

**NOTE: PURSUANT TO S 169 OF THE FAMILY PROCEEDINGS ACT 1980,  
ANY REPORT OF THIS PROCEEDING MUST COMPLY WITH SS 11B TO  
11D OF THE FAMILY COURTS ACT 1980. FOR FURTHER  
INFORMATION, PLEASE SEE  
[HTTP://WWW.JUSTICE.GOV.T.NZ/COURTS/FAMILY-  
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**IN THE FAMILY COURT  
AT HASTINGS**

**FAM-2015-081-000030  
[2016] NZFC 2030**

|                  |                                 |
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| IN THE MATTER OF | THE FAMILY PROCEEDINGS ACT 1980 |
| BETWEEN          | CHANTELLE BRAMSON<br>Applicant  |
| AND              | ED HOLLIS<br>Respondent         |

Hearing: 9 March 2016

Appearances: J van der Oord for the Applicant  
No appearance by or for the Respondent

Judgment: 9 March 2016

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**ORAL JUDGMENT OF JUDGE M A COURTNEY**

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[1] On 27 November 2015 Ms Bramson filed an application seeking a paternity order with regard to her son Sterling who was born on [date deleted] 2007. That application was served on Mr Hollis on 10 December 2015. Mr Hollis has taken no steps with regard to the proceedings and accordingly they have been set down for a formal proof hearing today. The notice of today's formal proof hearing was posted to Mr Hollis on 25 February. That notice has not been returned to the Court. Mr Hollis has not attended today nor has any lawyer attended on his behalf. Accordingly, I am then proceeding to deal with the matter by way of formal proof hearing.

[2] As it happens the affidavit that was filed with the application was filed electronically and for some reason the original of that affidavit has not reached the Court file. Accordingly, I had Ms Bramson sworn and she confirmed the contents of the copy of the affidavit that I have dated 17 November 2015.

[3] In her affidavit in support of the application Ms Bramson says that she and Mr Hollis were in an on and off relationship for about two years from 2005 until shortly before Sterling was conceived. She says that she and Mr Hollis never lived together as such. She also confirms that at the time that Sterling was conceived she was not having a sexual relationship with anyone else. She says that she became aware that she was pregnant with Sterling after she and Mr Hollis ended their relationship.

[4] When Ms Bramson had her 20 week scan it was apparent that the baby was not growing properly and she needed to see a specialist in Wellington. She accordingly advised Mr Hollis of that as she felt he needed to be informed of all developments. Ms Bramson travelled to Wellington with her mother for her first appointment and after that she received a text from Mr Hollis which was not in particularly pleasant terms but was effectively making reference to the baby. There was effectively an acknowledgement of the baby, although not in exact terms an acknowledgement of paternity. Ms Bramson says that Mr Hollis' mother made an offer through him to buy her a property if she had a termination of the pregnancy. She declined that offer.

[5] After all of her weekly trips to Wellington she continued to update Mr Hollis to ensure that he was kept informed. At 27 weeks gestation Ms Bramson was admitted to Wellington Hospital and Sterling was born prematurely on [date deleted] 2007 weighing just one pound and one ounce. Prior to Sterling being born Mr Hollis had spoken to Ms Bramson and he wished her good luck with the procedure. After Sterling was born Ms Bramson sent a photograph of him to the respondent to which the respondent replied in very unpleasant terms but effectively recognising and certainly not disputing parentage.

[6] As a result of contracting meningitis Sterling now has [name of disorder deleted] and then consequently is a very high need's child. Ms Bramson wished to have Sterling's birth registration attended to at that stage because it was unsure if he would survive. She said she did not want to register his birth and his death at the same time. She said the issue of trying to get Sterling's birth registered then became a game for the respondent. She sent documents home with her mother to meet with Mr Hollis to have them signed. He missed appointments in that regard. When he did eventually go to Ms Bramson's mother's home to sign the documents he said he could not read or write and he would have to make a phone call to see what he is committing himself to if he has signed. At that stage, and this is hearsay evidence but has not been disputed by any response from Mr Hollis, it is alleged that Ms Bramson's mother asked Mr Hollis if there had ever been an issue about him being father to Sterling and he replied that, "No it is not an issue." Following that Mr Hollis sent a text message to Ms Bramson saying that if Sterling had Mr Hollis' surname then he would sign the forms. As Mr Hollis had not really shown any interest in Sterling up until then Ms Bramson responded advising that Sterling would have her surname.

