

ONTARIO

The Ontario Superior Court of Justice – Family Court Branch

(Name of court)

Court File Number

FC-15-2492

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

December 14, 2015

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

Court office address

Applicant(s)

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

Darryl Ross
328 Dunlin Ridge
Ottawa, Ontario
K2J 0E3

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

Any Mayer
Victor Ages Vallance LLP 112 Lisgar Street
Ottawa, Ontario
K2P 0C2
Tel: 613-233-7000
Fax: 613-238-8949
Email: amayer@vavilawyers.com

Respondent(s)

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

Cynthia Holmes
925 Caldermill Pvt
Ottawa, Ontario
K2J 0Z8

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

Alison Boyce
Delaney's Law Firm, Professional Corporation 543
Somerset Street West
Ottawa, Ontario
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Email: alison@delaneys.ca

BOX #355

Affidavit in Support of Claim for Custody or Access

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

My name is (full
legal name)

Cynthia Holmes

My date of birth
is (d, m, y)

March 6, 1977

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.)
Alice Harriett Holmes	30/03/2014	21 Mnths	Cynthia Holmes, Mother Darryl Ross, Father	Cynthia Holmes, Mother Darryl Ross, Father Benjamyn LeClair, half-brother Samuel LeClair, half-brother	Mother
Charlotte Olive Holmes	04/09/2011	4 years old	Cynthia Holmes, Mother Darryl Ross, Father	Cynthia Holmes, Mother Darryl Ross, Father Benjamyn LeClair, half-brother Samuel LeClair, half-brother	Mother

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)
Benjamyn LeClair	21/10/2003	Mother	Cynthia Holmes, Mother Scott LeClair, Father Alice Holmes, half-sister Charlotte, Holmes, half-sister
Samuel LeClair	25/07/2006	Mother	Cynthia Holmes, Mother Scott LeClair, Father Alice Holmes, half-sister Charlotte Holmes, half-sister

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)
N/A			

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)
N/A			

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
N/A		

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)
N/A		

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)*

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)
Alice Holmes	Cynthia Holmes, Mother Darryl Ross, Father	March 30, 2014 to Present
Charlotte Holmes	Cynthia Holmes, Mother Darryl Ross, Father	September 4, 2011 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: 925 Caldermill Pvt, Ottawa, ON

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)
N/A				

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)) Darryl Ross

☐ 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) Agriculture Canada
- ☐ 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)
- e) The child(ren) will attend school, daycare or be cared for by others on a regular basis as follows:
 Charlotte fulltime junior kindergarden at Saint Kateri
 Alice fulltime home daycare with Laura Thompson
- 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:
 Mr. Ross and I are alternating between a 2/2/3 and a week on/week off access schedule at this time. In February 2016 Mr. Ross and I will review this schedule to create an access schedule on a final basis.
- 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)
	<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		

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 services to the child)
	<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		

I will have support from the following relatives, friends or community services in caring for the child(ren):

My Mother, Linda Holmes
My Stepfather, Dennis Morrison
My Father, Barry Wilson
My Stepmother, Julianne Labreche
My adopted sister, Stacey Tran
My Sisters, Kelly Morrison, Janice Holmes, Heather Morrison
My cousins, Kathleen Wilson, Jessie Duong and Jeff Duong
My ex-partner, Scott LeClair
My Friends, Karen Cumberland, Andrea Reese, Bernadette and Ailie Somerville, Melanie Gauthier, Christine Evans and Jennifer Burns

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).

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

NOTE: If you are not the parent of the child for whom you are seeking an order of custody, you must complete Part B of this affidavit.

You are a parent of a child if:

- a) you are the biological parent of the child;
- b) you are the adoptive parent of the child;
- c) a court has declared that you are the child's parent under the *Children's Law Reform Act*; or
- d) you are presumed to be a father under section 8 of the *Children's Law Reform Act*.

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 The City of Ottawa

municipality

in The Province of Ontario

province, state, or country

on December 14, 2015

Date



Commissioner for taking affidavits

(Type or print name below if signature is illegible.)

Alison Bryce



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

~~You are not a parent of a child unless:~~

- ~~a) you are the biological parent of the child;~~
- ~~b) you are the adoptive parent of the child;~~
- ~~c) a court has declared that you are the child's parent under the *Children's Law Reform Act*; or~~
- ~~d) you are presumed to be a father under section 8 of the *Children's Law Reform Act*.~~

~~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 these 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.)