

Contravention application and process ACT

First letter from Solicitor

Dear Ms X,

RE: X AND X - FAMILY LAW MATTER

I continue to act for X X.

X has contacted me in relation to ongoing problems he is experiencing spending time with X and X in accordance with the orders made by consent on x .

I am instructed that you have consistently withheld the children from seeing X to the point where X has not spent time with her father for a period of six weeks. This situation is totally unacceptable, particular given that this was the very same issue that was agitated when this matter was last before the Court.

As you are aware, you are obliged to comply with the current orders and you simply cannot ignore those orders or vary the orders without X's express consent or a further order of the Court. I note that you have not made an application to the Court to vary the orders nor has X agreed to any such amendment. As such you are required to comply with the orders as drafted.

You will find a fact sheet setting out your legal obligations attached to the consent orders made on x. I suggest you read that document carefully and obtain further independent legal advice should you not fully understand your legal obligations.

I am instructed that the children are next scheduled to spend time with their father this coming Wednesday. You are put on notice that if the children are not made available X will have no choice but to bring a further application to the court. In the event that such an application is necessary X reserves his right to rely on this letter in support of an application for costs against you.

I strongly urge you to obtain legal advice in relation to the above matters.

Last follow up letter

Dear Madam,

RE: X AND X - FAMILY LAW MATTER

Thank you for your email dated x.

I am instructed that the children were not made available to X on the weekend commencing . I note this coincides with X advising you that he does not consent to the children relocating to Perth. X has also recently received a text message from X in relation to your desire to move to Perth.

X does not consider it appropriate that the children have been caught up in this dispute. The children should not have been involved in the decision to relocate to Perth until after there has been a consensus reached between the parties.

It is not X's intention to frustrate your plans. It is simply his position that he does not consider that the children relocating to Perth is in their best interests. He is particularly concerned that if the children move to Perth they will not be encouraged to maintain an ongoing close relationship with him. As I trust you appreciate, in circumstances when children live geographically apart from one of their parents, it places a greater onus on the residential parent to encourage and facilitate the ongoing relationship with the other parent. Given that there have been regular and ongoing problems with X spending time with children whilst they are living in Canberra, he holds grave doubts that this relationship can survive if they move to Perth. The fact that this relationship appears to have broken down last weekend gives further support to his fears.

As a means of resolving this impasse X proposes the following:

1. Firstly, that the children immediately resume spending weekend contact with him;
2. Secondly, that if it is your committed intention to relocate to Perth, that you spend a trial period of time in Perth without the children, to make inquiries about accommodation, employment and the children's education. During that time the children will remain with X and he will give a written undertaking to you that they will be returned to you immediately upon your return;
3. Thirdly, that when you return the two parties attend mediation and you can exchange information and provide details of what you propose should there be an agreement that the children relocate to Perth. In particular, X would like to discuss how you propose to maintain the ongoing relationship between the children and X should they live geographically apart.

X wishes to make it clear that the above proposal should not in any way be interpreted by you as being his consent to the children relocating to Perth. The trial period for you in Perth should not be interpreted as you making firm plans for the children to relocate, so it would be premature for you to obtain accommodation, enrol the children in school or find employment if you are doing so on the assumption that X will change his mind. These are all matters that the two of you can discuss at mediation upon your return.

Not surprisingly, X would like to see evidence that the children will be made available to spend regular and significant time with him, in accordance with the current Court orders. Irrespective of whether or not they relocate to Perth the children's regular attendance at contact is essential.

I look forward to receiving your response within 7 days.

AFFIDAVIT for contravention application

Name of deponent:

Date sworn:/...../.....

I, x of x in the Australian Capital Territory, , say on oath:

1. I am the Applicant father herein.
2. I make this Affidavit in support of my Contravention Application filed herewith.
3. I was born on x. I am a x .
4. The Respondent mother is x
5. X was born on x and is currently x years of age.

X and I began living together in approximately x. We have never been married. We separated permanently on x, although we were living separated under the one roof. We physically separated on x when X moved out of the family home taking the children with her.

6. There are two children of the relationship, X born and X born (“the children”).
7. Consent Orders were made by this Honourable court on x in relation to children’s issues. A copy of the Consent Orders dated x is annexed hereto and marked with the letter “A”.
8. Although there have been times when X has not made the children available to me in accordance with the Consent Orders, in recent times the children have spent time with me as per the Consent Orders.
9. On x I received a letter from X informing me that she wished to relocate with the children to Perth, Western Australia. I do not consent to her relocating and I instructed my Solicitor to write to X confirming my position. Annexed hereto and marked with the letter “B”
10. After receiving the letter X immediately advised me that the children do not want to see me for contact.

11. On x, pursuant to Order 3.1 of the Consent Orders made on x, the children were not made available to me by X for weekend contact.
12. On x, pursuant to Order 3.2 of the Consent Orders made on x, the children were not made available to me by X for overnight contact.
13. On x, pursuant to Order 3.1 of the Consent Orders made on x, the children were not made available to me by X for weekend contact.

Sworn by the deponent

at (place)

on (date) / /

Before me:

.....
Signature of deponent

.....
Signature of witness

Full name of witness:

Qualification of witness: