



cayton legal centre inc.

unlocking the law

Sample Documents – application for adult child maintenance made by the adult child.

1. Initiating Application
2. Affidavit
3. Cover Sheet

You will also need to submit a Financial Statement to the court. The Financial Statement is not available with this kit but can be obtained from your local Magistrates Court or from the Federal Magistrates Court. Alternatively, you can download the forms from the Federal Magistrates Court's web site or ring the court to have a set sent to you.

INITIATING APPLICATION (Family Law)

Filed in:

- Family Court of Australia
- Family Court of Western Australia
- Federal Magistrates Court of Australia
- Other (specify): _____

IMPORTANT: Information for respondents to the application is on page 10.

COURT USE ONLY	
Client ID	
File Number	
Filed at	
Filed on	
Court location	
Court date	
Time	
Type of hearing	

MARY MAY FONTANA
Applicant's Name
[Adult Child]

JOSEPH JO FONTANA
Respondent's Name
[Father]

Part A: The orders sought

Type of orders sought (mark all boxes that apply)

- Children (parenting)
- Child support
- Declaration
- Financial (property and/or maintenance)
- Other (specify): ADULT CHILD MAINTENANCE

Filed on behalf of: The Applicant
Prepared by The Applicant Lawyer's Code _____
Name of law firm _____
Address for service in Australia 44 Ambrosia Street
Brisbane State Qld Postcode 4000
Email* _____ DX _____
Tel 07 12345678 Fax* _____ Attention _____

* Please do not include email or fax details unless you are willing to receive documents from the Court and other parties in that way.

Final orders sought (state precisely and briefly the final orders sought by the applicant – give a number to each order sought)

1. That pursuant to section 66L of the Family Law Act 1975, the Respondent Father [Joseph Jo Fontana] pay to the Applicant Adult Child [Mary May Fontana] for the maintenance of the Applicant Adult Child [Mary May Fontana] born on [insert date of birth], the sum of \$X [insert amount] per week from the date of the filing of this application.
2. That the first of such payments is to be made within seven (7) days from the date of this order and weekly thereafter until the said adult child completes his/her tertiary education.
3. That the arrears of maintenance accrued from the date of the filing of this application to the date of this order be paid in one lump sum payment within one month from the date of this order.
4. That the amount of maintenance provided in paragraph 1 hereof be varied on and from the instalment, next due twelve months (12) after the date of this order, and thereafter each year in accordance with the variation in the Consumer Price Index published by the Commonwealth Statistician for all groups for Australia by comparison with the Consumer Price Index as it stands on the thirty-first (31st) day of December immediately preceding the date of variation as compared with the same index at the same date twelve (12) months prior thereto.
5. Such other order as the court deems meet.

Interim or procedural orders sought (These orders can only be sought in this form if you are seeking final orders as well; otherwise, leave blank. State precisely and briefly the orders sought – give a number to each order sought.)

1. As per final orders.

Part B: Details of the Parties

Details of Applicant/s

	Applicant 1	Applicant 2
Family name as used now		
Given names		
Sex	<input type="checkbox"/> male <input type="checkbox"/> female	<input type="checkbox"/> male <input type="checkbox"/> female
Residential address (incl postcode)		
Telephone number (home and mobile)		
Date of birth (day / month / year)	/ /	/ /
Usual occupation		
Mark box as applicable for each applicant	<input type="checkbox"/> present in Australia <input type="checkbox"/> ordinarily resident in Australia <input type="checkbox"/> an Australian citizen <input type="checkbox"/> domiciled in Australia	<input type="checkbox"/> present in Australia <input type="checkbox"/> ordinarily resident in Australia <input type="checkbox"/> an Australian citizen <input type="checkbox"/> domiciled in Australia
Description	<input type="checkbox"/> husband/father <input type="checkbox"/> wife/mother <input type="checkbox"/> party to a de facto relationship that has broken down <input type="checkbox"/> Other (specify):	<input type="checkbox"/> husband/father <input type="checkbox"/> wife/mother <input type="checkbox"/> party to a de facto relationship that has broken down <input type="checkbox"/> Other (specify):
Is an interpreter required?	<input type="checkbox"/> No <input type="checkbox"/> Yes. If Yes, state language & dialect:	<input type="checkbox"/> No <input type="checkbox"/> Yes. If Yes, state language & dialect:
*Is the applicant of Aboriginal and/or of Torres Strait Islander origin?	<input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal and Torres Strait Islander	<input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal and Torres Strait Islander

*You are not required to answer this question, but it will greatly assist the Court if you do. The information sought is being collected to assist the Court in planning and delivering client services. It is possible that you may be contacted to participate in a review of a particular aspect of the Court's services, although your right not to participate will be respected. The information you provide may be shared with researchers approved by the Court, and may be included in publications in statistical form in a way that does not identify you.

