

# FAMILY Flyer



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## NEW ON FACEBOOK!

We are very excited to announce the launch of our new Facebook page!

The page will feature regular and topical Family law news and views. Don't miss it! Please visit us and if you "Like" it, feel free to say so!

Visit: <https://www.facebook.com/michaelynychfamilylawyers>

## SEMINAR SERIES – DON'T MISS OUT

Don't miss your chance to attend our most popular public seminar series, presented by Accredited Family Law Specialist, Michael Lynch.

For only \$40, you will receive a 1 hour information session and have the opportunity to ask questions. There will also be a **Special Offer** for all attendees.

### "Separation and Property"

- [Sunnybank](#): 6-7pm – Wednesday, 10 June, Sunnybank Community & Sports Club – 470 McCullough St, Sunnybank
- [Brisbane City](#): 1:00pm – Tuesday 16 June, Berkley's on Ann, 255 Ann St, Brisbane

Seating is limited so register now by calling (07) 3221 4300 or email [law@mlynch.com.au](mailto:law@mlynch.com.au).

## "CLOSE UP" ARTICLE

Significant changes were made to the parenting provisions of the Family Law Act in 2012 particularly in relation to the treatment of 'family violence'. So how are these parenting cases now considered? In this editions "Close up" article we look at a specific case. To find out more, read: [High conflict in parenting cases.](#)

## SEMINAR SUCCESS!

Thank you to all the relationship counsellors that were able to attend our recent seminar "[Family law – Essentials](#)" and make it such a success.

It was great to meet so many of you and the presentation prompted some good questions and discussions.

## DISPUTED DATE OF SEPARATION – DOES THE COURT HAVE JURISDICTION?

For defacto couples that separate after 1 March, 2009 their property settlement cases are now heard under the Family Law Act. The significance of this change has created much dispute regarding 'dates of separation'. A recent case considered the 'date of separation'.

- The applicant wife, alleged that the relationship had broken down in March 2011. She filed an application in August 2012, seeking a payment of \$90,000 from her former defacto husband to relieve her of a debt.

- The respondent (defacto) husband alleged that separation occurred in late 2007 "under one roof", prior to the Family Court having jurisdiction to hear defacto property settlement matters. He therefore sought for the application to be dismissed.
- In support of his 'date of separation' he alleged, the following:
  - That he consulted a solicitor about parenting matters in March 2008, and was provided with a grant of legal aid shortly thereafter.
  - Centrelink forms completed by the applicant wife that listed the parties as 'separated under one roof' and listed the date of separation as February 2009.
  - An application for consent orders signed by both parties when seeking parenting orders that listed the date of separation as 12 February 2008.
- The applicant wife did not dispute that she signed the forms, but alleged that she had done so only at the respondent's insistence and due to domestic violence. The applicant however, did not provide any evidence to the court to support these claims.
- The application for property settlement was dismissed on the basis that separation had occurred prior to 1 March, 2009 and the Family Court had no jurisdiction.

## DECLARED TO BE THE FATHER

The Family Court has the power to declare a man the father of a child even if he refuses to participate in a court application, or undergo a DNA test.

The court recently heard a mother's application for a "declaration" that a man was the child's father so that the mother could lodge a Child Support application.

### Facts:

- The mother tried to lodge an application for child support with the CSA. This was not accepted as there was no evidence as to who the father was.
- The mother made an application to the Family Court seeking a "declaration of paternity" against the man. Her application set out the details of her relationship with the man.
- The alleged father was informed of the court date but did not attend.
- The court ordered that the mother, child and alleged father all undergo DNA testing. The alleged father did not participate in the DNA testing.
- The Family Law Act provides that an alleged father who fails to comply with a DNA testing order is deemed to have failed the test.

### Court Order:

- A declaration that the man was the father of the child.
- A declaration that the man should be assessed for child support by the CSA.
- A cost order against the man, for the cost of the mother's court application and the DNA testing, in the sum of \$6,300 with one month to pay.

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