

ONTARIO COURT (GENERAL DIVISION)

B E T W E E N:

CATHERINE L.E. ROSS

Petitioner
(Wife)

- and -

WILLIAM THOMAS ROSS

Respondent
(Husband)

AFFIDAVIT OF WILLIAM THOMAS ROSS

I, WILLIAM THOMAS ROSS, of the Township of West Carleton in the Regional Municipality of Ottawa-Carleton MAKE OATH AND SAY as follows:

1. I am the Respondent in the within action, and as such have knowledge of the matters hereinafter deposed.

CUSTODY/ACCESS

2. The Petitioner and I were married in Ottawa on December 14, 1985. We have two children, namely Khierstyn Laurel Emily Ross, born November 16, 1986, and Hilary Lynne Victoria Ross, born January 27, 1989. At present we are all residing in the matrimonial home, however, the situation has become intolerable. I am seeking an Order granting custody of the children to me, along with exclusive possession of the matrimonial home.

3. Contrary to what the Petitioner says in her affidavit, sworn May 16, 1994, she has not been the children's primary caregiver, and in fact I have shouldered much more of the

responsibility for looking after the children than has she. My wife appears to have little or no interest in dealing with the children in any meaningful way, and tends to regard them as troublesome intrusions into her life. She appears to be unable to demonstrate affection towards the children, and has virtually no interaction with them whatsoever beyond preparing meals. The Petitioner will not allow the children to eat their evening meal with us, and insists that they eat alone in front of the television early in the evening, and after they have been put to bed she and I will then have dinner.

4. Over the years I have assumed the vast majority of childcare duties, including bathing the children, reading them a bedtime story, and putting them to bed. On the weekends I look after the children full-time while the Petitioner sleeps or watches television.

5. I regularly engage in activities with the children, have built them a treehouse in the backyard, take them for bike rides and to various lessons. In addition, I provide them with virtually all the attention they receive at home. As an example of the view my wife has of caring for the children, in 1993 when I was attempting to develop some software with a friend and he was coming to the house in the evenings and weekends, the Petitioner advised that she would help by giving the children their evening bath. She demanded that I pay her \$1,000 for this "service", and in order to once again appease her demands for money and attempt to have a few hours to work in peace I paid her that amount. Attached hereto and marked as Exhibit "A" is a copy of the cancelled cheques in the total amount of \$1,000. At issue was not her "help". If I did not agree to pay her, she would have hindered my efforts by making it impossible for me to work, as she had done in the past.

6. The Respondent's lack of attention to the children has manifested itself with regard to our older daughter, Khierstyn, in problems which have been brought to our attention by school personnel. I recently attended a meeting with the school psychologist and Khierstyn's teachers, during which I was told that among other things, Khierstyn did not know how to interact with other people, and she seemed "starved for affection".

7. It is my sincere belief that the Petitioner lacks insight into her behaviour, and how inappropriate it is *vis-a-vis* the children. The Petitioner is a very self-centred, selfish person, who has been spoiled by many people throughout her life, and continues to demand that money and attention be lavished upon her. She is completely incapable of putting the children's needs ahead of her own desires, and continues to behave in ways that are destructive to both her and the children. I am extremely concerned about the level of the Petitioner's drinking. Her consumption of alcohol increased over the years to the point where it is my belief that she has a serious alcohol abuse problem. Even during the time that she was at home and was babysitting other people's children, I am aware that she would drink in the afternoon while the children were present. I was advised by a friend, Dianna Drynan, and verily believe it to be true, that on more than one occasion when the Petitioner was at home babysitting, she was observed drinking alcohol in the afternoon. I have also obtained a statement from my contractor, Rick Beange, attesting to her afternoon drinking.

8. During the period March 25 to April 16, 1994, I measured my wife's daily rum consumption. I did this by measuring the daily decrease in the level of alcohol in the bottle, and calculating the representative number of ounces. Over that 23-day period, my wife drank an average of 8.94 ounces of rum per day. This was after she had told me that she had

dramatically cut down on her alcohol consumption. I also retained two receipts which I found during that time, showing that she had purchased 1.75 litres of rum on March 25, and another .75 litres on March 29. Attached hereto and marked as Exhibit "B" are copies of those receipts. I have now become aware that my wife has obtained a prescription for a Valium-type drug, which she apparently is taking instead of drinking. Copies of the prescription are also shown in Exhibit "B".