Details of Respondent/s

	Respondent 1	Respondent 2
Family name as used now		
Given names		
Sex	<input type="checkbox"/> male <input type="checkbox"/> female	<input type="checkbox"/> male <input type="checkbox"/> female
Residential address (incl postcode)		
Date of birth (day / month / year)	/ /	/ /
Usual occupation		
Mark box as applicable for each respondent	<input type="checkbox"/> present in Australia <input type="checkbox"/> ordinarily resident in Australia <input type="checkbox"/> an Australian citizen <input type="checkbox"/> domiciled in Australia	<input type="checkbox"/> present in Australia <input type="checkbox"/> ordinarily resident in Australia <input type="checkbox"/> an Australian citizen <input type="checkbox"/> domiciled in Australia
Description	<input type="checkbox"/> husband/father <input type="checkbox"/> wife/mother <input type="checkbox"/> party to a de facto relationship that has broken down <input type="checkbox"/> Other (specify):	<input type="checkbox"/> husband/father <input type="checkbox"/> wife/mother <input type="checkbox"/> party to a de facto relationship that has broken down <input type="checkbox"/> Other (specify):
Is an interpreter required?	<input type="checkbox"/> No <input type="checkbox"/> Yes. If Yes, state language & dialect:	<input type="checkbox"/> No <input type="checkbox"/> Yes. If Yes, state language & dialect:
*Is the respondent of Aboriginal and/or of Torres Strait Islander origin?	<input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal and Torres Strait Islander	<input type="checkbox"/> No <input type="checkbox"/> Yes Aboriginal <input type="checkbox"/> Yes Torres Strait Islander <input type="checkbox"/> Yes Aboriginal and Torres Strait Islander

* You are not required to answer this question, but it will greatly assist the Court if you do. The information sought is being collected to assist the Court in planning and delivering client services. It is possible that you may be contacted to participate in a review of a particular aspect of the Court's services, although your right not to participate will be respected. The information you provide may be shared with researchers approved by the Court, and may be included in publications in statistical form in a way that does not identify you.

Part C: Relationship of Parties

Date parties commenced to live together (day / month / year)	/ /	or <input type="checkbox"/> Not applicable
Date of marriage (day / month / year)	/ /	or <input type="checkbox"/> Not applicable
Place of marriage (town, city, country)		or <input type="checkbox"/> Not applicable
Date of final separation (day / month / year)	/ /	or <input type="checkbox"/> Not applicable
Date of divorce (day / month / year)	/ /	or <input type="checkbox"/> Not applicable

Part D: Children

(Complete details for each child. If more space is required for extra children, attach an extra page)

	Child 1	Child 2
Family name		
Given names		
Date of birth (day / month / year)	/ /	/ /
Sex	<input type="checkbox"/> male <input type="checkbox"/> female	<input type="checkbox"/> male <input type="checkbox"/> female
Mother's family name		
Mother's given names		
Father's family name		
Father's given names		
With whom does the child live?		

	Child 3	Child 4
Family name		
Given names		
Date of birth (day / month / year)	/ /	/ /
Sex	<input type="checkbox"/> male <input type="checkbox"/> female	<input type="checkbox"/> male <input type="checkbox"/> female
Mother's family name		
Mother's given names		
Father's family name		
Father's given names		
With whom does the child live?		

Part E: For applications for parenting orders

Has the applicant obtained a certificate from a registered family dispute resolution practitioner? (Refer to section 60I of the *Family Law Act 1975*).

No Yes

If yes, attach a copy of the certificate to this application and go to Part F of this form.

If no, to obtain an exemption from filing a certificate you must either complete and file the form *Affidavit - Non-Filing of Family Dispute Resolution Certificate* or include the factual basis for the exemption in the affidavit you file in support of any order you are seeking.

Has the applicant received advice from a family counsellor or a family dispute resolution practitioner about the services and options (including alternatives to court action) available in circumstances of abuse or violence? (Refer to section 60J of the *Family Law Act 1975*).

No Yes

Part F: Other court cases and orders

Ongoing cases

Are there any ongoing cases in this or any other court about family law, child support, family violence or child welfare issues that involve any of the parties or children listed in this application?

No Yes

If yes, provide the following details for each ongoing case. (Attach extra pages as required.)

