

at 161 Elgin Street, Ottawa, ON K2P 2K1
(Court office address)

**Form 14A: Affidavit (General)
dated December 15, 2021**

Applicant(s)

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

Darryl Ross
3705 Riverbreeze
Unit D
Ottawa, ON
K2J 5G2

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

Respondent(s)

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

Cynthia Holmes
221 Brambling Way
Ottawa, ON
K2J 0E4

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

Alison Boyce
Mann Lawyers
11 Holland Avenue
Suite 300
Ottawa, Ontario K1Y 4S1
Tel: 613-722-1500
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Alison.Boyce@mannlawyers.com

My name is

(Full legal name)

Darryl Ross

I live in

(municipality and province)

Ottawa, Province of Ontario

and I swear/affirm that the following is true:

Set out the statements of fact in consecutively numbered paragraphs. Where possible, each numbered paragraph should consist of one complete sentence and be limited to a particular statement of fact. If you learned a fact from someone else, you must give that person's name and state that you believe that fact to be true.

1. I am the Applicant in this matter and as such have knowledge of the matters hereinafter deposed.

Where information comes from another person, that person is name, and I verily believe that information to be true.

2. I am asking the court for an adjournment for the following reasons:

- a. Ms. Holmes affidavit is 19 pages without exhibits. This exceeds the limit. I was aware of the limit but did not know the significance of the limit until I received legal advice yesterday afternoon.
- b. Ms. Holmes is requesting an order from the court to justify her decision communicated to me on Aug. 30, which subsequently changed from trauma, to concern for one of our daughters emotional well-being, to separation anxiety diagnosed by Ms. Holmes. As of Dec. 3, the counsellor that was working with our daughter was not able to provide an opinion or

assessment supporting her claims, and is not aware of the other allegations Ms. Holmes made in her affidavit, or the severity of those claims.

- c. I was provided an affidavit from Todd Ross on Dec. 10 at 1:33 pm. The affidavit was sworn on Dec. 8 at 2:02 pm. The affidavit was sent to me with the knowledge that I did not have legal representation. It includes statements that are factually incorrect according to documents that are available with more than 2 business day's notice, for example and including my lease agreement with Toyota Canada, which Mr. Ross was fully informed of before and after it was approved.
- d. I informed Ms. Boyce of a significant change that could affect my employment and income disclosure which is privileged and confidential as a result of an agreement made on Dec. 9, 2021, which I require legal advice about. My request was refused (exhibit A).
- e. Until Dec. 9 I was searching for a lawyer to represent me who accepts legal aid. After being advised by legal aid to greatly expand the search radius I still could not find a lawyer available for the motion date, or who was able to take on new legal aid clients.
- f. On Dec. 10, after the settlement of Dec. 9, I contacted a lawyer who agreed to take on my case and advised me that an adjournment was necessary. I signed a retainer on Dec. 12. On the morning of Monday Dec. 13, I was informed that he could not represent me for this motion, and provided no further communication.
- g. As of today, Dec. 15, I have retained a lawyer who will represent me if my request for adjournment is approved.
- h. Because I have been provided with only Ms. Holmes personal opinion, and because her allegations and explanation has changed from Aug. 30, to Sept. 2, to Nov. 12, and do not correspond with her affidavit completed Sept. 30 and sent to me Oct. 20, and because Ms. Holmes has not continued to schedule sessions with the Ms. Telford, the counsellor, since I met with her on Dec. 3, it is impossible for me to respond to Ms. Holmes claims and allegations, or to participate in decisions about our daughters best interests.

INCONSISTENCIES WITH MS. HOLMES MOTION FOR SOLE CUSTODY AND SOLE DISCRETION OF ACCESS

1. Ms. Holmes stated on Aug. 30 that our daughters could not have contact or communication with me because they were experiencing some trauma. I requested information about who made the assessment and what supports were in place for them. After communicating my request and concern

