

48783/94

Court File No. ~~187~~

ONTARIO COURT GENERAL DIVISION

BETWEEN:

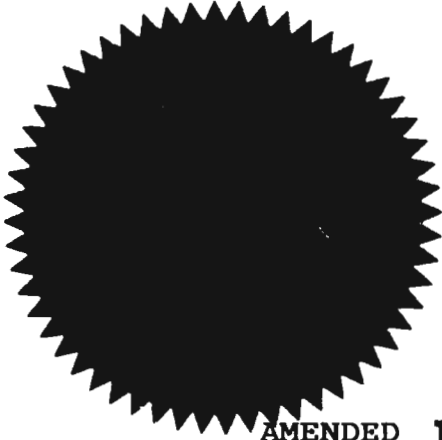
CATHERINE L. E. ROSS

Petitioner
(Wife)

-and-

WILLIAM THOMAS ROSS

Respondent
(Husband)



AMENDED PETITION FOR DIVORCE

TO THE RESPONDENT

A LEGAL PROCEEDING FOR DIVORCE HAS BEEN COMMENCED AGAINST YOU by the petitioner. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Answer Form 69D prescribed by the Rules of Civil Procedure, serve it on the Petitioner's lawyer or, where the Petitioner does not have a lawyer, serve it on the Petitioner, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Answer is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing an Answer, you may serve and file a notice of intent to defend in Form 69J prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your Answer.

If this Petition for Divorce contains a claim for support or division of property, you must file and serve a financial statement in Form 69K prescribed by the Rules of Civil Procedure within the time set out above for serving and filing your Answer, whether or not you wish to defend this proceeding. If you serve and file an Answer, your financial statement must accompany your Answer.

IF YOU FAIL TO SERVE AND FILE AN ANSWER, A DIVORCE MAY BE GRANTED IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. JUDGMENT MAY BE GRANTED AGAINST YOU ON ANY OTHER CLAIM IN THIS PETITION AND YOU MAY LOSE YOUR RIGHT TO SUPPORT OR DIVISION OF PROPERTY. If you wish to defend this proceeding but are unable to pay legal fees, legal aid may be available to you by contacting a local Legal Aid office.

NEITHER SPOUSE IS FREE TO REMARRY until a divorce has been granted and has taken effect. Once a divorce has taken effect, you may obtain a certificate of divorce from this court office.

Date: May 17, 1964

Issued by: Chamberlain

Address of
court office: 161 Elgin Street
Ottawa, Ontario

TO: WILLIAM THOMAS ROSS
1077 Thomas A. Dolan Parkway
Dunrobin, Ontario
K0A 1T0

CLAIM

1. The Petitioner claims:

(a) a divorce;

(b) under the *Divorce Act*,

(i) interim and permanent custody of the children of the marriage, namely Khierstyn Laurel Emily Ross, born November 16, 1986, and Hilary Lynne Victoria Ross, born January 27, 1989, or in the alternative, interim and permanent joint custody of the said children, together with a further Order providing that the primary residence of the children shall be in the home of the Petitioner;

(ii) interim and permanent support for the children of the marriage in the sum of \$2000.00 per month (\$1000.00 per month, per child);

(iii) interim and permanent support for the Petitioner in the sum of \$800.00 per month;

(c) under the *Family Law Act*,

(i) in the event that this Honourable Court does not see fit to grant a divorce judgment, interim and permanent support for the children of the marriage, namely Khierstyn Laurel Emily Ross, born November 16, 1986, and Hilary Lynne Victoria Ross, born January 27, 1989, in the sum of \$2000.00 per month (\$1000.00 per month per child);

(ii) in the event that this Honourable Court does not see fit to grant a divorce judgment, interim and permanent support for the Petitioner in the sum of \$800.00 per month;

(iii) an order that all support payments be retroactive to the date of separation of the parties;

(iv) an order that all support payments be increased annually on the anniversary date of the order by the percentage change in the Consumer Price Index for Canada for prices of all items since the same month of the previous

year as published by Statistics Canada;