9. Some of the statements which the Petitioner makes in her affidavit are nothing more than self-serving attempts to cast herself in the best light possible insofar as the children are concerned. For example, in paragraph 7 of her affidavit she states that I work extensive overtime. Attached hereto and marked as Exhibit "C" is a letter from the Payroll Department of my employer stating that in 1993 I worked a total of 42 hours' overtime. I have also obtained a letter, attached as Exhibit "D", from my immediate supervisor, Ed Carew, stating that if I am granted custody of the children my employer is prepared to be flexible with regard to time demands, and that in fact if necessary, I can work at home on an occasional basis. As well, it sets out that I have a right to refuse travel requests as it is not part of my primary job description. If I am granted custody of the children, I certainly would make every effort to be fully available to them, and am more than capable of providing their day-to-day care, as I have been doing so to a great extent all along.

10. If my wife is granted custody of the children I do not believe she is capable of encouraging any kind of relationship between the children and me. She has been extremely verbally abusive to me in the past, often in front of the children. She is completely unable to co-operate on any issue with regard to their welfare, and in fact with Khierstyn's recent

problems in school, would not meet with the psychologist and teacher in my presence, but forced school personnel to arrange two separate appointments. I have also recently been told by my daughter, Khierstyn, that I am the cause of all the problems in our household, and that things will be better when I leave. This type of statement is obviously coming from my wife, and is an illustration of the attempts she is making to alienate the children from me. In an effort to obtain some independent observations to put before the court, I asked a number of relatives, friends, and acquaintances to provide statements about any observations they had made of my wife's behaviour. Attached hereto and marked as Exhibits "E" to "Q" inclusive, are statements from the following people:

- (a) Allan Thomas Kidd, who was married to the mother of the Petitioner, and acted as her father until she was seven years old. It also contains statements from his wife, Marion, and she has signed the statement as well. As can be seen by the comments, Mr. Kidd still feels very positive about my wife, and making the statement was a difficult thing for him to do. In the second paragraph he states that he is only willing to risk the rift his views may cause in order to serve the best interests of my children. He then goes on to state that he feels very strongly that the children will be much better off with me. The statement goes on to cite various reasons for the concern about my wife's parenting skills, for example on page 2, Mr. Kidd states that "Catherine does not meaningfully communicate with the children. They seem like an inconvenience to her, and interfere with her life. She has no patience for them". Further along he says "We have never seen her show affection to the children; she is very cold with them, and shows no tender,

loving care". On the same page Marion states "Catherine has a history of taking stress leave from work as a secretary. We do not think that she can handle the challenges of single parenthood, full-time work, and managing family finances. Given that responsibility, she may end up on social assistance, with major alcohol problems. If Catherine is given custody, she may manage to drive Bill out of their lives (just like her mother), and undo the positive influence Bill could have on the children's lives". With regard to my concerns about my wife's drinking, Mr. Kidd states "We have strongly suspected Catherine of having an alcohol problem for years, we have never seen her without a drink in her hand. When she visits, she always helps herself to the alcohol without asking (it's the first thing she does). Often, she goes away from everyone and drinks alone. At these times she appears anti-social".

- (b) The next statement is from Anita Cox, my wife's sister. She also states that it has been very difficult for her to write the statement, and that her only motive for making it is to serve the children's best interest. On page 2 of her statement she states "At the times I have seen Catherine with the children, she has treated them as annoyances. I saw no emotional exchange, and have never seen them on her lap. In September 1992 I was at the Ross residence for dinner. The children ate by themselves in front of the TV. I bathed the girls, while Bill went to get a movie. The girls were locked in their room to play for about a half hour, after which Bill read them a story and put them to bed. There was no interaction between Catherine and the children from 5:30 p.m until bedtime." She goes on

to state "It is clear to me that if the children do live with Catherine as the sole custodian, the children will be awfully mixed up because of Catherine's unrealistic value system and inconsistency. I believe the stability Bill offers would ensure them to grow up as more productive members of society".

