



family flyer

Michael Lynch
Family Lawyers

Issue #62

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:

- New Book - Free!
- Associate - Appointment
- Winner Announced!
- Property Values
- Jail for Contravening a Court Order
- Certificates of Mediation
- Assistance

NEW BOOK - FREE!

Last month we launched our revised and updated book "A Guide to Family Law - Everyday Answers".

The book is now in its 5th reprint and over 50,000 copies have been printed in that time. It provides an easy-to-read outline of all aspects of Family Law.

Our thanks to everyone who has contacted us over the last month to request a copy. We have been delighted (and overwhelmed) by the response with over 5,000 copies already distributed.

If you or your organisation would like more FREE copies of the book please contact Michelle on (07) 3221 4300 or email us at law@mlynch.com.au.

ASSOCIATE - APPOINTMENT

We are pleased to announce the recent appointment of Kirstie Colls as Associate at our office. Kirstie practices exclusively in Family and Relationship Law.

Kirstie's appointment and expertise reinforce our position as one of the largest Specialist Family Law firms in Queensland.

If you require any assistance in Family Law matters whether it be children, property or child support do not hesitate to call Kirstie on telephone (07) 3221 4300.

Congratulations Kirstie!

WINNER ANNOUNCED!

Congratulations to Paul Gallagher, Accountant of BDO Kendalls Accountants.

Paul is a new email subscriber to the Family Flyer and is the winner of our weekend for two at the 5 Star Crowne Plaza Royal Pines Resort. Paul was notified of his win following the draw on Monday, 30 July 2007.

Congratulations to Paul and our thanks to all the other new email subscribers who entered the draw.

It is great to have you as new readers of the Family Flyer and we trust you will continue to enjoy and benefit from the Flyer's content.

PROPERTY VALUES

At a time where sharemarket and real estate values are regularly increasing it is important to remember that value is assessed by the Court at the time of determining a property settlement.

In a property settlement, property is identified at the time of separation but valued at the date of final agreement or Court Order.

It is not uncommon for parties to separate and not attend to a property settlement until several years later. It is the value of the property at the later date that will be applied in determining property settlement. This can quite often have a profound impact on the final property settlement outcome.

It is important that anyone who has separated obtain Specialist Family Law advice as soon as possible so that they can fully consider their options.

JAIL FOR CONTRAVENING A COURT ORDER

A Federal Magistrate has recently jailed a Mother for 4 months for contravening a child contact Court Order.

The facts:

- After a 2 day Final Hearing in the Family Court in December 2006 a Court Order was made that the children aged 8 and 6 years live with the Mother and spend time with the Father. The time with the Father was to commence on 7 January 2007 for one day per month up until August 2007 when it would increase further.





- The Mother did not provide the contact on 7 January 2007.
- In the December 2006 Hearing the Judge had gone to pains to explain to the Mother that she should not defy Court Orders and that there were serious consequences in doing so.
- Before the Federal Magistrate, the Mother argued that she had a reasonable excuse in that she was unable to afford to drive the children to the place for the contact changeover however, she also made it clear to the Court that she had no intention of complying with the previous Court Order.

Court Order:

- The Court determined that whether the Mother had the finances available to her or not, the fact was that she would not make the children available in accordance with the Court Order. In fact, she indicated the only basis upon which she would make the children available to the Father was if their time with him was supervised.
- The Court found the Mother had contravened the Order, that she had no reasonable excuse, that she knew she was bound by it and that she understood the obligations placed on her by the Order.
- The Court saw the contravention as a "serious breach".
- The Mother was sentenced to 4 months imprisonment to be served immediately and the Court Order was varied so that the children forthwith live with the Father.

CERTIFICATES OF MEDIATION

As of 1 July 2007 it is now compulsory to obtain a Certificate of Family Dispute Resolution before an Application can be made to the Court for a Parenting Order.

These Certificates can only be provided by a Family Dispute Resolution Practitioner that is approved and registered with the Federal Attorney General's department.

There are some exceptions to the requirement to obtain a Certificate of Mediation. People are not required to obtain a Certificate of Mediation before applying to the Court if:

- Applying for Consent Orders; or
- Responding to an Application for Parenting Orders; or
- The Court has reasonable grounds to believe that family violence or child abuse has occurred or there is a risk of that occurring; or
- A person has contravened and shown serious disregard for an Order made in the previous 12 months; or
- The matter is urgent; or
- One or more of the people involved in the dispute is unable to participate effectively in family dispute resolution, (for example, they live in a remote area).

ASSISTANCE

If you need assistance with a Family or Relationship Law matter call us on (07) 3221 4300 or visit us at www.mlfl.com.au.

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