[7] About a week or so later Ms Bramson's mother contacted Mr Hollis again asking if he would be at work to get the forms signed. Ms Bramson's mother went to the workshop and Mr Hollis arrived sometime later. Having read through the birth registration form he advised Ms Bramson's mother that he would not sign it saying that he did not like being rushed into things. He purportedly said that he had no problem with the fact that he was Sterling's father, just that he did not want to be hassled into signing documentation. Ms Bramson understands that her mother tried

several times to get Mr Hollis to sign the form but he did not do so. Finally, Ms Bramson registered Sterling's birth without Mr Hollis' name on it.

[8] Ms Bramson and Sterling were at Wellington Intensive Care Unit for some eight weeks before they were transferred to the Special Care Baby Unit in Hastings where they spent another four weeks. Throughout this time Ms Bramson kept Mr Hollis informed. Sometimes she would get no replies to her texts. Ms Bramson asked on a few occasions if Mr Hollis would like to meet Sterling and his answer was always, "One day."

[9] Just before Sterling was due to be discharged from Hastings Hospital Ms Bramson phoned Mr Hollis and asked him again if he was going to have anything to do with him. The response was that if Ms Bramson made Mr Hollis pay anything for Sterling then he would own him and he would see him. Having regard to that response Ms Bramson did not pursue matters further.

[10] Ms Bramson points out that both she and Mr Hollis reside in a small rural town with her being in the same house that she had lived in previously and with the same telephone number. There has been no approach by Mr Hollis to be involved in Sterling's life. There was an enquiry in November 2008 with Ms Bramson's mother by Mr Hollis regarding some offer but the specific details of that were never clear.

[11] Because of Sterling's difficulties Ms Bramson has spent some three and a half years travelling to Auckland and staying there for six to eight weeks every couple of months. This has resulted in fund raising and publicity in the community and the respondent would no doubt have seen that information. Ms Bramson understands that Mr Hollis has been telling people that he has given Ms Bramson a large payout. That is incorrect. She says she has never received any form of financial support from Mr Hollis at all.

[12] Ms Bramson says that shortly before filing her application she attempted to make contact with Mr Hollis again about signing the birth certificate and making some form of child support payment. He was apparently receptive to this. He first offered to put Ms Bramson on the payroll of his business or provide her with a

business fuel card. Ms Bramson did not accept that, saying that she would prefer to have money paid into her account.

[13] There was further discussion about payment and in one conversation Mr Hollis advised that he had no objection to a private arrangement of paying \$100 per week and that he then telephoned one evening asking for Ms Bramson's bank details which she sent to him. Mr Hollis said he would make payments on Tuesdays starting on 3 November 2015. No payment had been received by the time Ms Bramson swore her affidavit and no payment had been made up until today's date as confirmed to me by Ms Bramson today.

[14] I am satisfied from the evidence of Ms Bramson both as to the time surrounding Sterling's conception, but also the implied and more explicit acknowledgements on the part of Mr Hollis, that he is Sterling's father and make a declaration as to paternity.

[15] However, s 49 Family Proceedings Act 1980 places a time limit on applications for paternity orders. Subs (1) provides:

Subject to subsection (2), no application for a paternity order in respect of a child may be made after the expiration of 6 years from the birth of the child.

[16] This application was filed over eight years after Sterling's birth. However, that restriction on making orders is subject to subs (2) of the Act which provides that a Court may make a paternity order in certain circumstances. The first of those is where at any time within the two years immediately preceding the making of the application the respondent, that is Mr Hollis, has contributed to or made provision for maintenance of the child. That has not occurred. The second matter which must occur within that immediate two years is that the respondent, Mr Hollis, has lived with Ms Bramson as if he were husband or civil union partner. That provision is not established.

[17] The third factor under subs (2) is: "Where at any time before the making of the application, the respondent has admitted expressly or by implication that he is the father of the child." For the reasons that I have just referred to and the

evidence that I have highlighted there has, in my view, been an express or implied acknowledgement and admission of paternity. The comments made by Mr Hollis back at around the time of hospitalisation and birth impliedly acknowledged he is Sterling's father. The requirement for Sterling to have Mr Hollis' surname if the birth certificate is signed is an express acknowledgement in my view and the agreement to pay \$100 per week, although not actually lived up to, is a further acknowledgement.

[18] I am therefore satisfied there are grounds under subs (2) of s 49 to deal with this matter notwithstanding it is over six years since Sterling's birth. I therefore make a declaration that Ed Hollis is the father of Sterling Bramson born [date deleted] 2007.

[19] Ms van der Oord tells me that Ms Bramson has had to apply for legal aid to begin these proceedings. She will be required to repay her grant of legal aid. If Mr Hollis had properly dealt with the matter as he had indicated from time to time there should have been no need for these Court proceedings to be commenced. I therefore order that Mr Hollis is to pay Ms Bramson's costs on a solicitor and client basis; namely he will be ordered to pay to Ms Bramson the amount funded by legal aid by way of legal costs.

M A Courtney  
Family Court Judge