

Instructions for completion

Affidavit

1. This form of affidavit may be used in any proceeding, save and except where another form of affidavit is applicable under the:
 - a. ~~Federal Circuit and Family Court of Australia (Division 1) Rules 2021;~~
 - b. ~~Federal Circuit and Family Court of Australia (Division 2) (Family Law) Rules 2021 (Family Law Rules);~~
 - c. ~~Federal Circuit and Family Court of Australia (Division 2) (Bankruptcy) Rules 2021;~~
 - d. ~~Federal Circuit and Family Court of Australia (Division 2) (General Federal Law) Rules 2021 (General Federal Law 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 identify the type of proceedings this affidavit is being used for on page 1 of the form.

Family law proceedings

7. Affidavits must comply with the formal requirement for documents (see Rule 2.14 of the Family Law Rules) and the limitations on number and length of affidavits (see Rule 5.08 of the Family Law Rules and the modified rule in the *Federal Circuit and Family Court of Australia (Division 2) (Family Law) Rules 2021* for proceedings in Division 2 of the Court)
8. You must complete address for service details in the footer on page 1. All correspondence concerning the affidavit will be sent to the email or mailing address inserted and all documents in the proceedings will be deemed to have been served on you if emailed or 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 2.25 of the Family Law Rules.
9. 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. A document annexed or exhibited to an affidavit must be served with the affidavit. See Rule 8.15(4) of the Family Law Rules.
10. 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.~~
11. The Court may strike out any material which cannot be used in evidence; for example, if the material is unnecessary, scandalous or contains opinions of persons not qualified to give them. See Rule 8.18 of the Family Law Rules.
12. 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 in Part F. See Rule 8.17 of the Family Law Rules.
13. Once complete, you need to file the affidavit and any annexures with the Court. It must be filed electronically on the Commonwealth Courts Portal (www.comcourts.gov.au) unless it is not reasonably practicable to do so. 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

Migration and general federal law proceedings

14. Affidavits must comply with the formal requirement for documents (see Rule 4.04 of the General Federal Law Rules).
15. You must complete address for service details in the footer on page 1. All correspondence concerning the affidavit will be sent to the email or mailing address inserted and all documents in the proceedings will be deemed to have been served on you if emailed or 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 of the General Federal Law Rules.
16. 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. A document annexed or exhibited to an affidavit must be served with the affidavit. See Rule 15.15 of the General Federal Law Rules.
17. 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.~~
18. The Court may strike out any material which cannot be used in evidence; for example, if the material is unnecessary, scandalous or contains opinions of persons not qualified to give them. See Rule 15.16 of the General Federal Law Rules.
19. 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 in Part F. See Rule 15.14 of the General Federal Law Rules.
20. Once complete, you need to file the affidavit and any annexures with the Court. It must be filed electronically using [eLodgment](#), unless it is not reasonably practicable to do so. 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

Affidavit

Family Law Rules 2021 – RULE 8.15
General Federal Law Rules 2021 – RULE 4.04

COURT USE ONLY

Filed in:

- Federal Circuit and Family Court of Australia
 Family Court of Western Australia
 Other (specify) _____

Type of proceedings:

- Family law proceedings
 Migration proceedings
 General federal law proceedings
 Other (specify) _____

Filed on behalf of:

Full name: Min Zhang

Client ID _____

File number _____

Filed at _____

Filed on _____

Court location _____

Court date _____

Name of person swearing/affirming this affidavit (SEE PART C)
Min Zhang

Date of swearing/affirming 10/06/20XX

Part A About the parties

APPLICANT 1

Family name as used now

Zhang

Given names

Min

RESPONDENT 1

Family name as used now

Zhang

Given names

Bo

APPLICANT 2

Family name as used now

Given names

RESPONDENT 2

Family name as used now

Given names

What is the contact address (address for service) in Australia for the party filing this affidavit?

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. You **must** also give an email address.

45 Applicant Street, Warilla

State NSW

Postcode 2528

Phone 04XX XXX XXX

Lawyer's code

Email Min.Zhang@email.com.au

Part B About the independent children's lawyer (if appointed)

Independent children's lawyer family name

Given names

--	--

Firm name

--

Part C About you (the deponent)

What is your family name used now?

Your given names?

Zhang

Min

Gender

Male

Female

X

Usual occupation

Physiotherapist

What is your address?

