

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: Maria Battista _____

Client ID _____

File number _____

Filed at _____

Filed on _____

Court location _____

Court date _____

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

Maria Battista _____

Date of swearing/affirming 20 / 5 / 20XX

Part A About the parties

APPLICANT 1

Family name as used now

Battista

Given names

Maria

RESPONDENT 1

Family name as used now

Battista

Given names

Marco

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.

5 Queens Road, New Lambton

State NSW

Postcode 2305

Phone 04X XXX XXXX

Lawyer's code

Email Maria.Battista@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?

Battista

Maria

Gender

Male

Female

X

Usual occupation

Dental Assistant

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.

5 Queens Road, New Lambton

State NSW

Postcode 2305

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.
2. I was born on 1 January 1967 in Bologna, Italy and am currently X years old.
3. Marco was born on 1 January 1963 in Bologna, Italy and is currently X years old.
4. Marco and I began living together in about June 1987.
5. We married on 1 June 1988 at the Church of the Sacred Heart of Jesus in a Catholic wedding mass.
6. Our wedding was attended by Marco's parents, Giuseppe and Isabella Battista, and my parents, Mattia and Sofia Russo, our family and friends.
7. During our service we received our marriage certificate.
8. In January 19XX, Marco and I moved to Australia.

Maria Battista

Signature of person making this affidavit (deponent)

Isabella Witness

Signature of witness

9. We separated on 1 July 20XX.
10. Following our separation, I moved out of the family home and into a rental property.
11. There are three children of our marriage:
 - a. Roberto Battista, born 1 March 1990 (currently X years old)
 - b. Matteo Battista, born 5 June 1993 (currently X years old)
 - c. Lucia Battista, born 12 September 1995 (currently X years old).

Marriage Certificate

12. Twelve months prior to our separation, Marco and I moved from Sydney to New Lambton. During the move we lost several important documents, including our marriage certificate and the children's birth certificates.
13. On 1 August 20XX, sent an email to the Church asking for a copy of our marriage certificate.
14. On 15 August 20XX, I received an email from the Church stating that they 'were unable to locate a copy of the marriage certificate'. Annexed hereto and marked X is a copy of this email.

Maria Battista

Signature of person making this affidavit (deponent)

Isabella Witness

Signature of witness

Part E Signature

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

Maria Battista
Signature of Deponent

Place New Lambton Date 20 / 5 / 20XX

Isabella Witness
Before me (signature of witness)

Isabella 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