPLETED BY ALL PERSONS SEEKING CUSTODY OR ACCESS

(Write "N/A" if any of the paragraphs do not apply to you or the child(ren).)

1. During my life, I have also used or been known by the following names:

n/a

2. The child(ren) in this case is/are:

Child's full legal name	Birthdate (d, m, y)	Age	Full legal name(s) of parent(s)	Name(s) of all people the child lives with now (include address if the child does not live with you)	My relationship to the child (specify if parent, grandparent, family friend, etc.)
Sean Charles Kiska	08/05/06	11	Deirdre Ann Moore (Respondent) and Jonathan William Patrick Kiska	Deirdre Ann Moore (Respondent) and Jonathan William Patrick Kiska	Mother
Cate Stella Kiska	30/11/07	10	Deirdre Ann Moore (Respondent) and Jonathan William Patrick Kiska	Deirdre Ann Moore (Respondent) and Jonathan William Patrick Kiska	Mother

Child's full legal name	Birthdate (d, m, y)	Age	Full legal name(s) of parent(s)	Name(s) of all people the child lives with now (include address if the child does not live with you)	My relationship to the child (specify if parent, grandparent, family friend, etc.)

3. I am also the parent of or have acted as a parent (for example, as a step-parent, legal guardian etc.) to the following child(ren): (include the full legal names and birthdates of any child(ren) not already listed in paragraph 2)

Child's Full Legal Name	Birthdate (d, m, y)	My relationship to the child (specify if parent, step-parent, grandparent, etc.)	Name(s) of the person(s) with whom the child lives now (if the child is under 18 years old)

4. I am or have been a party in the following court case(s) involving custody of or access to any child:
(Including the child(ren) in this case or any other child(ren). Do not include cases involving a children's aid society in this section.
Attach a copy of any custody or access court order(s) or endorsement(s) you have.)

Court location	Names of parties in the case	Name(s) of child(ren)	Court orders made (include dates of orders)

5. I have been a party or person responsible for the care of a child in the following child protection court case(s): (attach a copy of any relevant court order(s) or endorsement(s) you have)

Court location	Names of people involved in the case	Name of children's aid society	Court orders made (include dates of orders)

6. I have been found guilty of the following criminal offence(s) for which I have not received a pardon:

Charge	Approximate date of finding of guilt	Sentence received

7. I am now charged with the following criminal offence(s):

Charge	Date of next court appearance	Terms of release while waiting for trial (attach copy of bail or other release conditions, if any)

8. When the court is assessing a person's ability to act as a parent, s. 24 (4) of the *Children's Law Reform Act* requires the court to consider whether the person has at any time committed violence or abuse against:

- his or her spouse;
- a parent of the child to whom the claim for custody or access relates;
- a member of the person's household; or
- any child.

I am aware of the following violence or abuse the court should consider under s. 24 (4) of the *Children's Law Reform Act*: (describe incident(s) or episode(s) and provide information about the nature of the violence or abuse, who committed the violence and who the victim(s) was/were)

There have been many instances of emotional, verbal, psychological and sexual abuse. The abuser was the Applicant (Father), Jonathan Kiska, and the victim was the Respondent (Mother) Deirdre Moore. Much of this is hard to prove as there were never any bruises; however, there is evidence of emotional abuse with a series of emails, verbal abuse in the CAS files and psychological abuse in the Mother's medical files. The sexual abuse that was finally reported to the Ottawa Police Services was deemed "frivolous" because they believed Father when he said Mother was schizophrenic, which was ENTIRELY false.

The Respondent can demonstrate that (despite her departure from the matrimonial home) the Applicant's behaviour during these separation proceedings continues to be emotionally, psychologically and financially abusive.

9. To the best of my knowledge, since birth, the child(ren) in this case has/have lived with the following caregiver(s): (including a parent, legal guardian, children's aid society etc.)

Child's Name	Name(s) of Caregiver(s) (if the child was in the care of a children's aid society, give the name of that children's aid society)	Period(s) of Time with Caregiver(s) (d,m,y to d,m,y)
Sean Charles Kiska	Deirdre Ann Moore (Respondent) and Jonathan William Patrick Kiska	08/05/06 (birth) to present
Cate Stella Kiska	Deirdre Ann Moore (Respondent) and Jonathan William Patrick Kiska	30/11/07 (birth) to present

10. My plan for the care and upbringing of the child(ren) is as follows:

a) I plan to live at the following address: 7 Vanson Avenue, Ottawa, ON K2E 6A9

b) The following people (other than the child(ren) involved in this case) will be living with me:

Full legal name and other names this person has used	Birthdate (d, m, y)	Relationship to you	Has a child of this person ever been in the care of a children's aid society? (if yes, give details)	Has this person been found guilty of a criminal offence (for which he/she has not received a pardon) or is he/she currently facing criminal charges? (if yes, give details)

c) Decisions for the child(ren) (including education, medical care, religious upbringing, extra-curricular activities, etc.) will be made as follows:

☐ jointly by me and (name(s) of person(s)) _____

☒ by me

☐ by (name(s) of person(s)) _____

(If necessary, provide additional details below.)

d) ☐ I am a stay-at-home parent.

