



# family flyer

Michael Lynch  
Family Lawyers

Issue # 144

## 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:

- Seminar Series – A Successful Start!
- New Consent Orders
- “Close-up” Edition
- What Happens to Post-Separation Redundancy Payments
- CSA Online
- The Court’s View on NAPLAN Tests

## SEMINAR SERIES – A SUCCESSFUL START!

Our Seminar Series is well underway and provides a wealth of useful information.

If you have questions about children’s arrangements or Property Settlement, don’t miss this opportunity. Each 1 hour seminar is great value at only \$20 (valued at over \$500) and includes an information pack and a ‘**Special Offer**’ for all attendees.

Be quick to book your seat – ph. 3221 4300. Our latest Seminar Series includes 2 different topics – the upcoming dates are:

### “Separation & Property”:

- Tuesday, 29 March – 6pm, Links Hope Island, Helensvale.

### “Separation & Children”:

- Tuesday, 22 March – 6pm, Springlake Hotel, Springfield Lakes Blvd, Springfield Lakes
- Wednesday, 23 March – 6pm, Full Moon Hotel, Eagle Tce, Sandgate.

For more information visit  
[www.mlfl.com.au/seminars](http://www.mlfl.com.au/seminars).

## NEW CONSENT ORDERS

A new form of ‘Application for Consent Orders’ was introduced by the Family Court on the 1<sup>st</sup> February, 2011. Old forms will no longer be accepted by the Court.

The new Application form now no longer requires a Certificate of Marriage or Birth Certificate to be provided. The changes also mean that there is no longer a requirement to swear or affirm an Affidavit in support of the application. Instead, the parties are

now required to sign a ‘Statement of Truth’. A new question has also been added requiring that the parties provide further information and detail in regards to why the children spending ‘equal’, or ‘substantial and significant’, time with each parent is practicable.

## “CLOSE-UP” EDITION

When a parent fails to pay Child Support, the Child Support Agency has a number of options available as to how it recovers the outstanding money. Find out how the CSA can obtain Child Support arrears in [“Methods of Collection of Child Support”](#).

## WHAT HAPPENS TO POST-SEPARATION REDUNDANCY PAYMENTS?

Does a redundancy payment received after separation get included in a property settlement?

In a recent Full Court case, the Wife argued that she and the Husband had contributed equally to the Husband’s redundancy that was received post-separation.

The couple had been together for 19 years. During the relationship, the Wife had been the homemaker and parent to their two children, while the Husband had worked full-time.

The Husband’s redundancy payment was based on two times his salary as well as a bonus to compensate him for the loss of future income. He submitted that the Wife had made little, if any, contribution. Since an equality of contribution was found between the parties, the Wife argued that it could not be said that she made no contribution to the redundancy payment.



The Full Court agreed with the Wife, concluding that the Wife had made a substantial contribution to the Husband's earnings and accumulation to his superannuation during the marriage.

## CSA ONLINE

Accessing your Child Support information can be made quicker and easier by setting up a CSA online account. This will allow you to view information such as your account details, a history of your payments and your personal details by logging in at any time.

## THE COURT'S VIEW ON NAPLAN TESTS

A recent Court case regarding the choice of a school, has provided an indication of the Court's view as to the appropriateness of using NAPLAN Test results as evidence of the academic merit of a school, for the purposes of an Interim Hearing.

### The Facts:

- The parties had one child, a 12 year old daughter.
- The Application before the Court sought Orders in relation to what High School the child should commence at.
- Each parent provided significant amounts of information to the Court from each of the school's respective websites. They also annexed tables showing NAPLAN test results released from the Federal Government.
- The school proposed by the Mother was closer to her work than the school proposed by the Father. The arrangement

for care in place provided that the Mother did 14 school runs a week in comparison to the 6 of the Father.

- A Family Consultant interviewed the parents and the child and told the Court he considered each parent's perspective on which school the child should attend, as reasonable.
- He said that the child expressed a preference to attend the school nominated by the Father. He went on to say however, that the preference resulted from the child having recently had an argument with her Mother and if she decided to spend more time with her Father in the future it would be easier if she was attending the school nominated by him. The consultant did not find this a sufficiently mature reason for the child choosing that school.

### Court Found:

- The Court considered the NAPLAN information unhelpful at an Interim Hearing, unless there was hard evidence of some comprehensive inefficiency on the part of a particular school.
- His Honour even went so far as to suggest parties refrain from putting any NAPLAN material before the Court.

### Court Order:

- The child be enrolled at the school proposed by the Mother. The child live with the Mother and spend time with the Father 6 nights a fortnight.

### Contact details

Michael Lynch Family Lawyers

#### Principal

Michael Lynch\*

#### Senior Associates

Helen Bryden\*

Kirstie Colls\*

#### Associates

Elizabeth Millar

Amelia Trotman

#### Solicitors

Clare McCormack

Amy Honan

\*Queensland Law Society  
Accredited Family Law Specialists

**Telephone:** 07 3221 4300

**Facsimile:** 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.