



**Australian Advocacy Institute**

**Case Study**

**WOOD v SIMPSON**

**EXPARTE INJUNCTION**

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**INSTRUCTIONS TO PARTICIPANTS**

You are instructed to appear on behalf of the wife and are to make an ex parte application to the duty list of the Family Court to obtain an injunction restraining Azim (Adam) Wood from removing the child Thomas from the jurisdiction.

You are briefed with the following documents:

- Instructions from Patricia Simpson, the wife.
- A copy of the consent orders made two years ago.

There has not been time to prepare a summons or affidavits.

Please assume that there is no rule of practice or procedure which would prevent this application being made orally before a judge.

*The AAI acknowledges that this case is factually based in Sydney. This does not materially affect any aspect of the advocacy skills demonstrated in presenting this case.*

## **AZIM (ADAM) WOOD “THE HUSBAND”**

v

## **PATRICIA SIMPSON “THE WIFE”**

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You are sitting in your room at 3:30pm on a Friday afternoon. Patricia Simpson arrives in your office indicating she wishes to change solicitors and needs urgent action taken to prevent her husband from leaving Sydney by plane at 6:00pm today with their child, who she is concerned he intends to abduct from Cairns, North Queensland, to Malaysia on his 30m yacht “Enlightenment”.

Patricia Simpson gives you the following instructions:

I live in Sydney and was married to Azim (a.k.a. Adam) Wood ten years ago. We separated five years ago and a Decree Nisi was granted four years ago. There is one child of our marriage, Thomas Azim Wood, who is eight years old.

I am 32 years old. Adam Wood is 33 years old.

We were granted joint long-term responsibility of Thomas and I was granted sole residence and day-to-day responsibility. At that time Adam was granted contact each Sunday from 9.00am until 5.00pm as Thomas was then only 2. We gradually increased the contact by agreement and then two years ago, as a result of proceedings instituted by him for further contact, consent orders were made (enclosed). Essentially they allow Adam to have alternate weekends and half of the school holidays. These arrangements coincided with Thomas commencing school.

Although nothing was said in the orders, Adam agreed with me that he would not take Thomas away anywhere for the first period of holidays, which occurred in the Easter school holidays.

We agreed that he could take him away for his part of the holidays thereafter.

When I first met Adam he was studying engineering at University. His father is Malaysian. His mother is Australian and he told me that he had been brought up by his mother in Australia and had very little contact with his father during his childhood. He said that his mother had insisted he use her maiden name Wood as his surname and would never let him go to see his father. He had only made contact with his father and his family when he travelled to Malaysia just before I met him.

Shortly before our marriage he made another trip to Malaysia and after our marriage he became increasingly bitter and angry about his mother having prevented him from having contact with his father and his family as a child.

He progressively increased his contact with his father’s family. He made several trips to Malaysia during our marriage and I accompanied him on two of these trips.

Part of the reason we separated was that he became obsessed with the Malaysian culture and wanted to pursue closer ties with his father. He became distant and talked about how important it would be if Thomas was immersed in Malay culture. I was unhappy about this change in him. We had many arguments about Thomas and the way we would bring him up. I wanted to remain in Australia. Adam had what he called “grander plans” of a life for us all in Malaysia.

When I first met Adam he was a keen sailor and had owned a number of small yachts. He and a friend started building a large yacht, which they completed five years ago. He used that yacht to sail on the north coast of Australia. Later he and two other people purchased a 30m yacht for the purpose of cruising further afield.

He told me that ultimately they wanted to sail the yacht to the Mediterranean where they could spend holidays there on it. Since then his holidays have been spent cruising on the yacht off the North Queensland coast.

I do not know where the yacht is at present. At one stage it was at a marina near Caloundra, but at another time he told me they kept it at Cairns in North Queensland.

Adam’s contact with Thomas was to commence after school this afternoon.

We had agreed that he would collect Thomas directly from school and have him for the first week of the school holidays. Now I look back on it he was a bit evasive about where he was going but he told me that they were going to drive to Canberra so he could show Thomas the National Capital. I asked him where they were staying. He told me that they would just stay in motels depending on where they got to. He promised to ring me so I could speak to Thomas at least a couple of times during the week.