- (c) The next statement is from Laura Harris, my wife's other sister. She also states that her only motive for making the statement is for the children's best interest. This statement outlines Laura's concern about my wife's ability to parent and be a positive influence for the children.
- (d) The next statement is by John Ross, my father. Contained in his statement is a description of events which occurred during a long weekend he spent with us in early 1993. He describes the Petitioner's drinking and her state of intoxication in the evenings. He also describes the Petitioner's verbal abuse of me, and her lack of involvement with the children. It is clear that my father was very upset by the events that took place that weekend, and since that time he has not visited with us for any period, as it disturbs him to see the Petitioner's treatment of me and the children. In his statement my father says that he does not believe my wife is able to properly look after the children, and that her influence on them is a negative one.
- (e) The next statement is from Bernice Douglas Ross, my stepmother. In her statement, Bernice describes her observation of my family situation, and my wife's behaviour towards me and the children. My stepmother was, as stated in her statement, a foster parent for over 20 years, and cared for 42 children, both

privately and for the Children's Aid Society. She obviously has a great deal of experience with children, and I feel is certainly qualified to comment on parenting skills. In her statement she outlines some of the difficulties she saw with our children, and the reason she felt they were exhibiting these problems. She concludes that she believes that I am the better choice than the Petitioner to provide a stable and happy home environment for the children. She also states that she has only the best interests of her granddaughters in mind.

(f) The next statement is by my brother, John Russell Ross. He describes various episodes involving myself and the Petitioner, which took place over a number of years. We visited with John on average twice a year for weekends, and extended times at the cottage and at Christmas. As John states, my wife was usually very argumentative and abusive toward me, calling me many names and accusing me of being lazy and useless. He also describes his observation of our interaction with the children, and confirms the fact that I was much more involved with them, and that Catherine seemed to regard them as more of an intrusion and a problem than anything else. He also describes Catherine's drinking, which he states that during his visits always started "in the early afternoon and continued until she stumbled up to bed before 10:00 p.m.". There were also times when she passed out in her chair in the middle of dinner.

(g) The next statement was from Sherry Lynne Skater, the common-law spouse of my brother John. Sherry Lynne and Catherine were quite friendly, and as Sherry Lynne states, they confided in one another. Sherry Lynne states that she believes

my wife has a major alcohol problem. She describes her contact with my wife, and the fact that she always had a drink in her hand, and started drinking right after lunch. Sherry Lynne also relates a conversation she had with my wife at Thanksgiving 1993, when my wife confided in Sherry Lynne that she had bottles stashed all around our house that I didn't know about. My wife allegedly confessed to Sherry Lynne that she was drinking two to three 1.75 litre bottles of rum a week. Sherry Lynne states that at Christmas 1992 when they were staying with us, my wife bought a 1.75 litre bottle of rum and admitted that it was her third of the week. She also states that she observed my wife on the Thanksgiving weekend in 1993 get up on two mornings and fill her cup half full of rum, top it with coffee, and go back to her room; and that she continued to drink all day on both days of the weekend. Sherry Lynne also relates some statements which she says my wife made to her which are very hurtful to me. Apparently, my wife confided in Sherry Lynne that she was unable to cope with motherhood, which is why she drank so much. She also said that the children get on her nerves and she blames me for having children, and that I have to make up for it. Apparently, on the Thanksgiving weekend my wife also discussed a friend who had separated from her husband and was receiving a substantial amount in child support. My wife allegedly said that she thought that was a good deal, and that it is "the man's job in life to pay".

- (h) The next statement is from my nephew, Gary Browne. He stayed with us for approximately two weeks in the summer of 1991 when he was 15. He

remembers Catherine's behaviour toward the children, and her screaming at them when they got on her nerves. He also observed that she never played or did any activities with the children, and that often in the afternoon she would go outside by herself with what he believed to be coke and ice. He also states that he does not know if there was alcohol in my wife's drink on those occasions.

(i) The next statement is from Richard Beange and his wife, Beth. They are acquainted with us socially, and as well Rick did extensive renovations at our house during the summer of 1991. That was during the time when my wife stayed at home and babysat other children in our house. Rick describes my wife's lack of interaction with the children, and the fact that they always played by themselves, or just ran around the house. He also states that my wife would start drinking rum and coke every day in the early afternoon. Rick states that my wife would often offer him a drink, which he would sometimes accept, but that he is not sure how many drinks she had between her first and when he left our house. Both Beth and Rick describe my wife's drinking when they were over for dinner, and her lack of her interaction with the children at those times.

(j) The next statement is from Brian Alexson, who is a friend of mine and knows my wife quite well, having met her at the same time I did. Brian also describes my wife's drinking, and the fact that she always drank doubles, and it was usually obvious that she had had too much to drink. He also describes his observations of my wife and the children, and the fact that she often yelled at them to get out of her space; they were made to eat alone, and that she had little involvement

with them beyond serving them their meal. He also describes an incident in January 1994 when he and his wife went out with us to celebrate my wife's birthday. He describes her excessive drinking during that evening, and her verbal abuse of me. He also states that the next day she called to apologize for her behaviour.