- (v) an order requiring the husband to designate the wife and the children of the marriage as irrevocable beneficiaries of his life insurance policy or policies;
 - (vi) an interim and permanent Order granting the Petitioner exclusive use and possession of the matrimonial home, known municipally as 1077 Thomas A. Dolan Parkway, Dunrobin, Ontario, and the contents thereof;
 - (vii) an equalization of all net family property;
 - (viii) an interim and permanent Order restraining the Respondent for disposing of any property;
 - (ix) an Order for partition and sale of the matrimonial home, known municipally as 1077 Thomas A. Dolan Parkway, Dunrobin, Ontario, pursuant to the provisions of the Partition Act;
 - (x) an Order requiring the Respondent to maintain the Petitioner and the children of the marriage under his health benefits plan available to him through his employment;
- (d) under the *Children's Law Reform Act*, R.S.O. 1980, c. 68, as amended,
- (i) interim and permanent custody of the children of the marriage, or in the alternative, interim and permanent joint custody of the said children, together with a further Order providing that the primary residence of the children shall be in the home of the Petitioner;
 - (ii) an Order requiring the conduct of an assessment in the event that the issue of custody becomes contested;
- (e) under the *Courts of Justice Act*, 1984, S.O. 1984, c. 11, pre-judgment and post-judgment interest pursuant to sections 138 and 139;
- (f) her costs of the within action on a solicitor and client basis;
- (g) such further and other relief as may be appropriate and just in the circumstances.

GROUNDS FOR DIVORCE - SEPARATION

2. The spouses have lived separate and apart since April 9, 1994. The spouses have resumed cohabitation during the following periods in an unsuccessful attempt at reconciliation: None.

 GROUNDS FOR DIVORCE - ADULTERY

2. The respondent spouse has committed adultery. Particulars are as follows:

Not being relied upon.

 GROUNDS FOR DIVORCE - CRUELTY

2. The respondent has treated the petitioner with physical or mental cruelty of such a kind as to render intolerable the continued cohabitation of the spouses. Particulars are as follows:

Not being relied upon.

RECONCILIATION

3. There is no possibility of reconciliation of the spouses.
4. The following efforts to reconcile have been made: None after April 9, 1994. Prior to April 9, 1994, the parties attended marital counselling with a view toward attempting a reconciliation of their differences.

DETAILS OF MARRIAGE

5. Date of marriage: December 14, 1985
6. Place of marriage: Ottawa, Ontario
7. Wife's surname immediately before marriage: Day-Kidd
8. Wife's surname at birth: Day
9. Husband's surname immediately before marriage: Ross
10. Husband's surname at birth: Ross
11. Marital status of husband at time of marriage: Never Married
12. Marital status of wife at time of marriage: Never Married
13. Wife's birthplace: Scarborough, Ontario
14. Wife's birth date: January 31, 1957
15. Husband's birthplace: Brantford, Ontario
16. Husband's birth date: November 13, 1952
17. (a) A certificate of the marriage
 the registration of the marriage
of the spouses has been filed with the court.

(b) It is impossible to obtain a certificate of the marriage or its registration because:
N/A

(c) A certificate of the marriage or its registration will be filed before this action is set down for trial or a motion is made for judgment.

RESIDENCE

18. The petitioner has resided in the Regional Municipality of Ottawa-Carleton since 1966.
19. The respondent has resided in the Regional Municipality of Ottawa-Carleton since in or about 1982.
20. The respondent's current address is:
 1077 Thomas A. Dolan Parkway
 RR#2, Box 931
 Dunrobin, Ontario
 K0A 1T0
21. The (X) petitioner
 (X) respondent
 have habitually resided in Ontario for at least one year immediately preceding the commencement of this proceeding.

CHILDREN

22. The following are all the living children of the marriage as defined by the Divorce Act :

Full Name	Birth Date	School & Grade or year	Person with whom child lives and length of time child has lived there
Khierstyn Laurel Emily Ross	Nov. 16, 1986	St. Isidore Grade 2	
Hilary Lynne Victoria Ross	Jan. 27, 1989	St. Isidore Junior Kindergarten	

The children ordinarily reside in the Township of West Carleton.

23. (a) The petitioner seeks an order for custody or joint

custody of the following children on the following terms:

Name of Child

Terms of the Order

Khierstyn Laurel
Emily Ross

Sole Custody, or in the alternative, joint custody, with the children's primary residence to remain in the home of the Petitioner, reasonable and

Hilary Lynne
Victoria Ross
generous

access to the Respondent

The respondent () agrees

(X) does not agree with the above terms.

(b) The petitioner is not seeking an order for custody and

() is content that a previous order for custody continue in force.

() is attempting to obtain an order for custody in another proceeding

full particulars of which are as follows:

N/A

(c) The petitioner seeks an order for access (visiting arrangements and is content that the respondent have an order for custody of the following children on the following terms:

Name of Child

Terms of the Order

N/A

The respondent () agrees

() does not agree with the above terms.