Court name and place

Next Court date

Names of parties

State the nature of the orders sought
(eg property settlement, parenting orders, child support)

Existing orders, agreements or undertakings

Are there any existing orders, agreements, parenting plans or undertakings to a court about family law, child support, family violence or child welfare issues concerning any of the parties or children listed in this application?

No Yes

If yes, either attach copies of any orders, agreements, parenting plans or undertakings or provide details below.

(If there is more than one order etc, attach extra pages as required.)

Court name and place

Date

Names of parties to the order, agreement, parenting plan or undertaking

Part G: For property and/or spouse/de facto partner maintenance applications

If the parties were in a de facto relationship that has broken down, complete Part H)

Have the parties entered into a financial agreement or a part VIIIAB Financial Agreement under the *Family Law Act 1975* or under any relevant state or territory legislation?

No Yes

If either party has a superannuation interest, have the parties entered into a binding superannuation agreement in relation to that superannuation interest?

No Yes

Is any party currently bankrupt or currently a debtor in bankruptcy proceedings started by either a creditor's petition or a debtor's petition or currently a debtor subject to a personal insolvency agreement?

No Yes

Is there a proceeds of crime order or current forfeiture application in relation to any of the property of any of the parties?

No Yes

If yes, attach a sealed copy of the order or application.

Part H: De facto relationship jurisdiction – financial causes

(subsection 4(1) of Family Law Act 1975 defines de facto relationship cause)

Complete **all** the boxes below if relying on the Court's jurisdiction to make orders for the benefit of a party to de facto relationship that has broken down.

Entitlement to apply and geographic requirements

(a) Did your de facto relationship break down on or after 1 March 2009?

No Yes

(b) Is the period or the total of the periods of the de facto relationship at least 2 years?

No Yes

(c) Is there is a child of the de facto relationship?

No Yes

(d) Has the applicant made substantial contributions and a failure to make an order or declaration would result in serious injustice to the applicant?

No Yes

(e) Is, or was, the relationship registered under a prescribed law of a State or Territory of Australia?

No Yes

(f) Were both parties to the relationship ordinarily resident in one or more of the Australian Territories or New South Wales, Queensland, Victoria or Tasmania for at least one third of the domestic relationship, or at the date the relationship broke down?

No Yes

(g) Did the applicant make substantial contributions in one or more of the Australian Territories or New South Wales, Queensland, Victoria, or Tasmania?

No Yes

Part I: Cross-vested jurisdiction

(Complete only if relying on cross-vested jurisdiction. Note: An affidavit *must* be filed – see Rule 4.06 of the *Family Law Rules 2004*)

If relying on a cross-vesting law, specify the Territory law relied on

Part J: Lawyer's declaration

If the applicant is filing this application without a lawyer, this part need not be completed.

However the applicant should obtain a copy of the information brochure *Marriage, Families and Separation* from Court staff when filing the application. If a lawyer is filing the application, then the lawyer must give the applicant a copy of the brochure and sign the following declaration.

I gave the applicant(s) a copy of the Family Law Courts' brochure *Marriage, Families and Separation*.

Signature of lawyer

Full name of lawyer:

Date: / /

Part K: Affidavit of Applicant(s)

Affidavits must be sworn or affirmed before a person authorised to witness affidavits

Applicant 1	Applicant 2
<p>I <input type="checkbox"/> swear / <input type="checkbox"/> affirm that:</p> <ol style="list-style-type: none"> 1. I am the applicant. 2. I have read this Application. 3. The facts of which I have personal knowledge are true. 4. All other facts are true to the best of my knowledge, information and belief and the orders sought in this application are supported by evidence. 5. I am aware that I have a duty to the Court and to each other party to give full and frank disclosure – in a timely manner - of all information relevant to the issues in the case. 	<p>I <input type="checkbox"/> swear / <input type="checkbox"/> affirm that:</p> <ol style="list-style-type: none"> 1. I am the applicant. 2. I have read this Application. 3. The facts of which I have personal knowledge are true 4. All other facts are true to the best of my knowledge, information and belief and the orders sought in this application are supported by evidence. 5. I am aware that I have a duty to the Court and to each other party to give full and frank disclosure – in a timely manner - of all information relevant to the issues in the case.

Signature of Applicant 1
 Place:
 Date / /

Signature of Applicant 2
 Place:
 Date / /

Before me (signature of witness)

 Full name of witness (please print)

 Qualification of witness
 Lawyer
 Notary Public
 Justice of the Peace
 Other (specify)

Before me (signature of witness)

 Full name of witness (please print)

 Qualification of witness
 Lawyer
 Notary Public
 Justice of the Peace
 Other (specify)

IMPORTANT NOTICE TO RESPONDENT(S)

You should seek legal advice about this application.