- (k) The next statement is from Jan Ladiges, who along with his wife were friends of ours. He describes an incident on Hallowe'en 1992 when my wife and I went with the children to visit his family in Almonte for trick or treating. At that time, my wife refused to participate in the trick or treating, and stayed at their home drinking while Jan and I took out the children. He states that she was not interested in participating, and did not go out with the children or hand out treats at the front door. She did not interact with our children at all. The only thing she did during that evening was drink, and then ask to go home early, and for me to get the children ready.
- (l) The next statement is from Robert Southby, a neighbour of ours. In the summer of 1991 he was helping with some renovation work, and spent the afternoon and evening in our home. He states that he recalls my wife being extremely verbally abusive to me, and calling me "an asshole" in front of the children. He also states that he observed me doing all the caring for the children.
- (m) The next statement is from Garry Hammond, a friend of ours, and he describes times when he and his common-law spouse visited with us and sometimes stayed overnight. He also relates the fact that my wife usually began drinking early in

the evening, forced the children to eat alone, and then prepared a meal for the adults, immediately following which she would go to bed. He also describes the fact that my wife had little interaction with the children, and that I assumed the bulk of the childcare responsibilities at those times.

11. In all the foregoing statements when the person making the statement refers to a document called "Post-mortem of my Marriage" they are referring to the material which is attached as Exhibit "R" and was prepared by me. The people to whom I showed that document, i.e. my wife's stepfather and his wife, and the Petitioner's two sisters, all initialled the document and refer to their agreement with it in their statements. The financial information in that document I have since found is inaccurate, but in all other respects it is true.

12. As far as the statement from our family doctor, Ronald Rushforth, is concerned, I have also obtained a statement from Dr. Rushforth which is attached and marked as Exhibit "S" to my affidavit, and he states exactly the same thing about me as he did about my wife, i.e. that it had been his observation that the children and I have a good relationship. He has also given me a letter stating that it is probably unnecessary that the children continue to have chiropractic treatment. A copy of Dr. Rushforth's letter is attached hereto as Exhibit "T". Catherine insists on taking the children to a chiropractor, which I do not believe is necessary or desirable. She had told me for years the treatment was at our doctor's recommendation, which is not true. What they are experiencing is simply the usual aches and growing pains of childhood, and there is no reason for any kind of medical intervention.

13. I sincerely believe that my wife has serious problems with alcohol (as did her biological father), with finances, and with accepting responsibility for her own actions. She is

unable to relate in a positive way to the children, and I am very concerned that should she gain custody she will continue to denigrate me to them, and attempt to alienate them from me. I think that my wife needs help, and such help will remain available to her through my Employee Assistance Programme. So far she has not admitted that she has any problem. The overwhelming evidence, not just from me but from her family, my family, friends and acquaintances, is that I would be the better custodial parent for our children. I will do everything in my power to nurture their relationship with their mother, along with providing them with a stable, loving environment in which they can grow up to be happy, productive people.

EXCLUSIVE POSSESSION

14. The Petitioner and I are joint owners of a duplex located at 1077 Thomas A. Dolan Parkway, Dunrobin, Ontario. We reside in one half, and rent the other side to a third party. I believe that it is important for the children to remain in their home with me, and continue to attend the same school, go to the same caregivers, and keep their friends in the neighbourhood. The situation, by my wife's own admission, has become intolerable and the tension is certainly having a negative affect on the children.

CHILD SUPPORT

15. I am employed at Bell Northern Research, where I have worked since 1986. My current salary is \$66,500 per annum. In addition to my salary, rental income from the duplex in which we reside amounts to approximately \$8,000 per year. My actual budget for 1993 is as set out in my Financial Statement. I had worked out a budget for the household, and based on my wife's income of approximately \$28,000 per year, she was to contribute to the household

finances by paying those items marked by asterisks in my Financial Statement. Unfortunately, my wife's total disdain for money management caused her often to be unable to meet her responsibilities, and I was forced to supplement to the extent indicated. For example, my wife was responsible for purchasing groceries for the family, however, she constantly ran out of money for groceries, and last year I was forced to contribute \$5,384.95 in grocery money. I also have cancelled cheques totalling \$1,900 from me to the Petitioner, showing the directly provable portion of my help. The balance was in cash, and for the most part shows up as deposits in her bank account. Copies of my cheques are attached hereto and marked as Exhibit "U".