- to Ms. Holmes lawyer on Sept. 1, 2021, Ms. Holmes informed me that our daughters were happy and excited to be returning to school, and stated that she started searching for some individual counselling for our oldest daughter beginning August, 2021. She stated that she was currently meeting with a child therapist and would keep me up to date about the outcome (Exhibit A)
2. Ms. Holmes did not provide any further information until Nov. 12, 2021. In her email she told me that our daughter has ‘a lot of separation anxiety and trauma so she is seeing a therapist to help her deal with it.’ She also informed me that our youngest daughter has ‘some anxiety when I am away.’ Finally, she informed that she was leaving that day for a vacation in Cuba with her friend. I was told that our daughters were being cared for by a neighbor for the weekend, and then being cared for by the parents of school friends for the week. Ms. Holmes did not share the date that she was returning, and did not send me the contact information for the counsellor, Ms. Telford, until Nov. 24 (Exhibit B & C).
 3. Despite Ms. Holmes decision to deny all access and communication, she emailed me on Nov. 24 informing me that she would allow a FaceTime visit for Christmas, and that she would arrange to pick up gifts closer to Christmas. She did not discuss her decision to allow communication at Christmas, or provide information about our daughters. Nor did she raise concerns included in paragraphs 15, 16, 17 of her affidavit, which I deny.
 4. In the same emails referred to above and included as **Exhibits A, B and C**, Ms. Holmes told me that our daughters were doing very well, were happy and doing well at school, and that while on her vacation she missed interviews with their teachers. I am concerned because one of our daughters is struggling with reading and comprehension and received a grade that is unusually low.
 5. Despite ongoing requests for information, including an email to Ms. Boyce sent Nov. 27, 2021, included as **Exhibit D**, I have not received further information or a response. Ms. Holmes continues to refuse to share information about who cares for our daughters, any other health concerns, extracurricular activities, etc.
 6. Ms. Holmes states that she was communicating with a counsellor for our daughter on Sept. 3. After she shared Ms. Telford’s phone number with me on Nov. 24 I contacted and booked a session with Ms. Telford on Dec. 3. Ms. Telford told me that Ms. Holmes raised concerns about sexual abuse, which shocked and concerned me because that information was not shared with me by Ms. Holmes or in her affidavit. I informed Ms. Telford of Ms. Holmes previous accusations of sexual assault, in particular

accusations she made against me starting Nov. 6, 2015. That accusation was investigated and determined to be unfounded by the Children's Aid Society of Ottawa. She also contacted Ottawa Police who refused to investigate. In addition, nine days after making the accusation and more than three days after I submitted an affidavit in support of a motion to return our children to our matrimonial home and allow me access, Ms. Holmes brought our daughter to CHEO for an examination alleging sexual abuse. I visited CHEO three days later to review the medical record. I also spoke to the nurse who was present with the doctor who saw our daughter. She explained the medical record to me, that they found no evidence for the allegation, and that Ms. Holmes, in her opinion, was not credible with her accusations.

7. Ms. Holmes continued to make allegations of sexual abuse to me and to members of my family despite making an offer to settle immediately before the motion in which I was the applicant, scheduled for the week after Ms. Holmes made her allegations. Ms. Holmes's offer was for immediate shared parenting-time, and included no concerns about sexual abuse.
8. I deny paragraph 13. Ms. Holmes has continually changed, interfered with, or denied access despite a Court Order. Ms. Holmes repeatedly refused my requests for access, ignored or cancelled agreed upon visits and FaceTime. I have included text messages between Ms. Holmes and my mother. Ms. Holmes states that my Mother can visit with my daughters on condition that I not be present (**Exhibit E**)

DENIAL OF ACCESS SINCE AUG. 30 2021

1. Ms. Holmes is most recently denying any access or communication between my daughters and me beginning Aug. 30, 2021. In response to my request for access Ms. Holmes informed me that our daughters were experiencing trauma. She explained the trauma they were experiencing was caused by inconsistent contact with me.
2. On Sept. 2, 2021, in response to my request for information about who made the assessment of trauma, and what supports were in place, Ms. Holmes informed me that our daughters are happy and doing well, but that she had personal concerns about the emotional well-being of our oldest daughter. She informed me that she started looking for a counsellor for our daughter in August and was speaking to a counsellor to support our daughter. My request for further information, including the counsellor that she was working with, was ignored until Nov. 12, 2021.