This afternoon at about 1.00pm I got a phone call from Thomas’ teacher to confirm with me that it had been all right for Adam to pick Thomas up at lunch time because she did not have a note from me. Apparently Adam had gone to the school and told her that we had agreed that he would pick Thomas up at lunchtime rather than after school. I told her that there had been no such agreement and suggested that I come down to the school to talk to her. I arrived at the school at 1.15pm and she told me that Adam had rung her in the morning to say that he would be picking Thomas up early and that I had agreed Thomas should leave school at lunch time. When she had asked for a note he said that it had been arranged that I would give her a note and had been surprised that I had not done so. She told me that he suggested she ring me to sort it out and as it all seemed all right she said that she would do so. He picked Thomas up at 12.30pm.

While I was talking to her one of the other mothers came early to pick up her child who is a good friend of Thomas’.

She came and spoke to me and said that Thomas must be very excited that he was going on a long trip with his father on the boat. He had also told his friend Peter he was excited about taking his first plane trip. The teacher who heard this conversation told me that I had nothing to worry about as the boys often talked about trips on boats and planes. She said that Thomas used to boast about

his father's boat and trips on it. On hearing this I became extremely distressed and I telephoned my brother. We arranged to meet at Adam's house, which we did at about 2.30pm.

We went around the back of the house and there was no one there. In fact it looked all shut up. My brother found a window that was slightly loose and we got into the house. We found some papers on Adam's desk. They included his business and social diary which had noted in it details of a Qantas flight leaving Sydney at 6.00pm today.

I telephoned the airline and discovered that the flight goes to Cairns. They would not tell me if Adam and Thomas were on the flight. My brother and I also found some letters from Adam's father and the other family members written to him about a month ago. I have the letters with me. They say: "We are looking forward to seeing you soon. Your family will welcome you". There were lots of photographs of his relatives.

I telephoned one of the friends with whom he owns the boat. He told me he did not know anything about Adam's plans but the arrangement they had allowed Adam to use the boat for school holidays if he paid the expenses. He thought Adam was planning a longish trip around the north of Australia at some stage but did not know when it was. He told me the boat was well fitted out and could easily cruise as far as Malaysia.

Adam regularly employed two young men who did not otherwise work and who were experienced sailors to cruise with him. He expected that if Adam was planning a long trip he would take them with him to do the crewing. He said it would be a comfortable boat for three adults to manage.

I am extremely concerned that Adam is now going to abduct Thomas and take him to Malaysia. If he leaves Australia with Thomas and is not located he could get to Indonesia or Malaysia. From what I have read, neither of those countries are parties to the Hague Convention and I know that it would be difficult to get Thomas back. I don't know how we can do this but I want him stopped from taking Thomas from Sydney. If he gets to Cairns he can just take him straight onto the boat and leave almost immediately.

I am sure that unless he is stopped I will never see my child again.

**IN THE FAMILY COURT OF AUSTRALIA**

**BETWEEN:**

**WOOD, Adam Husband**

- and -

**SIMPSON, PATRICIA Wife**

**CONSENT ORDERS**

**BY CONSENT IT IS ORDERED THAT:**

- 1 The previous order so far as it defined the husband's contact with the child, Thomas Azim Wood be discharged.
- 2 The husband have contact with the said child as follows:
  - (a) each alternate weekend from 5.00pm Friday until 6.00pm Sunday, such contact to extend to 6.00pm Monday in the even that contact falls on a long weekend.
  - (b) For one half of each of the school term holidays and the Christmas holidays at such times as the parties agree;
  - (c) The contact in order 2(a) hereof be suspended during the school holiday contact period;
  - (d) The husband have further contact with the said child on Father's Day (if it does not fall on a contact day) and for three hours on each of the child's birthday and the husband's birthday (provided they are not otherwise contact days);
  - (e) In the even that contact falls on the wife's birthday and/or Mother's Day, the wife is to have the child in her care on Mother's Day and for at least three hours on the child's birthday.
- 3 This year and each alternate year thereafter, the husband have contact with the said child from 5.00pm on the 24<sup>th</sup> December until 10.00am on the 25<sup>th</sup> December and next year and each alternate year thereafter, the husband have contact from 11.00am until 5.00pm on the 25<sup>th</sup> December.
- 4 That all other applications otherwise be dismissed.

**IT IS CERTIFIED**

- 5 That this was a matter proper for the attendance of Counsel.