N/A

24. (a) The following are the existing visiting arrangements (access) for the spouse who does not have the children living with him or her:

At the time of this pleading, the parties have decided to separate, but continue to live separate and apart in the matrimonial home, and accordingly no specific arrangements for ongoing visitation have been established.

- (b) The existing visiting arrangements (access) are:

() satisfactory.
(X) not satisfactory.

The Petitioner is seeking an Order specifying the Respondent's visiting rights.

25. The order sought in paragraph 23 is in the best interests of the children for the following reasons:

- (a) The Petitioner is a loving, caring and capable mother, and is willing and able to continue to care for the children;
- (b) The children have a close and loving relationship with the Petitioner, and have expressed a desire to continue to reside with the Petitioner following the separation of the parties;
- (c) The Petitioner has been the children's primary care-giver since the birth of each child, and a significant disruption in their care arrangements would be disruptive, and therefore detrimental to the children;
- (d) The Petitioner is patient with the children and understands their needs and development;
- (e) The Petitioner places the needs of the children first, to ensure that they are properly cared for;
- (f) The Petitioner is committed to setting up visitation arrangements with the Respondent which will ensure that the children maintain a close and loving relationship with the Respondent.

26. The following material changes in the circumstances of the spouses are expected to affect the children, their custody and the visiting arrangements (access) in the future:

Once the parties have separated residences, it will be necessary to establish an appropriate visitation regime.

27. (a) The existing arrangements between the spouses for support for the children are as follows:

Amount Paid	Time Period (Weekly, monthly, etc.)	Paid by (husband or wife)	Paid for (name of child)
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Nil

- (b) The existing support arrangements

() are being honoured.
() are not being honoured.

N/A

- (c) The petitioner proposes that the support arrangements for the children should be as follows:

Amount to be paid	Time Period (weekly, monthly etc.)	To be paid by (husband or wife)	To be paid for (name of child)
\$1000.00	Monthly	Husband	Khierstyn Laurel Emily Ross
\$1000.00	Monthly	Husband	Hilary Lynne Victoria Ross

28. The educational needs of the children (X) are being met.
() are not being met.

OTHER COURT PROCEEDINGS

29. The following are all other court proceedings with reference to the marriage or any child of the marriage:

N/A

DOMESTIC CONTRACTS AND FINANCIAL ARRANGEMENTS

30. The spouses have entered into the following domestic contracts and other written or oral financial arrangements:

(Indicate whether the contract or arrangement is now in effect, and if support payments are not being paid in full, state the amount that has not been paid.)

Date	Nature of Contract or Arrangement	Status
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N/A

COLLUSION, CONDONATION AND CONNIVANCE

31. There has been no collusion in relation to this divorce proceeding.
32. ~~There has been no condonation of or connivance at the grounds for divorce in this proceeding.~~

MATTERS OTHER THAN DIVORCE AND CUSTODY

33. The grounds for the relief sought in paragraph 1, other than a divorce or custody, are as follows:
- (a) The Petitioner is seeking an Order for an equalization of the parties' Net Family Property. The Parties were married on December 14, 1985 and separated on April 9, 1994. During that time, the parties acquired assets and personal property, including, but not limited to, a motor vehicle, pension plans, stocks, the matrimonial home and cash.
 - (b) The Petitioner is seeking an Order restraining the Husband from disposing of any property. Since the Petitioner advised the Respondent of her intention to separate on or about April 9, 1994, the Respondent has removed numerous belongings from the matrimonial home to a location or locations unknown to the Petitioner. This includes financial records and household items such as a video tape and an electric air pump. The Petitioner states that she believes that the Husband is removing such items in an attempt to defeat any claims that the Petitioner may have.
 - (c) The Petitioner is seeking an Order for exclusive possession of the matrimonial home. The parties jointly own a duplex, and reside in one of the units. The other of the units is rented to a third party. The Petitioner states that the unit in which she and the Respondent reside is a matrimonial home, and is municipally described as 1077 Thomas A. Dolan Parkway, Dunrobin, Ontario.