If you do not want the court to make the orders sought in this application or if you want the court to make other orders, **YOU MUST:**

For proceedings in the Federal Magistrates Court of Australia

- file at the court a response, an affidavit and other relevant documents – including, in financial matters, a *Financial Statement*
- deliver a copy of the response, affidavit and other relevant documents to the applicant's address for service within 14 days, and
- attend at the hearing. **Please note: If you do not attend the hearing orders may be made in your absence.**

For proceedings in the Family Court of Australia

- within 14 days of service on you of the *Initiating Application*, file at the court a *Response to Initiating Application* and in a financial case, a *Financial Statement*. These forms are available at any family law registry or on the Family Law Courts' website www.familylawcourts.gov.au
- file an affidavit if interim or procedural orders are sought by either party. A form of affidavit in support of a response seeking or opposing interim parenting orders is available at any family law registry or on the Family Law Courts' website www.familylawcourts.gov.au
- file other documents, as required, depending on the orders you seek (see Rule 4.18 of the *Family Law Rules 2004*)
- serve on all other parties copies of the documents filed, at least 7 days before the court date shown on page one of this application, and
- attend at the hearing. **Please note: If you do not attend the hearing orders may be made in your absence.**

AFFIDAVIT

Instructions for completion

1. This form of affidavit may be used in any proceeding where no other form of affidavit is applicable under the *Federal Magistrates Court Rules 2001* (the Rules).
2. Each paragraph in this affidavit must be numbered.
3. This affidavit must be sworn or affirmed before a person authorised by law to witness the swearing of affidavits; for example, a lawyer, notary public or Justice of the Peace.
4. Each page must be signed by the deponent (the person making the affidavit).
5. Any alteration in the affidavit must be initialled by the deponent and the witness.
6. You must complete address for service details in the footer on page 1. All correspondence concerning the affidavit will be sent to the mailing address inserted and all documents in the proceedings will be deemed to have been served on you if posted to that address. If your address details change, you must file a notice of address for service within seven days, and serve a copy on all other parties; see Rule 6.02.
7. If the facts in the affidavit are supported by a document, a copy of the document must be attached to this affidavit. This document is then referred to as an 'annexure'. If there is more than one annexure refer to each by a number or letter; for example – 'Annexure 1' or 'Annexure A'. The annexure should also have page numbers. If there is more than one annexure, the page numbers must run consecutively until the last page of the last annexure. If it is impractical to annex a document, it may be separately identified as an exhibit; see Rule 15.28.
8. Each annexure must include a statement signed by the witness identifying the annexure as the document referred to in this affidavit. The wording of the statement is as follows:

This is the document referred to as [*insert annexure identification*] in the affidavit of [*insert deponent's name*] sworn/affirmed at [*insert place*] on [*insert date*] before me [*witness to sign and provide name and qualification*].

The statement must be signed at the same time as the affidavit and by the same witness.
9. The Court may strike out any material which cannot be used in evidence; for example, if it is unnecessary, scandalous or contains opinions of persons not qualified to give them. See Rule 15.29.
10. If the deponent does not have an adequate command of English, a translator must read or give in writing a translation of the affidavit and oath/affirmation in a language which is understood, and must certify in the signing clause that he or she has done so. Use the alternative jurat for the swearing/affirming of the affidavit and the translator's certificate.
11. Once complete, you need to file the original and a copy of this affidavit for each party to the matter with the court registry. The Court will keep the original and return the copies to you. You will need to serve a copy on the other party or parties and keep a copy for your records.

Remove this instruction sheet before filing

**IN THE FEDERAL MAGISTRATES COURT
OF AUSTRALIA
REGISTRY: BRISBANE**

File number:
COURT USE ONLY
Court Location
Court date
Court time

TARA TAE FONTANA
Applicant

JOSEPH JO FONTANA
Respondent

AFFIDAVIT

Name of deponent: TARA TAE FONTANA

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

I, (full name) TARA TAE FONTANA of (address, including State or Territory) 44 Ambrosia Street, Brisbane, Queensland 4000 and (occupation) Part-Time Office Worker make oath and say / affirm:

1. I am the Applicant in these proceedings.
2. The Respondent and I were married on the XX (day) of XXmonth XXyear and separated on the XXday of XXmonth XXyear. Prior to this we lived in a de facto relationship for two years. There is one child from the marriage, Mary May Fontana, born on the XXday of XXmonth XXyear. OR
3. The Respondent and I cohabited in a de facto relationship between XX day of XXmonth XXyear

