



family flyer



Issue #80

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:

- Seminar Series: Book Now!
- Facts on Paternity Testing
- Pay Nil Stamp Duty!
- What's in a Name?
- The 'How to' of Property Settlements
- A Wealth of Information

SEMINAR SERIES: BOOK NOW!

Book Now for our upcoming Public Seminar Series!

The first seminar is less than a month away so book your tickets now to get a practical and easy-to-understand insight into how Family Law works! The 1 hour "Guide to Family Law" seminar is \$20 per person. The first 2 dates are:

- 27 August, 6-7pm at Ashgrove Golf Club, 863 Waterworks Rd, The Gap.
- 1 September, 1-2pm at Sebel Hotel, Charlotte St, Brisbane City.

Don't miss out! For more details on all the seminar dates and locations, visit our website www.mlfl.com.au.

FACTS ON PATERNITY TESTING

What is it?

A paternity test is a common occurrence in Family Law cases. The test involves a DNA sample being taken from the alleged Father, the Mother and the child, to provide evidence as to whether the alleged Father is the biological parent of the child.

Why?

The DNA test can be used to assist spouses in the preliminary determination of children's arrangements and also help Mothers determine who the Father of their child is when they are seeking child support.

The Facts:

- It is estimated that about 6,000 paternity tests are conducted in Australia each year (about 1,000-1,500 of these are in Queensland).
- Paternity tests can be done in a variety of ways, including saliva swab or blood test. The tests are 99.9% accurate in establishing

that a man is a child's Father and 100% accurate in establishing if a man is not a child's biological Father.

- Paternity tests can be conducted as early as 11 weeks into a pregnancy but it can have a possible risk to the pregnancy. In legal proceedings the testing occurs after a child is born.
- Test results are usually available between 5 to 10 working days after the testing occurs.

PAY NIL STAMP DUTY!

Separated couples (married or de facto) can avoid all stamp duty when transferring property between themselves (whether that is for a house, investment property, shares or motor vehicle) if their property settlement is properly documented.

Getting this paperwork right can represent a saving of tens of thousands of dollars!

A married couple that separates must document their property settlement either by way of a Binding Financial Agreement or a Consent Order. A de facto couple (in Queensland) must document their property settlement by way of a Recognised Agreement.

It is important that when considering a property settlement and also when documenting it that you get Specialist Family Law advice.

WHAT'S IN A NAME?

A New Zealand Family Court Judge was recently so astounded by the unusual name the parents called their child that he Ordered the child's name be changed.

The Judge took the usual step of publishing the details of the case, which involved an Order that





the girl named, 'Talula Does The Hula From Hawaii' not only be placed in Government care but also that her name be changed as he was concerned it was not in her best interests as it would pose a significant social impediment for her. The Court noted that the 9 year old girl was actually too ashamed to even reveal her name to her friends to avoid being teased.

In giving judgment, the Judge noted his disdain of names that children had been given, including Violence, Number 16 Bus Shelter and twins named, Benson and Hedges.

It appears the age of the SMS language has now also crept into child naming with a mother having named her child 'O.crnia'. In that case the Court re-named the child Oceania.

THE 'HOW TO' OF PROPERTY SETTLEMENTS

Working out a property settlement is unfortunately an inexact science, but it essentially involves 4 basic steps:

Step 1: Identify and Value Assets

- All the parties' property is included in the property pool and a value must be given to all assets and liabilities.

Step 2: Consideration of Contributions

The Court will consider contributions made by each spouse, including:

- Initial contributions.
- Financial contributions, including any inheritances, gifts and lump sum payments received during the marriage or after separation.
- Non-financial contributions, including

contributions made to the welfare of the family.

Step 3: Future Needs

- The Court will also consider any adjustments that should be made for the future needs of the Wife or Husband (this may be the case where either spouse has an earning disparity or cannot obtain employment due to an illness).

Step 4: Reaching an Agreement

- If the Wife and Husband can agree on a financial settlement a solicitor can draft a Consent Order or a Binding Financial Agreement on their behalf.
- If an agreement cannot be reached, the parties can commence court proceedings by making an application for Final Orders.

To make an appointment for legal advice please contact us on (07) 3221 4300.

A WEALTH OF INFORMATION

The Family Flyer provides you with a wealth of information.

Below are some recent articles:

- Special Edition – The New World of Child Support – Issue 71.
- Special Edition – Shared Parenting – Changes in Family Law – Issue 44.
- What is a Prenuptial Agreement? – Issue 42.
- Separation – A "To-do List" – Issue 75.
- What is a De facto Relationship? – Issue 65

For any of these articles and more, visit our website at www.mlfl.com.au.

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