



Brisbane Family Lawyers » Publications » Articles » Which school is the right school?



WHICH SCHOOL IS THE RIGHT SCHOOL?

By **Michael Lynch**, 19 January 2015



WHICH SCHOOL IS THE RIGHT SCHOOL?

Which school a child attends can be a difficult question for a court, as the facts of each case are always different. An Appeal Court recently considered such a case.

The Facts

- The question was, what school the 6 year old child should commence Grade 1 at?
- The father wanted the child to continue at the school where he had attended kindergarten and preschool. The school was 500 metres from the fathers residence and 5.7 km from the mothers residence.
- The mother wanted the child to attend a school 1.9 km from her residence and 5.1 km from the fathers residence.
- The consent order in place provided for the child to spend 9 days a fortnight with the mother, with 7 of those days being weekdays. The school that the father proposed had slightly higher academic results then the school that the mother proposed.
- The trial judge had decided that the child should attend the school proposed by the mother, finding that the considerable saving in travelling time for the child over a 7 year period slightly outweighed the fathers argument that his proposed school had higher academic results.
- The father appealed the decision claiming that the judge had failed to consider the fathers financial circumstances and the convenience of the parents.
- By the time of the appeal the child had started at the school selected by the mother.



The Court Found

- The appeal court found that the trial judge had made an error by failing to consider that the change of school would be a considerable inconvenience to the father and would have financial implications for him.
- To expedite the matter, the Appeal Judge exercised his discretion to re-determine the matter rather than having the matter remitted for re-hearing.

Appeal Court Held

- The convenience of the parents was a factor but both were inconvenienced. In the absence of any compelling factors, it would be inappropriate for the court to focus on the small levels of inconvenience to either parent.
- The child to remain at the school selected by the mother.

ABOUT MICHAEL LYNCH



Michael has practiced for over 25 years, specialising in **Family Law and De Facto Relationship Law**. He is well recognised and respected as one of Queensland's leading **Family Law Specialists** and has extensive experience in complex Family Law matters, including **Property Settlement** and Children's matters.

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