☐ I work: ☐ full time. ☐ part time.

☐ I attend school: ☐ full time. ☐ part time.

at: (name of your place of work or school) _____

☒ I anticipate that my plans for work and/or school may change as follows: (complete if you know or expect that you will be doing something different from what you are doing now)

I am having difficulty retaining professional employment. (I am hoping that this will change after the trial and I am in a better position to network.) Meanwhile, I am considering both re-training and non-professional employment.

e) The child(ren) will attend school, daycare or be cared for by others on a regular basis as follows:

They currently attend Sir Winston Churchill Public School.

I hope to have flexible hours in order to avoid relying on external childcare.

f) My plan for the child(ren) to have regular contact with others, including the child(ren)'s parent(s) and family members, is as follows:

A shared parenting schedule with the Applicant is CURRENTLY advised by the CAS and my psychologist so the children's lives are not further disrupted.

The children should visit with their grandparents on, at least, a monthly basis.

The children should visit with Father's extended family on, at least, Holidays and birthdays.

The children should visit with the Mother's two younger sisters (now estranged, sadly) when mutually convenient.

The children will enjoy playdates and outings with their many friends, as they always have.

g) Check the appropriate box:

☐ The child(ren) does not/do not have any special medical, educational, mental health or developmental needs.

☒ The child or one or more of the children has/have the following special needs and will receive support and services for those needs as follows: (if a child does not have special needs, you do not have to include information about that child below)

Name of child	Special need(s)	Description of child's needs	Support or service child will be receiving (include the names of any doctors, counsellors, treatment centres, etc. that are or will be providing support or services to the child)
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Cate Kiska	<input type="checkbox"/> medical <input checked="" type="checkbox"/> educational <input checked="" type="checkbox"/> mental health <input type="checkbox"/> developmental <input checked="" type="checkbox"/> other vision	<p>Cate requires an assessment (as advised by the school May 2017) as she has fallen behind in a number of areas; especially math.</p> <p>The children were seeing an MSW at least monthly so they could adjust to the new living arrangements. This was a clause in the Interim Parenting Agreement that the Respondent insisted upon.</p> <p>The Applicant has not agreed to a switch to a Chld Psychologist - which the Respondent believes would be more appropriate under the circumstances.</p> <p>Cate has severe vision impairment in her left eye.</p>	<p>Following resistance from the Applicant, a psychologist who can provide an assessment has been hired and the results of this assessment should be finalized shortly. However, it has been identified that Cate requires tutoring for math and an IEP at school.</p> <p>Nadine Crowley was providing counselling monthly.</p> <p>Counselling stopped months ago and the Applicant has been unwilling to respond to requests regarding the hiring of the psychologist noted above for ongoing counselling.</p> <p>Cate began wearing glasses and patching her right eye for four hours each day and continues to do so. Though the average age for this process to stop being effective is 9, Cate (10) continues to experience some improvement in her vision.</p>
Sean Kiska	<input type="checkbox"/> medical <input type="checkbox"/> educational <input checked="" type="checkbox"/> mental health <input type="checkbox"/> developmental <input type="checkbox"/> other	<p>The children were seeing an MSW at least monthly so they could adjust to the new living arrangements. This was a clause in the Interim Parenting Agreement that the Respondent insisted upon.</p> <p>The Applicant has not agreed to a switch to a Chld Psychologist - which the Respondent believes would be more appropriate under the circumstances.</p>	<p>Counselling stopped months ago and the Applicant has been unwilling to respond to requests regarding the hiring of a psychologist for ongoing counselling.</p>
	<input type="checkbox"/> medical <input type="checkbox"/> educational <input type="checkbox"/> mental health <input type="checkbox"/> developmental <input type="checkbox"/> other		
	<input type="checkbox"/> medical <input type="checkbox"/> educational <input type="checkbox"/> mental health <input type="checkbox"/> developmental <input type="checkbox"/> other		

	<input type="checkbox"/> medical <input type="checkbox"/> educational <input type="checkbox"/> mental health <input type="checkbox"/> developmental <input type="checkbox"/> other		
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- h) I will have support from the following relatives, friends or community services in caring for the child(ren):
Parents Charlie and Kathy Moore, Friends Jeff and Sarah Merrett, Shawn and Micheline Kerr, and many other parents met through school. We are also on the waiting list to receive group support through the Eastern Ottawa Resource Centre.