3. I was not made aware that our daughters had started to experience separation anxiety until I received Ms. Holmes affidavit on Oct. 20, 2021.
4. I deny paragraph 3. I have never collapsed in front of our daughters. In July of 2020 I suffered and was taken to hospital for a seizure. Blood tests done in hospital were negative for alcohol or drugs. I will be receiving my medical chart from my family doctor on Dec. 16 and will be providing necessary disclosure to Ms. Holmes. Our children were with me for a visit, and my mother, Holly Ross, was present. Ms. Ross was educated and worked as a registered nurse early in her career. She believed I was experiencing a seizure and immediately asked my housemate to call for paramedics. She ensured that I was safe and that my daughters were safe and cared for. She immediately contacted Ms. Holmes. When Ms. Holmes arrived, according to my mother, housemate and landlord, Ms. Holmes was angry and aggressive. She did not show concern for our daughters, and she demanded to meet privately with my landlord to talk about me. My landlord refused.
5. Additionally, in paragraph 3 Ms. Holmes states that she has not been provided with any proof that I am in recovery and receiving treatment. Later she states she has only received one medical note that is without date and does not address her demand to know if the urine screening, which I voluntarily provide, tests for non-prescription drugs. After requests for Ms. Holmes to respect my right to privacy, and to not share my medical records with anyone not involved in decision making about the safety and well-being of our daughters, Ms. Holmes chose to include a medical note that was sent to her lawyer. In the note she includes as **Exhibit H** in her affidavit, my doctor specifically refers to 'illicit substances'. The note Ms. Holmes has included in public record was sent directly from the clinic in response to a request for further information made by Ms. Holmes's lawyer, about a note that I sent to her on Sept. 1. The initial note that was printed and which Ms. Holmes lawyer confirmed receiving included a date. I am meeting with Dr. Bowling on Dec. 15 and will request he confirm each note, and the date written. I will provide his confirmation to Ms. Holmes lawyer with an updated note as of Dec. 15.
6. After a period of shared parenting time during the summer of 2019, ignoring the court order included in Ms. Holmes affidavit, Ms. Holmes made a unilateral decision to change parenting time without discussion or communication with me. Ms. Holmes said that her decision was not a matter of discussion, and that she, unilaterally, would re-consider in the new year based on her assessment of how things were going under the access schedule she decided on. (**Exhibit F**).

Disclosure issues

1. I informed Ms. Boyce on that I am collecting disclosure and would be providing it as ordered by Master Fortier on (date) 2017. I informed her that Ms. Holmes was sharing disclosure about my health,

employment status, and other private matters to members of my family and other people not relevant to making decisions about the well-being and safety of our daughters. I asked for reassurance that my right to privacy would be respected. Receipt of my email was confirmed, but my concerns about privacy were and continue to be ignored.

2. Ms. Holmes is requesting disclosure about my health so that she can make a decision about access. Ms. Holmes is not qualified to make such an assessment, and has, from 2015, repeatedly made decisions based on false accusations, her feelings, and other reasons unrelated to the best interests of our daughters.

1. In 2019 I made plans with my daughters to watch a movie that the three of us were excited to see. The plans were confirmed with Ms. Holmes and she agreed. In the week prior to the agreed date Ms. Holmes accused me of being mean to her mother at a visit at McDonald's that she insisted had to be supervised by her mother, even though my mother was there as well. Ms. Holmes's alleges that I was (rude or yelled?) at her mother in McDonalds at dinner time while our daughters played in the play area. I did not yell at, nor was I rude to, her mother. Ms. Holmes informed me that because of the alleged incident she would not allow me to watch the movie with my daughters as agreed. She said she would allow access, but only at Chapters bookstore, directly across from the movie theatre, on the same day, if her step-father supervised. I talked to Mr. Morrison about the matter when they arrived, and asked if he would object if I walked with the girls 100 meters to the theatre to watch the movie. He said that he would call the police if I did. I did not want my daughters to experience further conflict or to experience the police being called, and cooperated.

- 2. Issues with Ms. Holmes's Ability to Make Decisions in the Best Interests of Our Children**
3. On Nov. 6, 2015 Ms. Holmes and I met with Dr. Emily James. Ms. Holmes was working with Dr. James about her concerns that her son's were experiencing emotional abuse and issues caused by their father. Ms. Holmes had been expressing her concerns for more than a year. She refused to allow increased access with her sons and their father earlier in 2015 (Exhibit), and intended to further reduce contact leading up to our separation. Immediately after Ms. Holmes and I separated she described her relationship with her former partner as...

- 4. Inconsistencies in the Affidavit of Todd Ross**

5. (Evicted 2017 – false, I gave notice on 5 October 2017, include email?). Mr. Ross encouraged me to reduce my monthly expenses, and when I asked for financial help Mr. Ross made reducing the cost of housing a condition of his agreeing to help me in a legal motion. Mr. Ross later refused. In 2017 Mr. Ross stated that he was reluctant to supervise because he felt used.
6. Mr. Ross states that he was supportive and made ongoing attempts to maintain contact with me. Mr. Ross was very supportive through my separation with Ms. Holmes in 2015 to 2017, the year he agrees was the last we had contact. Mr. Ross was supportive in 2015 to 2017. He emailed Ms. Holmes in 2017 to tell her that he had no concerns.
7. At about the same time he told me that the approach that he and Mrs. Rounding took was out of care and concern, and included correspondence between Mrs. Rounding, my sister, and her husband. In their emails Mr. Rounding stated that Ms. Holmes makes ongoing false accusations, accused me of being unfit because of a medication that she took two years prior, paid for in part by my benefits, which she never told me about. (Include his assessment?)
8. Ms. Holmes relies on statements from Mr. Ross in her affidavit sworn Sept. 30, 2021. I deny the statements and believed them to be hearsay based based on conversations that I had with Mr. Ross in 2015 and 2016, including an email in which Mr. Ross describes his support of me, and shared email conversation from Mrs. and Mr. Rounding describing Ms. Holmes as the problem.
9. In his affidavit Mr. Ross concludes with an assessment of how custody and access of my children should be decided. He acknowledges that he has not had contact with me since 2017. Custody and access is a matter that is vital to the well-being of my children, and has been brought before the court for a decision that will affect whether or not they are allowed to maintain a relationship with me, as well as their extended family. Mr. Ross's affidavit contains many false statements, and he has no basis or credibility upon which to make such an assessment.
10. Further, Mr. Ross only provided an affidavit on Dec. 8, sent to me Dec. 10, seven weeks after Ms. Holmes completed and signed her affidavit. The only source of information for Mr. Ross concerning me since 2017 is Ms. Holmes, who has repeatedly made false allegations, and shared my medical records