- (d) The Petitioner states that the continued occupation of the matrimonial home by both parties is intolerable. She states that the Husband continually taunts her and threatens her verbally, and has made a concerted attempt to make her occupation of the home as difficult as possible. He has locked the door to one room of the house, preventing the Petitioner from gaining access to it. He repeatedly accuses the Petitioner of untrue improprieties. She states that the matrimonial home has become a battleground, to the detriment of the Petitioner and the children.
- (e) The Respondent is able to afford suitable accommodation for himself. The Petitioner, however, is unable to secure adequate housing for herself and the children in the community in which the children go to school. To obtain appropriate accommodation for herself and the children, the Petitioner would be required to move into another school division, thereby disrupting the children's education, and cutting off contact with their friends, and current caregiver. The Petitioner states that she believes it would be in the children's interest to remain in the same neighbourhood in which they presently reside.
- (e2) The Petitioner seeks an Order for the sale of the matrimonial home as she has no significant assets other than her equity in the said property, feels that this is an appropriate way in which to realize her equity in the property.
- (f) The Petitioner is seeking an Order for the payment of child support and spousal support. The Petitioner is presently employed by Mitel, and earns approximately \$28,000.00. Further particulars of the Petitioner's financial situation are set out in her Financial Statement, filed. The Respondent is employed by BNR and earns in excess of \$60,000.00. The Petitioner therefore

states that the Respondent has the capacity to provide financial support.

- (g) The Petitioner states that her career ambitions, and her ability to earn an income have always been subservient to that of the Respondent's. The Petitioner remained in the home to care for the children following their birth, and therefore removed herself from the workforce, to her detriment, based upon an agreement between herself and the Respondent that she should remain at home to care for the children. Once the youngest child almost reached school age, the Respondent discouraged the Petitioner from returning to school so that she could pursue further education to permit her to improve her employability and income-earning capacity. Further, the Petitioner's continued role as being primary responsible for the children, and the care of the home, have limited her income-earning capacity. The Petitioner therefore seeks an Order for the payment of spousal support, over and above the payment of child support.
- (h) The Petitioner states that the Husband has life insurance policies, and seeks an Order requiring the Respondent to designate her as the beneficiary thereof, irrevocably. The Petitioner states that the Husband has available to him health and dental benefit plans through his employment, under which he is able to provide benefits to both the Wife and the children. The Wife does not have available to her any such benefit plans, and wishes to ensure that she and the children continue to receive coverage.
- (i) The Petitioner pleads and relies upon the provisions of the Divorce Act, the Family Law Act and the Courts and Justice Act.

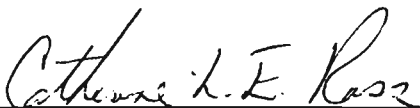
TRIAL

34. The Petitioner proposes that if there is a trial in this action, the trial will be held at Ottawa, Ontario.

DECLARATION OF PETITIONER

35. I have read and understand this petition for divorce. The statements in it are true, to the best of my knowledge, information and belief.

Date: May 16 , 1994



(CATHERINE L. E. ROSS)

STATEMENT OF SOLICITOR

36. I, Katrina A. Prystupa, solicitor for the petitioner, certify to this court that I have complied with the requirements of section 9 of the Divorce Act.

Date: May 16 , 1994



(KATRINA A. PRYSTUPA)

Katrina A. Prystupa
Barrister and Solicitor
204-120 Holland Avenue
Ottawa, Ontario
K1Y 0X6

(613) 729-4669

Solicitor for the Petitioner

Court File No. 78783/94

CATHERINE L. E. ROSS
Petitioner (Wife)

- and -
Respondent (Husband) WILLIAM THOMAS ROSS

ACKNOWLEDGMENT OF SERVICE

I, Bill Ross
am the respondent named in the Petition.
I acknowledge receipt of a copy of this
Petition. My address for service of
documents in this divorce proceeding is
RR #2, Box 933 DUNKURBY

Date 5/18/94

Bill Ross
Signature of Respondent

[Signature]
Signature of Witness

I, CHRISTOPHER L. LOUSH
served this Petition personally on the
Respondent

The Respondent completed and signed
the acknowledgment of service above
in my presence and I signed it as
witness.

or

The Respondent declined to complete and
sign the acknowledgment of service.

[Signature]
Signature

ONTARIO COURT (GENERAL DIVISION)

Proceeding commenced at Ottawa

23RD

PETITION FOR DIVORCE
AMENDED THIS DAY / JOUR
MODIFIEE CE

OF / DE February 96

PURSUANT TO RULE 2602
CONFORMEMENT A LA REGLE

OR ORDER
OU A L'ORDONNANCE

DATED THIS / FAIT LE
DAY / JOUR OF / DE 78

LOCAL REGISTRAR, ONTARIO COURT (GEN. DIV.)
GREFFIER LOCAL, COUR DE L'ONTARIO (DIV. GEN.)

KATRINA A. PRYSTUPA
Barrister and Solicitor
#204-120 Holland Avenue
Ottawa, Ontario
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(613) 729-4669

SOLICITOR FOR THE PETITIONER

Baflarke