



family flyer

Michael Lynch
Family Lawyers

Issue #81

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:

- Calling All Relationship Counsellors!
- Don't Miss: "A Guide to Family Law"
- When Can a Child Travel Overseas?
- Who Can Remain in the House? – Part 1
- New Centres Now Open!

CALLING ALL RELATIONSHIP COUNSELLORS!

Psychologists and Counsellors are at the coal-face of relationship counselling every day, it is therefore no surprise that we regularly get Family Law questions from health professionals who are trying to provide the best help to their clients.

To meet that need, we have now designed our first ever HALF-DAY SEMINAR exclusively for professionals involved in Relationship Counselling.

Entitled "Understanding Family Law – A Practical Insight," this half-day seminar comprehensively covers Family Law, including Parenting, Property, Spouse Maintenance, Child Support and documenting Agreements. It will provide you with a practical understanding of how Family Law works that will significantly enhance the professional assistance you can give to your clients.

This is a "one-off" event - not to be missed - at QRU "Ballymore," Butterfield Street, Herston, on Friday 12 September 2008 from 9am -12.30pm. Numbers are limited! BOOK NOW to gain the early bird rate. You will enjoy the comprehensive content we have planned for you.

For information and registration details, visit www.mlfl.com.au/seminars.

DON'T MISS: "A GUIDE TO FAMILY LAW"

The 1st seminar of the Public Seminar Series starts in 1 week! "A Guide to Family Law," will provide you with a wealth of useful and easy-to-understand information on Family Law.

2 topics – 8 venues. ONLY \$20 – For information and resources valued at over \$450!

- 27 August, 6-7pm at Ashgrove Golf Club, The Gap; or
- 1 September, 1-2pm at Sebel Hotel, Charlotte St, Brisbane.

DON'T MISS OUT! For the full list of dates and registration details visit www.mlfl.com.au or phone 3221 4300.

WHEN CAN A CHILD TRAVEL OVERSEAS?

Whether one parent can take a child overseas when the two parents are not in agreement, is always a difficult decision. The Court recently decided a Mother could not take her daughter with her on a holiday to Thailand as the risk that she may not return to Australia was too high.

Facts:

- The Father was 66 years old with Australian citizenship. He relied on social security payments.
- The Mother was 48 years old and a Thailand citizen with a visa for permanent residence in Australia. She was reliant on Centrelink payments.
- The couple had lived together for 6 years and had been married for 4 years and had a 3 year old daughter.
- There was a Court Order restraining the Mother from taking the daughter out of the country.
- The Mother wanted to travel with her daughter to Thailand for 3 weeks to visit her ill mother however, the Mother later stated she wanted to care for her mother.
- The Mother had most of her relatives in Thailand and a house in her name.





- In Australia she had one sister and no property.
- The Father opposed the Mother taking their daughter, due to the risk that she would not return with the daughter.

Court Findings:

- Thailand is not a Hague Convention country and therefore the Father could do nothing to compel the child's return. The Father would also lack the funds to compel the daughter's return through the Thailand legal system.
- There was a significant risk that the Mother would stay in Thailand for an extended period of time, as she mentioned she wanted to care for her mother.

Court Order:

- As the Mother opposed the suggestion that she and the Father travel together with the child, the Court Ordered the child stay in Australia, as the damage that would occur to the Father's relationship with the daughter, if she was not returned, outweighed the benefits of the child seeing her relatives in Thailand.

WHO CAN REMAIN IN THE HOUSE? - PART 1

A common question in Family Law is "who can remain in occupation of the house?" and more pointedly, "how can a spouse be made to move out?"

Facts:

- The Husband and Wife had been married for 12 years with 2 children aged 8 and 11. The family had continued to live in the same house for a year since separation.
- The Wife sought a Court Order for the

Husband to vacate the home pending sale of the house and an investment property.

The Wife claimed:

- She had requested the Husband to leave the home 3 times and he had refused.
- She had a weekly income of \$1,040 and could not afford to rent if she moved out, whereas the Husband had a weekly income of \$1,250.
- There was severe tension in the house which was having a negative impact on the children and had caused her to seek counselling.
- The Husband could move into a spare room at his parents' home that was close-by, however the Husband contested this and said it was their hobby room.

The Husband had made a large financial contribution to the home that the Wife wanted him to vacate and he opposed the sale of the home.

Court Order:

- It was not reasonable or practicable for the Husband and Wife to continue to remain in the same house together.
- The Husband to vacate the house within 14 days. The investment property was to be sold and upon payment of \$250,000 from the Husband to the Wife, the Husband was then entitled to return to live at the matrimonial home.

NEW CENTRES NOW OPEN!

There are now 24 new Family Relationship Centres open all over Australia, bringing the total to 64.

Queensland has 5 new Family Relationship Centres located in Bundaberg, Chermside, Logan, Mackay and Toowoomba.

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