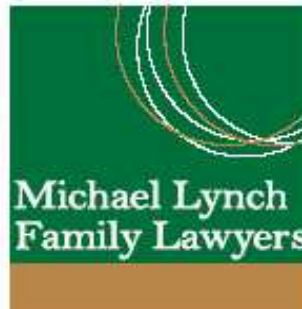




# family flyer



Issue # 139

## 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:

- “Close-up” Edition
- Beware: Facebook
- E-Divorce
- No Publishing
- Skyping to New York
- Q&A

## “CLOSE-UP” EDITION

With the start of the new school year, parents are often faced with many decisions. For separated parents, there is even more to consider – completion of enrolment forms, getting information from schools, attendance at school events, etc. To assist you with the start of the new school year – read [“Getting Ready for School”](#).

## BEWARE: FACEBOOK

The social networking craze of Facebook could dig you or your former partner into a deeper hole when it comes to the evidence that can be used in Family Law proceedings.

Anecdotal evidence is that in the last 12 months, Facebook information has been used in almost a third of cases before the Court, involving arguments over time spent with children. This has included drunken ex-partner photos while they were supposed to be taking care of the children, wall posts stating that spouses are relieved that their children are gone for the week and statements that contradict previous Court evidence.

Experts say information can be accessed regardless of privacy settings, so parties are advised to be careful and re-think the type of material that they publish on Facebook.

## E-DIVORCE

The Family Court now accepts Divorce Applications lodged electronically.

Recent reports indicate that the Brisbane Court registry had the highest number of e-divorce applications in the country, with 1 in 10 preferring to begin proceedings over the internet. Online

divorces were lodged by 1037 Queensland couples in the past financial year.

It is common for text messages to be sent out to confirm appointments, provide bill details and other reminders and now, the Federal Magistrates Court is about to follow suit. It may soon become the norm for the Court to alert couples by ‘text’ when the divorce is granted.

## NO PUBLISHING

The *Family Law Act* forbids the names of people in Court proceedings being published, unless the Court approves it.

The names of parties in proceedings and the names of other people providing evidence are anonymised (by using alternative names) when cases are reported.

In some circumstances the judge can decide that the real names should be included, such an example might be if a child has been abducted and the Court wants the public to assist the Federal Police in locating the child.

There are serious penalties that apply for anyone found to have ‘published’ details of Court proceedings, without Court approval.

## SKYPING TO NEW YORK

Relocation cases are common and difficult. International relocation cases are even more challenging.

The Court recently had to consider whether a Mother should be allowed to relocate from Australia to New York, with a young child.



### The Facts:

- The Mother and Father were both aged 32 and had one child, aged 5. The Mother was from the USA and the Father was Australian.
- The couple met in New Zealand on holiday, they then both travelled to the US for 6 months before returning to Australia.
- The couple's relationship began to break down while the Mother was pregnant.
- The Mother alleged that, when the child was born, the Father was not supportive and was often aggressive.
- The Mother claimed that they had decided to live in the US when they booked their flights, however the Father thought it was only a holiday and said the Mother had tricked him. The Mother left the Father while in the US and sought a Protection Order against the Father.
- The Father commenced Hague proceedings (in Australia) for the return of the child, 6 months later the Father was allowed primary care of the child. The Mother alleged that the Father did not allow her to see the child for a few days. She also alleged that he controlled her time with the child for the next month.
- Pending the relocation hearing, the parents both lived separately in NSW. The child lived with the Father from Monday to midday Thursday and then lived with the Mother at all other times.
- The Father proposed that this time with the child be extended until 5pm on Thursday.

- The Mother wanted to move with the child to New York where the Mother was born and raised and where her family resided.
- The Father opposed this and said that if the relocation was permitted, he and his Mother would not visit the child.

### Court Found:

- Through disallowing the Mother to see the child for the period he had the child, the Father demonstrated that he could not meet the child's needs and lacked an understanding of good parenting.

### Court Order:

- The Mother was allowed to relocate with the child to New York.
- The child spend time with the Father two times a year, during school holidays.
- The Father to have Skype contact with the child 7 times per fortnight.

### Q&A

**Q:** What is a 'stay order' in Child Support, and how does it work?

**A:** A 'stay order' is a temporary Court Order that stops the Child Support Agency enforcing Child Support debts against you and can also set a reduced rate of Child Support to be paid. It will 'stay' (stop) enforcement until a decision is made by the CSA about your application to change the Child Support amount payable.

Within 14 days of receiving the Court Order, a copy of the Order must be served on the CSA and a Child Support Change form must be completed.

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