



# 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:

- We Can Create a Free Seminar for You!
- 'Close-up' Series
- Fears of a Potentially Corrosive Parent – Shared Care?
- Watch Out!
- Property Settlement: Career Enhancement

## WE CAN CREATE A FREE SEMINAR FOR YOU!

Michael Lynch Family Lawyers have been presenting seminars on a variety of topics for many years.

If you are a business, organisation or community group and feel there would be benefit to your organisation in us presenting one of our FREE seminars, or you would like to discuss designing specific content to suit your audience, please contact us.

Our seminars are usually for 1 hour and include a presentation, powerpoint and handout material. For more information contact us on (07) 3221 4300 or visit us at [www.mlfl.com.au](http://www.mlfl.com.au).

## 'CLOSE-UP' SERIES

Want to know more about Mediation? How it happens? When it is meant to happen? This edition's 'close-up' article is on 'What you need to know about Mediation'. To read more: [www.mlfl.com.au/media/articles](http://www.mlfl.com.au/media/articles).

## FEARS OF A POTENTIALLY CORROSIVE PARENT – SHARED CARE?

The Court recently considered a case where the Mother opposed a shared care parenting arrangement with the Father, as he had a criminal record. She believed he would be a bad role model for the children.

### Facts:

- Father was aged 48 years and the Mother was 29 years of age. The couple were married with 2 children aged 4 and 2.

- The Father proposed they have shared care of the children. The Mother opposed this saying that it was not in the best interests of the children and it was not practical. She said he was a former drug dealer and lived in a criminal environment.
- The Father claimed he had changed significantly. He said that the Wife had previously been involved in drugs and the adult entertainment industry. She said she had overcome her drug addiction and currently worked as an administration officer.
- The Father was on a disability pension and had not worked in paid employment for 9 years.

### Court Findings:

- Both parents were assessed to be 'competent' parents.
- Due to the children's young age it was in the best interests of the children to be in a shared parenting arrangement, so they could form bonds with both parents.

### Court Order:

- The children were to live with the Father on alternate weeks i.e.:  
(Week 1)
  - Monday, 8am to Thursday, 5pm.  
(Week 2)
  - Wednesday, 8am to Sunday, 5pm.



## WATCH OUT!

For something of a completely 'non-family law' nature, we thought we would share with you a recent 'golfing story' case from the Queensland Court of Appeal.

The Court was asked to consider if a golfer was liable for damages for injuries caused to his golfing partner by a miss-hit golf ball.

The two golfers were playing a round of golf at a club competition. While one of the golfers was searching for his golf ball in the trees, the other golfer took his shot and soon after hitting it, he called "watch out" but the ball bounced off a tree and hit the other golfer (a medical surgeon) above the eye.

The Court held that the "watch out" warning was reasonable and sufficient, and the warning "fore" was not necessary, so the injured golfer was unsuccessful in suing for injuries.

## PROPERTY SETTLEMENT: CAREER ENHANCEMENT

The Court recently considered a case where the Husband and Wife lived in different parts of the world. The couple required Orders to decide on the distribution of \$2 million in property and the care of their child.

### Facts:

- The Husband was a manager for an international hotel chain and was based in China. The Wife lived in Brisbane.
- The Husband was able to develop his career as a result of the contribution and assistance provided by the Wife. The Wife provided considerable

domestic support, hosted functions for the Husband and cared for the child.

- The couple had 1 child, a daughter aged 8.
- The Wife was worried about the amount of travel that would be required by the child in order to spend time with the Husband. She was also concerned that the child may not be returned.
- The Husband preferred the child to travel to see him, rather than he spend time with the child in Australia. The travel expenses were to cost \$9000 per visit.
- The Wife sought 75% of the assets, \$1000 per week in spousal maintenance, increased child support payments from \$326 to \$500 per week and that the Husband pay for the child's travel costs to see him.
- The Husband wanted 60% of the assets and that the child live with the Wife and spend half the school holidays with him. He agreed to paying travel expenses.
- The contributions made by the Husband and Wife were found by the Court to be equal.

### Court Order:

- There was no increase in the Wife's 'financial need' so no spouse maintenance. The Husband continue to pay \$326 per week in child support.
- The child live with the Wife and spend time with the Husband for half of her school holidays.
- The Husband be responsible for the cost of the child's travel.
- The Wife receive 55% of the property and the Husband receive 45%.

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### Contact details

Michael Lynch Family Lawyers

**Principal**  
Michael Lynch\*

**Senior Associates**  
Helen Bryden\*

**Associates**  
Kirstie Colls  
Elizabeth Millar

**Solicitors**  
Amelia Gaffy

\*Queensland Law Society  
Accredited Family Law Specialists

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

**Address:** Level 6  
193 North Quay  
Brisbane QLD 4000

**Post:** PO Box 12027  
George St, Brisbane Qld 4003



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