You do not have to give your residential address if you are concerned about your safety. You may give another address at which you are satisfied that you will receive documents.

45 Applicant Street Warilla

State NSW

Postcode 2528

Part D Evidence

- Set out the facts divided into consecutively numbered paragraphs. Each paragraph should be confined to a distinct part of the subject matter.
- Attach extra page(s) if you need more space. Make sure that the page containing Part E is always the last page of the form. You and the witness to your affidavit must sign the bottom of each additional page.

1. I am the Applicant in this matter and in the divorce proceedings.
2. I was born on 14 September 1975 in Wollongong, NSW and am currently X years old.
3. Bo was born on 3 April 1971 in Townsville, Queensland and is currently X years old.
4. Bo and I began living together in July 2003 and married on 24 January 2009.
5. We separated on 29 October 20XX.

Min Zhang

Signature of person making this affidavit (deponent)

Michael Witness

Signature of witness

6. There is one child of our marriage, Mei Zhang, she was born 17 November 2005. Mei is now X years old and is in Year X at Shoalcoast High School.
7. On 29 October 20XX, Mei and I moved out of our family home to live with my parents. Bo remained living in the family home.
8. Commencing on 7 February 20XX, Mei began spending time with Bo one afternoon each week.
9. On 16 January 20XX, Bo was supposed to collect Mei from school but he never arrived.
10. Mei and I have not had any contact with Bo since 16 January 20XX.
11. I don't know Bo's current address and I don't know where he is working.

Bo's Mental Illness

12. In late 2010, Bo was diagnosed with depression.
13. He started taking medication and attending counselling to treat his mental illness.
14. Throughout our relationship, there were many times when Bo stopped taking his medication.
15. When Bo was not taking his medication, he drank heavily, was very aggressive, and sometimes violent.
16. Bo would also disappear for days at a time and I could not contact him. I later found out that he had been staying with a friend, Gary Piper.

Circumstances Surrounding our Separation

17. On 28 October 20XX, Bo, Mei and I were at home. Mei and I were watching a DVD in the lounge room. Bo was upstairs in the bedroom.

Min Zhang

Signature of person making this affidavit (deponent)

Michael Witness

Signature of witness

18. At about 1pm, Bo came down the stairs drunk and started falling over and swearing at me.
19. I said to Bo words to the effect of, "*You've stopped taking your medication again, haven't you?*" Bo replied with words to the effect of, "*I hate you. I'm sick of you. I want a divorce.*"
20. Bo then slapped me across the face, pushed me over, and started pacing around the house and throwing things.
21. I called the police and Bo was charged with common assault domestic violence related.
22. The following day, the 29 October 20XX, I said to Bo words to the effect of, "*I've had enough of your problems. Mei and I are moving out, we're going to live with my parents.*"
23. At the first court mention on 15 October 20XX, Bo pleaded guilty to the charge and was given a Community Corrections Order for 1 year.
24. A Final ADVO was also made for my protection with the standard orders.

Contact with Bo Post-Separation

25. Following our separation, Bo and I stopped talking to one another. Bo would text to ask about Mei and to confirm arrangements for spending time with her.
26. Once per week I sent Bo an email updating him on Mei's schooling and sports. I also emailed him school newsletters and copies of her school reports.
27. After our separation, Bo spent time with Mei every Tuesday afternoon. He would pick her up from school at 3:30pm and drop her back to my parents, where we were living, at 8:00pm. These arrangements continued until 16 January 2018.
28. On Tuesday, 16 January 20XX, Bo failed to pick up Mei from school.

Min Zhang

Signature of person making this affidavit (deponent)

Michael Witness

Signature of witness

29. When he didn't arrive, I tried to call him on his mobile but he didn't answer.
30. On 18 January 20XX, I sent an email to Bo, asking him to contact me. I received an error message. A copy of my email and the error message is attached as **Annexure A**.
31. I sent him an email but I received the following error message, *'This email message cannot be delivered because the email address is no longer valid'*. The email
32. The following Monday, 22 January 20XX, I tried to call Bo at work but was told by the office manager words to the effect of, *"Bo no longer works here. He left about a month ago."*
33. I tried to call Bo again on his mobile but he didn't answer.
34. On 14 March 20XX, I called Bo's friend Gary Piper and he said to me words to the effect of, *"I don't know where Bo is. We haven't spoken in a while – maybe 6 months. The last time we spoke he mentioned that he was planning to move up north and find some work. But I don't know if he actually did."*
35. On 15 March 20XX, I received a call from Westpac and was advised words to the effect of, *"Your mortgage is five weeks and \$2,250 in arrears. This needs to be paid immediately or we will have to commence legal proceedings for the property to be sold."*
36. I logged into our joint account to check that our mortgage repayments had been coming out and discovered that there was a negative balance and we had been charged several dishonour fees.
37. I immediately paid the arrears using some savings I had in an account in my own name.

