

# FAMILY Flyer



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## "CLOSE-UP" EDITION

Allowing a child to travel overseas is a big decision and parents often worry that the other parent may make the decision without them. When parents cannot agree on when their child should be allowed to travel, what measures can the Court take? Read ['Planning Overseas Travel with my Child'](#).

## PUBLIC SEMINARS – LAST FOR THE YEAR!

Our last (2) seminars for the year are on next week!

If you want to find out more about how to survive a property settlement don't miss the 1 hour seminar "7 Secrets to Surviving Property Settlement".

For \$20 (payable at the door), you will receive information and advice valued at over \$500 and the opportunity to ask questions. Presented by Accredited Family Law Specialist, Michael Lynch.

Seats are limited, so book now! Ph. 3221 4300.

### "7 Secrets to Surviving Property Settlement":

- Brisbane City: Tuesday, 8<sup>th</sup> November, 1-2pm – Sebel Hotel, Charlotte Street; or
- Redcliffe: Wednesday, 9<sup>th</sup> November, 6-7pm – Redcliffe Leagues Club, Cnr Klinger & Ashmole Road.

## IS IT A DEFAC TO RELATIONSHIP?

What makes a defacto relationship? The definition is complicated (see our article – [What is a Defacto Relationship?](#)) but essentially there must be a 'genuine domestic relationship' with one of the following features:

1. The relationship has been in existence for 2 years or more; or
2. If there is a child, then there is no time requirement; or
3. (If neither of the above) it would be unjust not to allow because of 'substantial contributions'.

### So What is a 'substantial contribution'?

The Court recently had to consider this in a case where the couple's relationship was less than 2 years.

The male partner argued that he had made 'substantial contributions' by performing building work, caring for livestock, training horses, cooking, driving his partner's children to school and negotiating neighbourhood disputes during the relationship. These contributions were mainly non-financial contributions.

The Court decided that his contributions were not substantial, as he did not explain how a 'serious injustice' would result. The Court noted that financial contributions could be more easily understood although that did not mean that only financial contributions could be considered. The Court stated that if the contributions were non-financial they must be so substantial that they would stand out against mere contributions.



## FAMILY VIOLENCE

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With the definition of 'family violence' in the Family Court currently under the microscope, it is timely to look at a recent case where the Court had to consider whether family violence existed.

### The Facts:

- The Mother and Father were together in a 'volatile relationship' for 10 years and had a 10 year old child, who lived with the Mother after separation.
- The Mother asserted that the Father was violent and abusive towards her in front of the child and that the violence also included threats, intimidation and controlling behaviour. Specifically, the Mother stated that the threatening behaviour included text messages demanding that the Mother see the Father.
- The Father denied the Mother's family violence allegations.
- The Father proposed that the child live with the Mother and both parents have equal shared parental responsibility. He proposed that he 'spend time' with the child every alternate weekend from Friday to Sunday and during school holidays.
- The Mother proposed that she have sole parental responsibility and that the Father 'spend time' with the child on alternate Saturdays for 6 hours as well as during the school holidays. She proposed that the Father only be allowed to spend overnight time with the child at the paternal grandmother's home.

- The child said she wanted to see more of her Father overnight and on weekends.

### Court Found:

- The child's views should not exclusively determine the time spent with her Father due to the highly conflicted relationship between the Mother and Father.
- The Father did not have a full understanding of the impact of violence or verbal conflict and blamed the Mother for their separation.
- The Mother's allegations were most likely true.

### Court Order:

- The Mother have sole parental responsibility for the child.
- The Father 'spend time' with the child according to the Mother's proposal of 6 hours on alternate Saturdays and during school holidays.

## Q & A

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**Q:** I am separated and unable to reach an agreement with my former spouse about the care arrangements for our 2 children. I want to go to Court – what steps do I need to take?

**A:** Unless there are issues of domestic violence or urgency, then you will need to attend mediation and obtain a Section 60I certificate. The certificate is then filed in Court with an Application and supporting affidavit and payment of the filing fee.

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