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Rules 33.7 (1)(g), 33.7 (4) and 33.12 (2) and (3)

Form F8

Form of notice to local authority requesting a report in respect of a child

To Social Work Department,
Dundee City Council,
6 Kirkton Road,
DUNDEE

Court ref. no. A1091/97

1 NOV 1997

1. YOU ARE GIVEN NOTICE that in an action in the Sheriff Court at Dundee, Bell Strêet, Dundee the pursuer has applied for a residence order in respect of the children [REDACTED] and William Tarbett. A copy on the initial writ is enclosed.
2. You are required to submit to the court a report on all the circumstances of the children and on the proposed arrangements for the care and upbringing of the children.

Date: 11th November, 1997

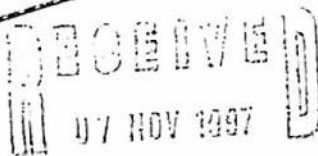
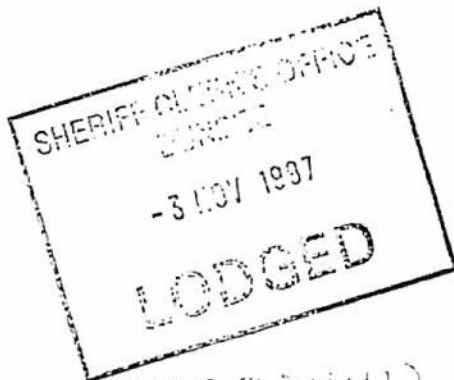
Signed

Marjory Geddes

Solicitor for the Pursuer
Miss Marjory Geddes,
Caird Vaughan Solicitors,
1 Bank Street,
Dundee,
DD1 1RL

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SHERIFFDOM OF TAYSIDE CENTRAL AND FIFE AT DUNDEE



INITIAL WRIT

in causa

DAVID HENDERSON TARBETT, residing at
7D Bonnethill Court, Dundee

PURSUER

against

LINDA SIM GRANT ARCHER, residing at
164 Alexander Street, Dundee

DEFENDER

The Pursuer respectfully craves the court:-

1. To declare that the Pursuer is the father of ^{f9005228} [redacted] and William Tarbett, born 9th July 1991.
2. To make a residence order in terms of Section 11 of the Children (Scotland) Act 1995 in respect of the said [redacted] and William Tarbett, and to grant such order ad interim; failing which to make a specific issue order in terms of the said section of the said Act granting to the Pursuer the right to control, direct or guide, in a manner appropriate to the stage of development of the said children, the children's upbringing, or such parental responsibilities and parental rights as the Court thinks fit, and to grant such an order ad interim.
3. To grant warrant to intimate this action to the said [redacted] and William Tarbett, and to dispense with such intimation on the said children in view of their age.
4. To grant warrant to intimate this action to the Reporter of City of Dundee Council in terms of Rule 33.7(g) of the Ordinary Cause Rules 1993.

CONDESCENDENCE

1. The said [redacted] and William Tarbett have their habitual residence in the Sheriffdom of Tayside Central and Fife at Strathmore Cottages Unit, Dundee, [redacted] Dundee respectively. This court accordingly has jurisdiction. The Pursuer knows of no other action currently before a court in respect of the said

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children either in Scotland or elsewhere.

2. The Pursuer is the father of the said [REDACTED]

[REDACTED] and William Tarbett, born 9th July 1991. The said children are too young to understand the proceedings and intimation is respectfully requested to be dispensed with. In particular it is not in the children's best interests to be served with intimation copies of this writ containing the averments with regard to their mother as condescended to hereafter. The mother of the said children is the Defender. The parties are not married and never have been married. The Pursuer is named on the birth certificates of the said children as being their father and paternity has never been disputed or denied by the Defender. Extract certificates of birth are produced.

3. The parties separated and reconciled on several occasions during their relationship and the Defender gave birth to a child [REDACTED] on [REDACTED] who the Defender has always said was not the Pursuer's child. The Pursuer, however, treated the said child as his own, but the Defender since left the Pursuer, making said [REDACTED] with her and he is not the subject of the present cause of action, and is presently in the care of foster carers in Perth. The said [REDACTED] and William Tarbett were made the subject of a Supervision Order on 15th June 1993 naming the Pursuer's home as place of residence. The children remained there until the Pursuer asked the Social Work department to take the children into care for a period of respite for two weeks in January 1994, after which the said three children continued to reside with the Pursuer. The Pursuer during this time attempted to adhere to the requirements of the supervision requirement, namely that the children would attend at the Polepark Family Counselling Centre and Lilybank Family Centre and the Pursuer attended for counselling at St Matthews Family Centre on a regular basis. During this time the defender had supervised contact with the said children.