Min Zhang

Signature of person making this affidavit (deponent)

Michael Witness

Signature of witness

38. I then contacted Wollongong City Council to check whether Bo had paid the rates. I was advised by the customer service operator words to the effect of, “*You have not paid the last instalment of your quarterly rates. You currently owe \$479, including interest.*”
39. I borrowed some money from my parents and paid the outstanding rates.
40. On 17 March 20XX, I drove to the family home to try to speak to Bo. When I arrived at the house, the mailbox was overflowing with letters, the grass was overgrown, the garden beds were full of tall weeds, there were several dead pot plants on the front porch, and the garbage bin was full of rubbish and fly blown.
41. Inside, the house was really dusty, the blinds were drawn, and there were dead flies and cockroaches on the floor. Bo wasn't home, his car wasn't parked in the garage, and most of his clothes and shoes were missing from the wardrobe.
42. I tried to call Bo again but his phone was disconnected.
43. Since 15 March 20XX, I have met all expenses in relation to the property with the help of my parents, including mortgage repayments, rates, insurance and utilities.
44. I have not seen Bo or had any contact with him since 16 January 20XX.
45. I don't know where Bo is currently living or where he is working.
46. I have searched Facebook, Instagram and Linked-In and I cannot find any social media accounts used by Bo.
47. I don't know where Bo's parents are living or how to contact them. During my relationship with Bo I never spoke with or visited his parents. I am aware that they moved into an aged care facility in northern Queensland sometime in 2010. At that

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Signature of person making this affidavit (deponent)

Michael Witness

Signature of witness

time Bo's mother was aged 75 years and his father was aged 78 years. Bo does not have any siblings.

48. Since our separation, Bo has not paid child support.

SAMPLE

Min Zhang

Signature of person making this affidavit (deponent)

Michael Witness

Signature of witness

Part E Signature

I swear* /~~affirm~~* the contents of this affidavit are true

Min Zhang
Signature of Deponent

Place Warilla Date 10/06/20XX

Michael Witness
Before me (signature of witness)

Michael Witness
Full name of witness (please print)

- Justice of the Peace
 Notary public
 Lawyer

* delete whichever is inapplicable

This affidavit was prepared / settled by deponent/s
 lawyer

PRINT NAME AND LAWYER'S CODE

Part F

Alternative jurat for non-English speaking affidavit

Use this alternative jurat for the swearing/affirming of the affidavit and the translator's certificate. See Rule 8.17 of the Family Law Rules or Rule 15.14 of the General Federal Law Rules.

Interpreter/translator's certification

I certify that I understand the English language and the language, and that I have truly interpreted to the deponent (named in Part C) the contents of this affidavit and the oath or affirmation which was administered.

Signature of interpreter

Date / /

Sworn*/affirmed* by the deponent through the interpretation of:

Interpreter's full name

Address

Language

Signature of Deponent

Place

Date / /

Before me (signature of witness)

Full name of witness (please print)

- Justice of the Peace
- Notary public
- Lawyer

* delete whichever is inapplicable

This affidavit was prepared / settled by deponent/s
 lawyer

PRINT NAME AND LAWYER'S CODE

Annexure A

This is the document referred to as Annexure E in the affidavit of Min Zhang, sworn/affirmed at Warilla on 10 June 20XX before me Michael Witness, Justice of the Peace.

Michael Witness

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Witness

SAMPLE

Automatic reply: Please call me

Bo Zhang

Sent: Thur 18 /01/20XX 9:01 AM

To: Min Zhang

This email message cannot be delivered because the email address is no longer valid.

From: Min Zhang

Sent: 18 January 20XX, 08:04am

To: Bo Zhang

Subject: Please call me

Hi Bo,

Can you please call me when you get this email. I'm trying to make arrangements for Min after school and need to know if you will be picking her up on Tuesday's.

Thanks,

Min.

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