

**ONTARIO COURT OF JUSTICE**

**BETWEEN**

**Xxxx Xxxxx**

**Applicant**

**and**

**Xxxxx Xxxxxx**

**Respondent**

**AFFIDAVIT**

I, Xxxxxx Xxxxx, of the City of XXXXXXXXX, in the region of XXXXXXXXXXX, MAKE OATH AND SAY AS FOLLOWS:

- 1) I am 12 years of age. I do not suffer from any physical or mental disabilities and I am swearing this affidavit of my own free will and desire. I am in grade 7 and attend Xxxxxxx Xxxx Xxxxxx School in Xxxxxxx, Ontario.
- 2) I want my wishes to be made known to the court. Although I have a children's lawyer, I do not feel confident with the services I have received from my children's lawyer. I want to be sure that my wishes are made clearly known to the court directly as I do not feel that my children's lawyer has kept me informed in the past.
- 3) If there are any doubts as to what I have stated in this affidavit, I would be more than willing to speak directly to the court. I am not afraid to repeat what I have stated in this affidavit in front of either of my parents because it is the truth.
- 4) Currently, I primarily reside with my mother and visit with my father every other weekend from Friday until Monday. I am not really happy living with my mother more of the time and have never been happy spending more of my time with her at her house.

- 5) It is my understanding that my mother has asked the court to have my time with my father reduced from what it is presently. I am totally against any arrangement which will reduce my time with my father. If anything, I want to spend more time with my dad and less time with my mother.
- 6) When my mother and father separated, my mother did not tell me what was going on and would not tell me where she was going. I was not given any choice of which parent I was to live with. If I had the choice back when my parents separated, I would have chosen to live with my father. My dad as always been the better parent. My mother took me with her without explaining or asking me what I wanted. Things only got worse for me while I was in the care of my mother after my parent's separated.
- 7) Generally, my mother is abusive with me and puts me under a lot of stress and anxiety. She has even physically abused me. She has been like this since she separated from my dad and even after her and her boyfriend moved in together, things are still bad. My mother's boyfriend tends to just go along with whatever my mother wants and does not involve himself much with me.

#### **Abuse and neglect by my mother**

- 8) My mother is often yelling and screaming at me over something. She threatens me all the time over stupid things. She just gets angry all the time. The boyfriend who she lives with does nothing to stop it.
- 9) My mother has thrown objects at me when she has been angry.
- 10) My mother has yelled and screamed at me for not calling her boyfriend, "Dad." I should not be forced to call another man "dad" when I already have a dad who loves me. My mom is making me do this just so that she can get some other person to take over from my dad. I have only one dad and that is my real dad.
- 11) My mother has told me that if I ever go to live with my father that she will take all my stuff out of my room and throw it out into the garbage. This is not right. She thinks that she can threaten me to not want to live with my dad.

- 12) Just recently I was going to take some books and some of the toys over to my dad's house. My mother got angry and said I could not take them with me. She grabbed them and then threw me into the couch. My mother then took my belongings away from me and out of my room and put it away in the garage so that I could not use them or take them back and forth to my dad's house. My mother is so bossy and controlling and won't even let me do what I want with my own toys. Whenever my mother gets mad she likes to bully and intimidate me. I don't like it when she does this.
- 13) My mother tries to keep me from seeing my uncle Xxxxxx just because she does not get along with her own brother. One time when I was younger, I told my mother that I would like to meet my Uncle Xxxxxx but my mother just yelled and screamed at me and told me that I would never be allowed to meet him ever. It was eventually my dad who was the one who arranged for me to meet my uncle Xxxxxx and since meeting him, my dad lets me see him whenever I want. I like my uncle Xxxxxx and would not have known him if had not been for my dad helping me.
- 14) Once I had run out of my puffer and was having a lot of problems with my breathing. My mother would not take me to the hospital. I was feeling really sick but my mother just sat there. I could see that she just could not bother to take me to the hospital. I know that if I had been living with my father that he would have taken me to the doctor. Overall, I feel that my father is more capable of taking care of my medical needs.
- 15) My mother will not allow me to speak on the phone to call my dad. I have to resort to secretly calling my dad when she is out. When I am at my father's house, I am allowed to make any reasonable call, including to my mother.
- 16) I am not allowed to answer the phone at my mother's house. I believe that my mother wants to keep me from picking up the phone so that I will not get the opportunity to speak to my father. This is just one of things she does to keep me isolated from my father. This only makes me more angry with her.