4. On 22nd September 1994 a place of safety order was made in respect of the said three children and the children have been in placements with the Social Work department ever since. The Defender returned to the Pursuer the day after the place of safety order was made, although this attempt at reconciliation did not last and the parties finally separated approximately six months later. At no time during the period from 15th June 1993 to 22nd September 1994 when the children were taken into care did the Defender have care and control of the said three children. The Pursuer was working during this period and enlisted the help of his daughter [REDACTED] who was living with them, to help in the day to day care of the children until she gave birth to her own child in the summer of 1994. Prior to this time when the Defender was still living with the Pursuer, the Defender never took proper care of the said children when she was at home. The said [REDACTED] would be left to look after the children when the Defender would go out at night soliciting. The Defender was convicted of prostitution and continued to engage in this activity when the said child William was around nine months old. The children were not fed or dressed properly in her care, and were out playing on one occasion at 4am, on their own. On more than one occasion the children were returned to the Pursuer by the Social Work Department.

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5. Since the said children have been taken into care the Pursuer has persistently tried to get all three children back into his care and control. The Pursuer has always believed that it is in the children's best interests to live with him and has opposed almost every decision to continue or vary the supervision requirements in respect of the said three children. The Pursuer now has supervised contact with the said [redacted] and William Tarbett for one hour every four weeks and for one and a half hours every four weeks with the said [redacted] at Kirkton Family Centre [although it is believed that following on the decision of the Children's Hearing referred to hereunder not to invite the Pursuer to meetings in respect of the said children, this contact is not to continue. The Pursuer no longer receives reports in respect of the said children.]

6. On 17th October 1997 the Pursuer appealed a decision of the Children's Hearing to make a place of safety order with regard to [redacted] and the Court deemed the Pursuer not to be a "relevant person" under section 93(1) of the Children (Scotland) Act 1995 and he was thereafter refused invitation to the Children's Hearing. The Defender is automatically defined a "relevant person" under the said section of the said Act and continues to be allowed to be present at the Children's Hearings in respect of the said children. The Defender has never opposed the decisions of the Children's Hearings and has never made any attempt to get the said three children back into her care. The Defender is unable to look after the said three children and has no desire to have them returned to her care.

7. The Pursuer currently has a two bedroomed local authority house and would make the necessary arrangements to secure accommodation large enough for all three children to live in if a residence order were granted in his favour. It is in the best interests of the said children that they be returned to live with the Pursuer on the termination of said supervision requirement. It is understood that such an order would be held in suspension during the currency of any supervision requirement keeping the said children in foster placements. It is in the children's best long term interests however to be returned to the Pursuer and an assessment was being carried out by the Children's Hearing regarding the prospects of rehabilitation of the children to the Pursuer and to increase the contact the Pursuer has with his said children. It is not known whether or not these assessments are continuing. The Pursuer is very concerned about the welfare of the three children, the said [redacted] having been placed in a Local Authority unit, his placement with foster carers having broken down and having been excluded from school; the said [redacted] having been placed with her fifth placement with foster carers and her fourth school; and the said William Tarbett having been separated from his brother in February 1997, all causing confusion and instability in the children's lives.

8. It is averred that it is in the children's best interests that the Pursuer has some degree of control over any assessment being carried out and to be able to attend the Children's Hearings regularly as he has always done, and it is accordingly just and equitable that in the event that the Court does not make a residence order in favour of the Pursuer that a specific issue order vesting parental responsibilities and parental rights be made in his favour thus allowing him the opportunity to attend and appeal any decision in respect of his said children that is made by a Children's Hearing. It has been held by the European Court of Human Rights in

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x- McMichael v UK, ECHR 24 Feb 1995 (1995) Fam Law 478, that procedural rules in the hearings' system denying a parent (including a cohabiting unmarried father, which the Pursuer was both before and after the children were taken into care) access to social work reports, constituted a breach of the Article 8 right to respect for family life.

