



family flyer



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:

- Seminars - Great response!
- The Biggest Property Settlement in British Legal History
- Child Support - Changes
- Broken Engagement - don't discard the Ring
- Have you got a Power of Attorney?
- Access to Children's School and Medical Reports

SEMINARS - GREAT RESPONSE!

Thanks to everyone who attended the recent Family Law seminar series entitled "7 Secrets to Protecting your Assets and Surviving Separation". We appreciate all the positive feedback that was received.

The seminars were conducted at Windsor, Brisbane City and Carina. We were delighted with the great response and attendance to the seminars.

We look forward to running a further seminar series next year. Should anyone have suggestions regarding particular topics or seminar locations, please let us know.

THE BIGGEST PROPERTY SETTLEMENT IN BRITISH LEGAL HISTORY

Beverley Charman, Wife of insurance magnate, John Charman has received £48 million - the biggest property settlement upon marriage breakdown in British history.

The Court of Appeal highlighted the importance of entering into a Pre-Nuptial Agreement. Mrs Charman agreed that she would enter into a Pre-Nuptial Agreement if she were to marry again and would advise her sons to enter into an Agreement when they marry but said that when she married Mr Charman 28 years ago, there was "no expectation of money".

Mrs Charman turned down an offer to settle of £20 million from Mr Charman's assets of £131 million. Mrs Charman rejected the offer as she did not believe it was a fair reflection of her contribution and she had been advised that the offer did not reflect the principles outlined in a previous landmark case.

Stay tuned for the Paul McCartney and Heather Mills outcome!

CHILD SUPPORT - CHANGES

The Child Support formula and process for assessment will be completely changed from 1 July 2008.

The Child Support Agency is currently writing to all parents with a Child Support Agency assessment (approximately 1.4 million Australians) advising of the changes and requesting updating information from them, particularly the actual number of nights parents currently care for their children, as this will be assessed in a different way under the new formula.

The Agency will also need to know about any additional biological or adopted children in a parent's care as an amount for their support will be deducted from their income when calculating Child Support.

From 1 July 2008 there will become two new classifications for Child Support Agreements and from early 2008, the CSA will be reviewing all current Child Support Agreements to see whether they will continue to be binding and enforceable after 1 July 2008.

A booklet and DVD containing information about the new Child Support Scheme (including the new formula) will be sent out to parents in early 2008.

BROKEN ENGAGEMENT - DON'T DISCARD THE RING

If wedding plans turn sour, unwilling brides should resist any urge to toss out the engagement ring.

The New South Wales Supreme Court has recently upheld a decision that Ordered the unwilling bride to compensate her ex-fiance \$15,250 for the value of a discarded engagement ring.





The Wife "to-be" stated that after she called off the wedding and tried to give back the ring her fiance told her she could keep it. A few days later she told her Father to dispose of the ring, along with the photographs and other mementos of the failed relationship, which he threw in the garbage.

The fiance subsequently found out the ring had been disposed of, prompting him to launch legal action for compensation.

The Court Ordered that:

- In the eyes of the law the prospective Wife was holding her ex-fiance's property.
- The Court did not accept her contention that once he left the engagement ring on the table it became her property to keep or dispose of as she wished.
- If a woman refuses, without legal justification, to marry her fiance she cannot keep and must return any engagement ring. By turning down the offer of marriage, she had rejected the "conditional gift" of the ring.
- The Court rejected the claim that the ex-fiance's statement that she could keep the ring made it an "absolute gift" as there was evidence it was said in a bid to salvage the relationship.

HAVE YOU GOT A POWER OF ATTORNEY?

If there comes a time when you are unable to manage your own affairs, it may be too late to make your wishes clear to those who will care for you.

The best way to provide piece of mind is to legally appoint someone now to manage your financial/health matters in case in the future you are unable to do so yourself. You can do this by making an Enduring Power of Attorney.

What's the difference between a General and Enduring Power of Attorney?

A General Power of Attorney is a legal document that allows you to nominate one or more Attorney's to act on your behalf. The Attorney's power ceases if for any reason you lose the capacity to manage your own affairs.

A General Power of Attorney is typically used in commercial transactions to give someone specific authority in financial matters. An Attorney under a General Power of Attorney cannot make personal or health decisions.

What is an Enduring Power of Attorney?

Unlike a General Power of Attorney, the powers under an Enduring Power of Attorney continue in the event you lose the capacity to make decisions for yourself. An Enduring Power of Attorney allows you to give your Attorney the power to make financial decisions and also personal and/or health decisions.

ACCESS TO CHILDREN'S SCHOOL AND MEDICAL REPORTS

Whether an access parent is able to get information on their child from the child's school or doctor has recently been specifically addressed by the Court.

The Full Court of the Family Court stated that:

"Unless it was positively demonstrated that the provision of such information (school or medical reports) might be detrimental to the child, that information should be made available (to the access parent)".

It would be rare where a resident parent could establish that the provision of a school report or medical record to the other parent would be detrimental to the child.

Contact details
Michael Lynch Family Lawyers

Principal
Michael Lynch*

Senior Associates
Helen Bryden*

Associates
Kirstie Colls
Elizabeth Millar

*Queensland Law Society
Accredited Family Law Specialists

Telephone: 07 3221 4300
Facsimile: 07 3221 9454
Email: law@mlynch.com.au
Web: www.michaellynchfamilylawyers.com.au

Address: Level 6
193 North Quay
Brisbane Qld 4000

Post: PO Box 12027
George St, Brisbane Qld 4003



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