- 17) My mother's boyfriend has told me that I cannot use the phone as well. He just does whatever my mother wants, even if it is wrong.
- 18) My mother tries to bribe me to stay with her by buying me things like remote control cars and other toys but it seems like she is being a fake. I feel that she does this to try to make up for the attention and time she does not give me. My dad gives me his time and attention and he does not need to buy my loyalty. My dad is just a more sincere person than my mother or her boyfriend.

### **Smoking, drinking, lies and swearing at my mother's house**

- 19) My mother's boyfriend, Xxxxxxx Xxxxxx is a heavy smoker and smokes in the house. This bothers me a lot. I have a breathing problem which requires me to use a puffer and this condition is aggravated by smoking. Sometimes I have a hard time breathing in my mother's home. It seems that my mom and her boyfriend don't care enough about me to stop exposing me to smoke in the house.
- 20) I have asked my mother's boyfriend to stop smoking in the house but he says that he won't quit. I don't feel that he cares about me or my health.
- 21) When my mother takes me in the car with her and her boyfriend I have to put up with the discomfort of cigarette smoke. I sometimes feel sick to my stomach because of the smoke in the car.
- 22) Both my mom and her boyfriend drink a lot. My mother drinks two or three glasses a day and my step dad drinks five or six beers a day. I have seen both my mother and my step father drunk at the house with my mother's boyfriend the one who I have seen drunk more often.
- 23) My mom and her boyfriend invite people over to the house who mostly drink and smoke as well. I do not like the kind of people that come over to visit with my mother and her boyfriend.

- 24) My mother and her boyfriend use swear words often when they get mad. They use the “f” word a lot when they swear at me. There is a lot of swear words used at my mother’s house, including their friends who come over.
- 25) My mother and her boyfriend have told me that I am not to say anything about what goes on in their home or to tell others what my wishes are about where I really want to live. They don’t want me to tell anyone about me not being happy living with my mother. My mother and her boyfriend want to keep the truth hidden so that they can keep me living with them.
- 26) My mother tells me that my dad is a liar, a drinker, a smoker and a thief. She says all kinds mean things about my dad. I know my dad and this is not true. My mother has said to me that she will get my dad in so much trouble that she will get him thrown in jail. I hate her when she speaks like this about my dad. Ever since the separation she has not been nice with me or with my dad. My mother is just a plain mean person. She wants to get revenge against my dad

### **General care at my mother’s house**

- 27) My mother does not make good meals. She makes mostly fast food and burns the food. My dad makes much better meals than my mother. He makes lots of my favourite foods.
- 28) My mother does not help me with my homework and don’t seem to care about my homework. My dad takes the time to do my homework and to get involved in things which I am interested in.
- 29) Not once since my parents have separated, have I seen my mother try to be nice with my father. On the other hand, I have seen my father try to be nice to my mother but she is never nice to him in return. My mother has never tried to encourage me to have a relationship with my father but my father has always said that it is important to have a relationship with both parents.
- 30) I cannot trust my mother to make good decisions for me. I do not trust her. On the other hand, my father always tries to make the best decision for me. I trust him more

than I trust my mother and her boyfriend.

- 31) I am not able to be honest with my mother and have to keep my wishes hidden whereas my dad will accept my reasonable wishes.
- 32) There are times my mother yells and screams at me in public. She does not care who is looking and it is so embarrassing. My dad never has never yelled at me in public and embarrassed me like my mother has.
- 33) My mother has tried to get me to call her boyfriend, "dad" but this makes me angry that she would even try to force me to do this. She has become really angry because I don't call him dad. Nobody else will replace my real dad.
- 34) There were a couple of times when I refused to go back to my mother's because she was being mean to me. When the children's aid society came to speak to me, the workers did not seem to listen and told me to go back to my mother's home. They never said why I should go back to my mother's home and just told me to go. I felt like CAS workers were not interested in what I had to say about being abused by my mother. The CAS workers seemed to take my mother's side.

### **My children's lawyer**

- 35) I am not happy with my children's lawyer, Xxxxxxx Xxxxxxx. I feel that my children's lawyer has not listened to me or properly presented my wishes to the court. I do not feel that she is informing me of what is going on and from speaking to my lawyer, I get the impression that she is on my mother's side.
- 36) I feel that the lawyer tried to bribe me to stay with my mother and she tried to trick me to change my mind. Her questions seem to be worded as if to get me to agree to live with my mother. My children's lawyer even tells me that I should not live with my father. Instead of helping me, I feel that she is trying to convince me to live with my mother.
- 37) Something which bothers me about when my mother took me to my children's lawyer is that my mother had me wait outside in the car while she went into my children's

lawyer's office and spoke to my lawyer by herself. I don't like my mother speaking to my lawyer by herself on my appointments, especially when she had me wait outside so that I cannot hear what she is saying to my lawyer. My dad never did this. I am supposed to be the one speaking to the lawyer on my appointments, not my mother. My mother is opposed to what I want. Knowing how my mother is trying to hide the truth about my feelings and the real circumstances at my home, I feel that my mother is trying to say bad things about my father or is telling my lawyer not to believe some of the things that I am telling my lawyer. I do not feel that it is right for my lawyer to be speaking in private to my mother who has been abusive to me and then not tell me what my mother said to her.