Filed on behalf of TARA TAE FONTANA
Prepared by TARA TAE FONTANA Lawyer's code _____
Name of law firm _____
Address for service in Australia 44 AMBROSIA STREET
BRISBANE State QLD Postcode 4000
Email _____ DX _____
Tel 07 12345678 Fax _____ Attention _____

and XXday of XXmonth XXyear. There is one child from the relationship, Mary May Fontana, born on the XXday of XXmonth XXyear. OR

4. The Respondent and I never lived together but had a relationship that led to the birth of the two children, Mary May Fontana, born on the XXday of XXmonth XXyear and Mark Fontana, born on the XXday of XXmonth XXyear.
5. I am employed on a part-time basis by X as an X. I have been working there for X years. My annual gross salary is \$X.
6. I am now X years old. I live in my own 3-bedroom house at X. The only other person living with me is my above named child. She has been living with me since separation/birth.
7. I refer to my Financial Statement, which is filed with this affidavit. In particular, I refer to the column entitled 'For children' in paragraph 60 (Part N Orders for maintenance, child support, financial enforcement). I confirm that the expenses listed under that column relate to weekly expenses that I incur, either directly or indirectly, on behalf of the said child. I say that the expenses that are specifically related to the adult child are as follows:
 8. My above application is in respect of maintenance for my adult child Mary May.
 9. Mary May is a first year full-time XXX (insert name of course of study) student at the X (name of educational institution). The course is X years in duration. This, apart from what is left of this year, Mary May has another X years of full-time study. Mary May has been doing quite well in her studies and her current Grade Point Average is X. Annexed hereto marked with the letter "A" is a copy of her academic record.
10. The standard academic study load for the Arts/Law combined degrees is X units/credit points. This generally involves formal contact hours (lectures, tutorials, seminars) of X hours per week. This semester Mary May has chosen to take on an extra subject worth X units, which means her formal contact hours are X hours per week. In addition to this, Mary May does another X hours per week of private study at home. The recommended number of hours of private study per subject is X hours. Mary May is currently taking X subjects this semester.
11. Accordingly, the recommended number of hours of private study for X subjects is X hours per week. In addition to Mary May's X formal contact hours and X hours of private study, Mary May spends an additional X hours to travel to and from University. Accordingly, Mary May's total time spent with her studies is X hours per week. Mary May also works X hours part-time at X. Thus her total hours taken up with work and studies are X hours per week.
12. I have been supporting Mary May financially since my separation from the Respondent (or since (date)).

13. I say that the financial responsibility of maintaining the said child should not rest solely on me, and that the Respondent should bear a proper portion of her reasonable weekly needs.

Sworn / Affirmed by the deponent

at (place)

on (date)/...../.....

Signature of deponent

Before me:

Signature of witness

Full name of witness:

Qualification of witness:

Document to be filed pursuant to Rule 24.01(1)(h) of the Family Law Rules

Mark [X] the box which applies

- Marriage certificate
 Family violence order
 Birth certificate
 Other order (specify) _____

This document may be attached to the front of one of the documents listed above pursuant to Rule 24.01(1)(h) of the Family Law Rules. It must not be attached to any other document.

Please type or print clearly and mark [X] all boxes that apply.

Filed in:

- Family Court of Australia
 Federal Magistrates Court
 Family Court of Western Australia
 Other, specify _____

Filed on behalf of:

(insert full name)

- Applicant
 Respondent
 Independent children's lawyer

File number _____

Filed at _____

Filed on _____

Court location _____

Court date _____

Time _____

About the parties

1 APPLICANT 1
Family name as used now

 Given names

RESPONDENT 1
Family name as used now

 Given names

APPLICANT 2
Family name as used now

 Given names

RESPONDENT 2
Family name as used now

 Given names

2 Independent children's lawyer name (if applicable)

3 NOTE: YOU DO NOT NEED TO COMPLETE ITEM 3 IF YOU HAVE ALREADY PROVIDED A CONTACT ADDRESS
 What is the contact address (address for service) in Australia of the party filing this document?

You do not have to give your residential address. You may give another address at which you are satisfied that you will receive documents. If you give a lawyer's address, include the name of the law firm.

State	Postcode
Phone	Fax*
DX	
Lawyer's code	
Email*	

* Please do not include email or fax addresses unless you are willing to receive documents from the Court and other parties in that way.