

## Family Law Newsletter

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February 2016

### ***Sock Line Hyperpigmentation – an elasticated truth?***

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In March of this year, I was involved in a case whereby unusual marks were noted on a 6 week old child's legs. The marks were very straight measuring about 2.5cm in length with triangular marks towards the end of the line. One of them curved around the calf muscle.

Within these linear marks, there were very irregular patterns and some parts looked 'saw tooth-like'. The marks were red but not raised. They were not blistered nor was the skin broken. It was initially suggested that the marks were caused by an object coming into contact with the skin. The LA issued proceedings. The Father suggests the marks were caused by tight fitting socks. Hello and welcome to the condition known as sock line hyperpigmentation ("SLHP").

Two medical experts were instructed within the proceedings, Dr Graham-Browne, emeritus consultant and honorary senior lecturer in dermatology with a specialist interest in paediatric dermatology and Dr Lee, retired consultant paediatrician.

Dr Graham-Browne opined that the lesions were the result of external factor or factors. He had never seen a case of SLHP in over 30 years of

practice however he had researched medical publications which sporadically referred to reports of SLHP.

Dr Graham-Browne thought the photos of the child were strikingly similar to the photos of SLHP in reported cases. He could not rule out NAI, and SLHP could provide a satisfactory explanation for the marks. In his oral evidence he remained suspicious as to whether SLHP actually existed as there is no objective test and the very limited literature was not terribly convincing and often relied on the account of the parents. Furthermore, in this case the offending socks just happened to be given away and were not available to be examined or tested.

Dr Lee too had never seen a case of SLHP in his practice but he did accept there were a few rare reports of the condition (no more than a handful). He was however, unable to say whether SLHP was more or less likely cause of the marks than a deliberate constriction by a perpetrator using some other object. In the circumstances, the Judge dismissed all the allegations of NAI as the LA had not proved their case to the requisite standard.

### **SLHP**

SLHP aetiology is not clearly understood and is thought to relate to dermal inflammation or panniculitis caused by sustained compression which results in inflammatory hyperpigmentation.

It usually resolves in a few months although it can remain for up to 5 years.

The reason it is important to be potentially aware of SLHP is it mimics child abuse. SLHP can therefore be distinguished from NAI with ligatures. A short article from Forde and Glover from Great Ormond Street Hospital can be found online in the archives of disease in childhood archdischild-2014-307591 which also has some photographs. There are limited other reported cases, albeit fairly recently and sporadically.

SLHP is a newly discovered condition and it will be interesting to see if it has any 'legs' is or is eventually disregarded. Until further research is done, leave the tight socks at home.

**Matthew Stott**

### ***Exceptional Case Funding***

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The LAA can provide funding for a case falling outside the usual means and merits tests by giving exceptional case funding ('ECF') under section 10 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 ('LASPO'). The idea of section 10 was to act as a safety net to provide publicly funded representation for people whose human rights would otherwise be breached. In practice that means people who would not be able to represent themselves adequately without professional help.

Mr Justice Collins heard a judicial review about this in July 2014 at which time only 1% of applications for ECF were being granted. In July this year he heard another judicial review on the same subject at which time the level of successful applications was 13% which he described as still a very low figure (*IS v Director of Legal Aid casework and Lord Chancellor* [2015] EWHC 1965 (Admin)). He then reviewed some of the cases where legal aid had been refused and concluded that the merits test is being unreasonably applied, s 10 does not provide the required safety net, and the lack of any effective appeal in the case of a refusal of public funding is wrong.

In reaching these general conclusions he paid particular attention to family cases, saying that public funding should be denied in children cases 'only in rare cases' and in that respect the scheme is 'wholly deficient' in the way it is operated at present. The court also criticised the application forms for ECF which are hard enough for lawyers to understand and complete, let alone the lay person who is supposed to do so.

The Lord Chancellor responded quickly and only 6 working days later amended the merits criteria so that the chance of success required has been reduced: it previously had to be at least 50%, and can now be less than that (The Civil Legal Aid (Merits Criteria) (Amendment) (No. 2) Regulations 2015). This means that more cases will fall within the standard criteria, but the

judgment should also mean that more cases will receive ECF.

So it should be more worthwhile making ECF applications now (though you still don't get paid if they are unsuccessful). Mr Justice Collins' judgment contains a number of helpful statements when making an application. For example: "The scheme is not, as it is operated, meeting its need to ensure that an unrepresented litigant can present his or her case effectively and without obvious unfairness" [79] and "Those who are unable to pay for legal assistance are suffering in a way that Parliament cannot have intended" [80]. The Lord Chancellor has however been given permission to appeal the judgment.

***Francis Wilkinson***

## Chambers News

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Many thanks to those who attended the launch of our new book '[Costs in Family Proceedings](#)'. We have managed to negotiate an extension of the 20% launch discount for all clients and contacts of Field Court Chambers. Please note that this is a limited time offer, valid until Friday 12th February. To access this discount please visit [www.familylaw.co.uk/a885a](http://www.familylaw.co.uk/a885a) and ensure to add the discount code "A885A" at the checkout.

## Contributors

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CALL: 2001



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