



family flyer

Michael Lynch
Family Lawyers

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Introduction

The Family Flyer is a free community service by Michael Lynch Family Lawyers. The publication is designed to be informative and topical and to assist you in understanding the ever-changing field of Family Law.

This edition includes:

- FREE CD! – “Common Traps of Separation”
- Wealth of Information
- “Close-up” Edition
- Treatment of Violence in Property Settlements
- Hague – PACE – What does that mean?

FREE CD! – “COMMON TRAPS OF SEPARATION”

Separation can often be a complicated and confusing time, however we have made it a little bit easier. Learn tips about Relationship Law and surviving separation from our FREE CD.

The FREE CD is titled “7 Common Traps of Separation” and provides easy-to-understand tips on divorce, separation and a number of other issues. The CD is an audio interview with Accredited Family Law Specialist, Michael Lynch, who has had over 19 years experience in Family Law.

To get your FREE CD, call 3221 4300. We will deliver it to your door for NO COST.

WEALTH OF INFORMATION

The Family Flyer provides a wealth of information to more than 5,000 readers each fortnight. Previous popular articles have included:

- Access to Children’s School and Medical Reports – Issue 107
- Understanding Spouse Maintenance – Issue 106
- Why Document a Property Settlement? – Issue 105
- Special Edition – New Laws for Defacto Property Settlements – Issue 91
- Pay Nil Stamp Duty – Issue 80
- How Does the Court Deal with Inheritances in Property Settlement? – Issue 41

- What Age is the Right Age to Listen to a Child’s Wishes? – Issue 36

For these valuable articles and more visit www.mlfl.com.au.

“CLOSE-UP” EDITION

Property Settlements are difficult enough – but what happens if one spouse has received a large personal injury payment during the relationship? Or they have suffered an injury but have not yet received an award? How are these considered in a Property Settlement? This edition’s article is – ‘[The Treatment of Personal Injury Awards in Family Law Property Settlement.](#)’

TREATMENT OF VIOLENCE IN PROPERTY SETTLEMENTS

In Property Settlements when there is evidence of violence, the Court may make a financial adjustment. This is unusual and is designed to reflect the increased efforts of one spouse in making contributions in spite of hardship.

Last month, the Court considered a Property Settlement case that involved allegations of both gambling and Family Violence.

The Facts:

- The Wife was aged 51 and the Husband was 59. They had been married 23 years and had two adult children.
- During the marriage the Wife was primarily the homemaker, although she had several part-time jobs.



- The Husband worked throughout the marriage but due to a work injury had ceased and was receiving workers compensation.
- The Wife argued the Husband wasted money through gambling. The Husband disputed this, saying he had considerable winnings.
- Documents produced by the Casino showed the Husband went to the Casino an average of 61 days each year, for 11 years. The documents indicated that the Husband lost \$1.8 million. The Husband said the figure was wrong and could not be so high.
- The Wife also said the Husband was a heavy drinker and that she suffered Family Violence from him. This claim was supported by evidence from the children and reports made to the police. The Husband denied he was violent.

Court Found:

- The Husband had a gambling addiction and \$268,456 should be added back.
- Family Violence did exist and it impacted on the Wife, making her role more difficult. A 10% adjustment for this was made in the Wife's favour.
- The Husband's compensation payout was a significant contribution.

Court Order:

Taking into account the adjustments for gambling, the Family Violence, the health of both the Husband and Wife and their future needs, the Court Ordered the Wife receive 55% and the Husband receive 45%.

HAGUE – PACE – WHAT DOES THAT MEAN?

Unless you have been involved in a dispute regarding a child being removed from Australia, you're unlikely to have come across these terms.

The Hague Convention is a treaty between 82 countries, which aims to prevent the unlawful removal of children overseas by one of their parents. If a child has been wrongfully taken to a convention country, that country will arrange for the return of the child.

Countries that are parties to the treaty, include Australia, New Zealand, Canada, UK and USA. There are many countries that are not part of the convention, including Japan and Russia. All the countries are listed on the Federal Attorney-General's Department website.

How can parental child abduction be prevented? If you suspect or are concerned that your former partner is planning on taking the children out of the country against your will, it is possible to have a PACE Alert put in place through the Federal Police, this can be done through a Family Court Order. The Order notifies the Federal Police of the child's name and the details are placed on an Airport Watch list, preventing the child from leaving the country.

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