11. I acknowledge that the court needs up-to-date and accurate information about my plan in order to make a custody or access order in the best interests of the child(ren) (subrule 35.1 (7)). If, at any time before a final order is made in this case,

- a) there are any changes in my life or circumstances that affect the information provided in this affidavit; or
b) I discover that the information in this affidavit is incorrect or incomplete,

I will immediately serve and file either:

- a) an updated affidavit in support of claim for custody or access (Form 35.1); or,
b) if the correction or change is minor, an affidavit in Form 14A describing the correction or change and indicating any effect it has on my plan for the care and upbringing of the child(ren).

TM (Initial here to show you have read this paragraph and you understand it.)

NOTE: If you are not a parent of the child, as determined under the *Children's Law Reform Act*, for whom you are seeking an order of custody, you must complete Part B of this affidavit.

For the purposes of this form and under the *Children's Law Reform Act*, a parent may include:

- The person who gives birth to a child (a "birth parent").
- Where a child is conceived through sexual intercourse, the person who is married to or living with the person who gives birth to the child at the time that the child is born (a "spouse").
- The person certified as a parent of the child under the *Vital Statistics Act*.
- A person found or recognized by a court as a parent to the child.

For more information about whether you are a parent for the purposes of this form, see the *Children's Law Reform Act* or talk to a lawyer.

If you are completing Part B, you do not have to swear/affirm the affidavit at this point. You will swear/affirm at the end of Part B.

Sworn/Affirmed before me at Ottawa
municipality
in Ontario
province, state, or country
on 03 May 2018
Date
Dina Kilrea
Commissioner for taking affidavits
(Type or print name below if signature is illegible.)
(Dina Kilrea)

[Signature]
Signature
(This form is to be signed in front of a
lawyer, justice of the peace, notary public
or commissioner for taking affidavits.)

PART B
TO BE COMPLETED ONLY BY A NON-PARENT SEEKING A CUSTODY ORDER

If you are a parent of the child, as determined under the *Children's Law Reform Act*, for whom you are seeking an order of custody, you are not required to complete this Part of the form.

Individuals who may not be a parent may include:

- A grandparent, aunt, or uncle.
- A sperm donor.
- A surrogate.
- A step-parent.

For more information about whether you are a parent for the purposes of this form, see the *Children's Law Reform Act* or talk to a lawyer.

NOTICE: If you are a non-parent claiming custody of a child, court staff will conduct a search of the databases maintained by the Ontario courts to identify previous or current family court cases in which you or the child(ren) may have been or may be involved and provide you with a list of those cases. This information will be shared with the court and you must provide a copy to any other party.

If the list contains information about someone other than you, you may swear or affirm an affidavit indicating that you are not the same person as the person named in the list.

In addition to the information in Part A, I swear/affirm that the following is true:

- 12. To the best of my knowledge, the child(ren) in this case has/have been involved in the following custody/ access or child protection court cases:** (do NOT include cases in which the child was charged under the Youth Criminal Justice Act (Canada))

Child(ren)'s name(s)	Type of Case	Details of Case

- 13. You must file a police records check with the court. Choose the option below that applies to you:**

☐ I have attached to this affidavit a copy of my police records check, dated (date of report from local police force) _____ . Since the date that the attached police records check was completed, I have been found guilty of or charged with the following offence(s):

☐ On (date) _____ , I sent a request to (name of local police force) _____ for a police records check.

I agree to serve and file the police records check with the court within 10 days after the day I receive it. I understand that the court may not make an order for custody of the child(ren) until I have filed the police records check.

14. Since I turned 18 years old or became a parent, whichever was earlier, I have lived in the following places:

Approximate dates (month/year to month/year)	City, town or municipality where you lived (if outside of Ontario, give name of province, state or country)

15. I have provided a signed consent form to the court, which authorizes each of the children's aid societies listed below to send a report to me and to the court indicating:

- whether the society has any records within the meaning of the *Children's Law Reform Act* regulations relating to me; and
- the date(s) on which any files were opened and/or closed (if applicable).

- i) Name of children's aid society: _____
- ii) Name of children's aid society: _____
- iii) Name of children's aid society: _____
- iv) Name of children's aid society: _____
- v) Name of children's aid society: _____
- vi) Name of children's aid society: _____

16. I understand that if any report from a children's aid society indicates that the children's aid society has records related to me, then, unless the court orders otherwise, that report will be shared with:

- a) the court;
- b) any other parties in this case; and
- c) the child(ren)'s lawyer, if there is one in this case.

If I wish to bring a motion asking the court not to release all or part of this report, I understand that I must file my motion with the court no later than **20 days** from the day that the last report is received by the court.

I also understand that any report indicating that a children's aid society has no records relating to me will not be shared with the court, any other party or the child(ren)'s lawyer.

_____ (Initial here to show that you have read this paragraph and you understand it.)

Sworn/Affirmed before me at _____
Municipality

in _____
province, state, or country

on _____
Date
Commissioner for taking affidavits
(Type or print name below if signature is illegible.)

Signature
(This form is to be signed in front of a
lawyer, justice of the peace, notary public
or commissioner for taking affidavits.)