



family flyer

Michael Lynch
Family Lawyers

Issue #122

Introduction

The Family Flyer is a free community service by Michael Lynch Family Lawyers. The publication is designed to be informative and topical and to assist you in understanding the ever-changing field of Family Law.

This edition includes:

- New Seminar Series - today!
- “Close-up” Edition
- DNA Testing Stopping Child Support
- Contravention Applications – Pilot Program
- What happens when a Court Application is Withdrawn?

NEW SEMINAR SERIES – TODAY!

Get up-to-date with the latest on Family Law by attending our upcoming Seminar Series starting today!

The seminars will provide information about the changes to Family Law, including shared parenting, property settlements and more!

The seminars are \$20 for information valued at \$500! The Seminar Series includes 2 topics – “Surviving Separation – a Guide to Family Law” and “7 Secrets to Protecting your Assets”.

Book now for “**Surviving Separation**” at one of the following locations:

- Tuesday, 27 April – 1pm – 2.30pm at Ipswich International Hotel, 43 South St, Ipswich.
- Tuesday, 11 May – 1pm – 2.30pm at Sebel Suites, Albert Room, Charlotte St, Brisbane City.
- Thursday, 13 May – 6pm – 7.30pm at Redland Bay Golf Club, North St, Victoria Point.

For “**7 Secrets to Protecting your Assets**” book at one of the following locations:

- Wednesday, 28 April – 6pm – 7.30pm at Forest Lake Hotel, 245 Forest Lake Boulevard, Forest Lake.
- Tuesday, 18 May – 6pm – 7.30pm, Redlands Sporting Club, Anson Rd, Birkdale.

- Wednesday, 19 May – 6pm – 7.30pm, Carina Leagues Club, 1390 Creek Rd, Carina.

Don’t miss this valuable opportunity, ph. 3221 4300 to secure your seat now!

“CLOSE-UP” - EDITION

Negotiating a property settlement can be challenging, particularly if one of the spouses wants to delay the final division of an asset.

What does the law say about delaying a settlement? Read this edition’s “Close-up” - “Financial Finality”.

DNA TESTING: STOPPING CHILD SUPPORT

We were contacted by a National television program last week (for a story they were running) and asked – “What happens if a parent is paying child support for a child that is not theirs?”

Here’s our answer:

If the Child Support Agency receives DNA test evidence, that a man is not a child’s Father, that in itself is not sufficient to stop the assessment.

The Child Support Agency collects money for the child, however does not have the legal power to determine paternity. The Courts have this power and the Court can make a Declaration that a person is not entitled to a Child Support assessment against a person who is not the parent.



Issue #122

When the Court Application is lodged, the CSA is still legally required to collect the Child Support, however it will not be transferred to the receiving parent until the Court has reached a decision - in the meantime the money is held by the Agency.

If the Declaration is obtained, the Child Support Agency will pay back any money that is being held. Only the Court can decide if the receiving parent should repay the previously received Child Support.

CONTRAVIEN TION APPL ICATIONS – PILOT PROGRAM

A Contravention Application is an Application brought by one parent, that seeks that the Court impose a penalty on the other parent for not complying with a Court Order regarding children's contact arrangements.

The Federal Magistrates Court in Brisbane is currently running a pilot program for Contravention Applications. The Brisbane Registry has a significantly greater proportion of Contravention Applications than elsewhere in the country.

The Court recognises that many of those applications are dealt with by Consent - the Court also recognises that there are also matters that require urgent intervention to ensure compliance with Orders. The aim of the pilot program is to provide an early listing for Contravention Applications and to better determine those that need a hearing to be listed as soon as possible, and for others to endeavour to find a more positive solution.

All Contravention Applications will be listed before a Registrar and at that point the Court will

consider what ongoing direction the matter should take. It may be that by agreement the parties are referred to Parenting Orders Programs (POPS), or Family Dispute Resolution (FDR), or other therapeutic interventions.

The Court says that so far, more than half of the applications have not needed to proceed to a Contravention hearing before a judge, as the parties have managed to come to some agreement.

WHAT HAPPENS WHEN A COURT APPLICATION IS WITHDRAWN?

It is possible for a Court Application to be withdrawn by a party before any determination is made by the Court. If this occurs, then what is the outcome?

A recent case involved a Father 'walking away' from a Court Application he had made for Parenting Orders, regarding his 2 small children. After taking note of the recommendations made in a Family Report, he decided to withdraw his Application.

The Court decided that it would not be appropriate to continue with the parenting arrangements that had been in place, as a result of the interim hearing (to find out more about interim hearings, see 'What is an Interim Hearing?' in [Flyer #108](#)).

The Court made Final Orders for the Mother to have sole parental responsibility. A strong factor against shared parental responsibility was a result of the Father's decision to withdraw his application and not seek any Orders.

Contact details

Michael Lynch Family Lawyers

Principal

Michael Lynch*

Senior Associates

Helen Bryden*
Kirstie Colls*

Associates

Elizabeth Millar
Amelia Trotman

Solicitors

Clare McCormack

*Queensland Law Society

Accredited Family Law Specialists

Telephone: 07 3221 4300

Faximile: 07 3221 9454

Email: law@mlynch.com.au

Web: www.mlfl.com.au

Address: Level 6

193 North Quay
Brisbane QLD 4000

Post: PO Box 12027

George St, Brisbane Qld 4003



Copyright 2008

This document contains general comments only and should not be relied upon as specific legal advice. Readers should contact this Office for a detailed information or advice on any topic in this document. Changes to the law occur regularly, no responsibility for any loss or damage caused to any person acting in reliance on this document shall be accepted by the Principal of this Office. No part of this document may be included on any document, circular or statement without our written approval.