with members of my family and possibly other people, including staff at our daughter's elementary school.

11. I deny the truth of paragraphs...

12. Mr. Ross and Ms. Holmes both include statements about my sister, Mrs. Rounding. It is my understanding that Mrs. Rounding has had periodic or ongoing contact with my daughters. I first shared my concerns about drinking with Mrs. Rounding, her husband Mr. Rounding, and Mr. Ross, for support and for help. Together, they decided that I had to meet specific conditions that were not recommended by Dr. Douglass or Dr. Milstone. Their terms were that I do exactly as they say, regardless of what Dr. Douglass, Dr. Milstone, or my family doctor said, or they would have custody and access revoked. In email from Mr. Ross he states that these conditions are for my support, and Mrs. and Mr. Rounding share their views at the time. In the email that Mr. Ross shared Mr. Rounding states that... Mrs. Rounding states that...

13. I deny the accuracy of paragraphs...

14. In the time after I received Mr. Ross's affidavit until today, Dec. 15, I have access to limited documents that support my denial of the truth or the accuracy of Mr. Ross's statements. During my relationship with Mr. Ross I knew him to be knowledgeable about many things and in particular matters of internet technology, software, e-mail, etc. During the period that we were in contact, 2014-2017, he had the same work contract that he describes in his affidavit.

15. based on false and innacurate statements from 2016 and 2017. I have had no personal contact with Mr. Ross since 2017.

16. Due to the date that I received Mr. Ross's affidavit I am only prepared to respond substantively to the statements that are false or inaccurate based on documents that I have or received less than three business days after receiving his affidavit.

17. I deny paragraphs x-y in the affidavit of Mr. Ross.

18. Mr. Ross's claims that I deceived him and used money given to me secretly and inappropriately.
19. I discussed buying a new vehicle with Mr. Ross in 2015. In an email from (date) I asked Mr. Ross for his advice about leasing a vehicle. Mr. Ross provided advice about the pros and cons of leasing, and agreed that it was a good idea. Because of the costs of preparing a motion for access to my daughters in November, 2015 I was unsure if I would be able to lease a car on my own. I asked Mr. Ross if he and his partner would consider co-signing. Mr. Ross agreed (exhibit...). Mr. Ross and his partner later visited me and told me that they would give me \$10,000 toward a vehicle. I was surprised and grateful. I did not ask them to give me money, and was surprised and very grateful for the amount.
20. Leading up to, during, and after Ms. Holmes made false allegations that I sexually assaulted our daughter, Mr. Ross was very supportive.
21. Later I signed a lease with Toyota Canada. I informed Mr. Ross that I paid the full amount so that I would have a low monthly payment of approximately \$70 a month with concern for repairs. He agreed this was a good idea given the uncertainty I faced financially with prior and ongoing legal costs for custody and access and the sale of our matrimonial home.
22. I have contacted Toyota Canada and requested a copy of the lease agreement with down payment amount, and the bank that my payments were made with to confirm the monthly amount. From receiving Mr. Ross's affidavit the afternoon of Friday Dec. 10 with the false statements, it is not possible to include the lease agreement and bank information in my affidavit. I will include them in my affidavit if the request for adjournment is accepted, and send them to Ms. Boyce if it is not.

Put a line through any blank space on this page.

Sworn remotely by Darryl Ross:

Ottawa

(municipality)

in Province of Ontario

(province, state or country)

on 2020, in accordance with O. Reg 431/20,
Administering Oath or Declaration

December 15, 2021 Remotely

(date)

Darryl Ross

Darryl Ross (Dec 15, 2021 14:10 EST)

Signature

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

*Commissioner for taking affidavits
(Type or print name below if signature illegible.)*