- 38) My children's lawyer tells me that I cannot go to the court and that I am not allowed to go to the court. My lawyer never told me about an affidavit. The court will not know my true wishes if they are not properly told.
- 39) I tried to tell my children's lawyer that I am being denied to use the phone at my mother's home but the lawyer did nothing. It was like she did not believe me.
- 40) Another thing which bothered me when I went to my children's lawyer was that it was my mother who always went into the children's lawyer's office ahead of me. My mother would tell me to wait in the care while she went into my children's lawyer's office first. Then she would come to get me. I believe that my mother was telling my lawyer things behind my back so that the lawyer would not believe me. I don't think this was right that my children's lawyer listened privately to my mother.
- 41) Overall, I feel that my children's lawyer has not helped me at all which is another reason why I feel better putting all my thoughts into an affidavit rather than relying of my lawyer to tell the court.

### **The environment with my dad**

- 42) Unlike my mother who tells me to keep quiet, my dad tells me to speak up and to express my true feelings and wishes. When I am with my dad, I feel that I can say what I want without having to be afraid or being yelled at.

- 43) Unlike at my mother's house, my dad helps me with my homework.
- 44) My father encourages me to build trust with my family members and with others. The persons in my life who I trust to help me matters relating to my family and to work towards are my father, my uncle Xxxxxx, my aunt Xxxxx, my older sister Xxxxx who lives in Hamilton, my teacher Mr. Xxxxxx and the principal at my school. I definitely do not trust my mother or her boyfriend.
- 45) When it comes to activities, it is my father who gets most involved. He does scouting with me and he is a scout leader. We like to watch the same TV programs and sports. My dad has always been the parent who comes to the school to help. He also does things with me such as fishing, hiking, bike riding, etc.
- 46) My dad helps out at the library at school. I like my dad helping at the school. My mom does not get involved with helping at the school.
- 47) Overall, my dad is just a nicer parent to be with and is more fair. He even tries to be nice to my mother who does nothing except to be mean to him.

### **My wishes and preferences**

- 48) This is a list of what I would like:
- a) I want to live with my dad most of the time. I only want to visit with my mother when I wish such as on weekends or on holidays or whenever I want. This has always been my wish since my parents were separated.
  - b) I want to be able to leave my mother's home and return to my father's home whenever I feel uncomfortable at my mother's house such as when my mother might be yelling at me or when I am being bothered by the smoke in the house. I don't want to be forced to stay with my mother against my wishes.
  - c) I want to go to Xxxxxx Xxxxxx School in Xxxxxxxx. I used to go to this school before my mom and dad got separated. I already have some friends at that school. One of my best friend's goes to this school.

- d) I would like my mother to stop blocking me from calling my dad when I am her house. I should be able to call him at any reasonable time.
  - e) I would like to not have to put up with smoking and drinking when I visit my mother's house.
  - f) I would like to have my mother stop lying.
  - g) If the Children's Aid Society or the Children's lawyer are involved at any time in the future, I want to be able to record what I say to them with my own recorder. They don't seem to really listen and I don't trust them anymore.
  - h) My dad always tells me to tell the truth. My mom never says anything about the truth because she wants to lie about things.
- 49) I do know that I would be much happier living with my dad. I know that I will do even better at school because I will not have to put up with the smoking, yelling and abuse that I have to put up with when I am at my mother's home.
- 50) I would be willing to speak to the court myself so that I can explain to the court what is going on in my life. I am not afraid to say these things to the court in the presence of my mother because it is about time that she and her boyfriend face the truth of them not being very nice parents.
- 51) I make this affidavit of my own free will and for no improper use.

Sworn before me in the town/city )  
of \_\_\_\_\_, in the )  
Region of \_\_\_\_\_ ) \_\_\_\_\_  
\_\_\_\_\_ )  
this \_\_\_\_ day of \_\_\_\_\_ 2006 )  
Xxxxxxx Xxxxx