16. I have prepared a Childcare Budget, which is attached as Schedule "A" to my Financial Statement, and it is based on the budget which I have proposed in my Financial Statement should I be awarded custody of the children. It is obviously equitable that my wife share in proportion to her income in the costs of raising the children, and based on the budget calculation, that share would be approximately \$575 per month in after-tax dollars.

NON-DEPLETION OF ASSETS

17. One of the ongoing difficulties in the relationship between my wife and I has been her refusal and inability to deal in any realistic way with financial responsibilities. As previously stated, certain expenses for the household had been allocated to each of us, however, my wife was constantly short of money to meet her commitments, and I was forced to subsidize her contribution. According to the Petitioner, I have never earned enough to meet her needs, and she has constantly belittled me about my so-called "inability to provide". No matter what I have done in the past in an effort to get ahead, I have been forced to deal with the

consequences of my wife's uncontrolled spending to the point where I have had to sell off Northern Telecom shares which I had purchased through my employment simply to supplement our lifestyle. Attached hereto and marked as Exhibit "V" is a receipt dated October 2, 1993 showing the sale of 275 Northern Telecom shares for a total purchase price of \$10,003.08. In addition, last year I had an income tax refund of \$3,624.32, which was entirely used for support of the family.

18. My wife has always refused to reveal to me the extent of her indebtedness, and it was only recently that I found out to my horror that she was approximately \$17,500 in debt, and as well has sold off various items from our household in order to pay on debts. In addition, since the separation, she has borrowed money from a friend, and purchased a motor vehicle.

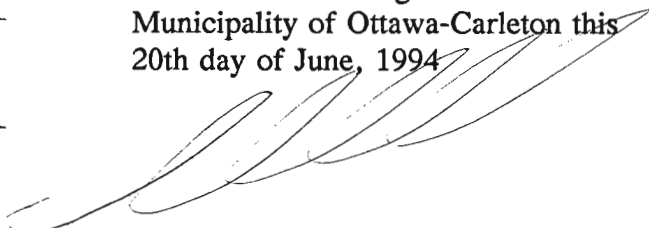
19. The fact that my wife is unable to control her spending is clearly demonstrated by the rash decisions she makes which are strictly for her own gratification. For example, last November she took her engagement ring and had it reset, purchasing other stones to supplement those in the ring. The total cost of that was \$1,745.28. This was not discussed with me at all. Attached hereto and marked as Exhibit "W" is a statement from Crompton Jewellers in that amount.

20. On page 14 of my wife's Financial Statement she states that she has sold the ring to her mother for \$1,950 in payment of debt, which is less than the value of the original ring. As well, she has listed various family assets, including an antique rocker, a nursing chair, and china for another \$10,250 which she has disposed of in repayment of debt to her mother, again without any discussion. This debt was unknown to me.

21. In an attempt to ascertain where my wife's income has gone, I retained an accountant, Atul Dilawri, to prepare a statement of actual/estimated cashflow deficiency for my wife, which is in effect an exercise in forensic accounting, based on complete records for all my wife's accounts. Attached hereto and marked as Exhibit "X" is the statement as prepared by the accountant. On page 2, it lists the total of my wife's income for last year, including salary, tax refund, monies provided by me, and her income from tarot card reading. It then shows all her financial outflows, including all items for which there are statements and receipts, and estimates of her other expenses based on her Financial Statement. The statement then goes on to show my wife's debt picture, beginning with her total debt as at December 31, 1992, and demonstrating the increase in that debt to the balance shown at December 31, 1993. During the year 1993, despite a decrease in the Petitioner's contribution to household expenses, she had a net increase in her debt load of \$5,312. Given the magnitude of my wife's alcohol consumption during that period, I believe that most of that debt can be accounted for by her liquor purchases. In any event, the fact is that she is totally financially irresponsible, and given her own statements as contained in her Financial Statement with regard to the disposition of family assets, I believe it is necessary that there be an Order restraining her from disposing of any assets in her possession or under her control until such time as a final property settlement has been reached.

22. I make this affidavit in support of the relief claimed in the Notice of Cross-motion, and for no other or improper purpose.

SWORN before me, at the City)
of Ottawa in the Regional)
Municipality of Ottawa-Carleton this)
20th day of June, 1994)



A Commissioner, etc.



WILLIAM THOMAS ROSS