PLEAS IN LAW

1. The Pursuer being the father of the said [REDACTED] and William Tarbett, declarator of parentage should be made as first craved.
2. It being in the best interests of the said children that they be returned to the care of the Pursuer at the termination of the said supervision requirement, decree should be granted as second craved, and a residence order ad interim be made; In the event that no residence order is made, a specific issue order in terms of crave two should be made, vesting parental responsibilities and parental rights in the Pursuer, such order to be held in suspension during the currency of any supervision requirement where it is a condition thereof that the said children be kept in the care of the Local Authority.

IN RESPECT WHEREOF

Madge Geddes
Solicitor for the Pursuer
1 Bank Street,
Dundee

RIS L/B 5/11/97 RMDD FEE 31.15
RIS L/B 14/11/97 RMDD FEE 31.15

24 NOV 1997

A1091/97

SHERIFFDOM OF TAYSIDE CENTRAL AND FIFE AT DUNDEE

1. INITIAL WRIT
2. Minute by Dundee City Council
3. Affidavit of David Tarbett



INITIAL WRIT K2AF

in causa

DAVID HENDERSON TARBETT, residing at 86001124
7D Bonnethill Court, Dundee

PURSUER

against

LINDA SIM GRANT ARCHER, residing at 57001635
164 Alexander Street, Dundee

DEFENDER

A1091/97

A1091/97

DUNDEE, 18 November 1997. Act : Geddes Alt : Dyckhoff. For Dundee City Council : Simpson.

The Sheriff, having heard parties' procurators on the Minute by Dundee City Council, No.2 of process, Allows Dundee City Council to be sisted as defenders to the action, *ex proprio motu* and *ad interim* Makes a specific issue order conferring upon the pursuer the right to act as the legal representative of [REDACTED]

[REDACTED] and William Tarbett, born 9 July 1991, in terms of section 11(2)(e) of the Children (Scotland) Act 1995, Ordains Dundee City Council Social Work Department to investigate and report to the Court *quam primum* on all the circumstances of the said children and the proposed arrangements for their care and upbringing, Appoints the pursuer to instruct the said report and be liable in the first instance for the expenses incurred by its preparation, Assigns 8 January 1998 at 3.00 p.m. within the Sheriff Court House, 6 West Bell Street, Dundee as a Child Welfare Hearing.

Andrew A. Duff

Certified copy
Judith Downes
Sheriff

FORM G6

FORM OF MOTION

Court Ref. No: A1091/97

SHERIFFDOM OF TAYSIDE CENTRAL AND FIFE
AT DUNDEE

MOTION FOR THE PURSUER/DEFENDER in the cause

DAVID HENDERSON TARBETT,
residing at 7D Bonnet Hill Court, Dundee

PURSUER

against

LINDA SIM GRANT ARCHER,
residing at 164 Alexander Street, Dundee

DEFENDER

The Pursuer moves the court to

1. Recall the appointment in the Interlocutor dated 18th November, 1997 and of new appoint an independent Reporter as a conflict of interest exists.
2. Appoint a new date for the Hearing.

Date 12/12/97

Signed Marjory Geddes
Solicitor for party

Miss Marjory Elizabeth Geddes,
Messrs Caird Vaughan,
1 Bank Street,
DUNDEE.

FORM G7

FORM OF INTIMATION OF MOTION

Court Ref. No: A1091/97

SHERIFFDOM OF TAYSIDE CENTRAL AND FIFE
AT DUNDEE

in the cause

DAVID HENDERSON TARBETT,
residing at 7D Bonnethill Court, Dundee

PURSUER

against

LINDA SIM GRANT ARCHER,
residing at 164 Alexander Street, Dundee

DEFENDER

Last date for lodging notice of opposition 19th December, 1997

APPLICATION IS MADE BY MOTION FOR THE ORDER(S) SOUGHT IN THE
ATTACHED FORM

OPPOSITION TO THE MOTION MAY BE MADE by completing Form G9 (notice of
opposition to motion) and lodging it with the Sheriff Clerk at Dundee Sheriff Court on or
before the last date for lodging notice of opposition

A copy of the notice of opposition must be sent immediately to any other party in the action.

IN THE EVENT OF A NOTICE OF OPPOSITION BEING LODGED the Sheriff Clerk will
assign a date, time and place for hearing parties on the motion. Intimation of this hearing will
be sent to parties by the Sheriff Clerk.

IF NO OPPOSITION IS LODGED, the motion may be considered by the Sheriff without the
attendance of parties.

Date 12/12/97

Signed *Marjory Elizabeth Geddes*
Solicitor for party

Miss Marjory Elizabeth Geddes,
Messrs Caird Vaughan,
1 Bank Street,
DUNDEE.

