



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 – “Guide to Family Law” Book – Out Now!
- Next – Celebrating our 100th Edition!
- Obituary: Death of the Federal Magistrates Court
- Pre-nuptial Agreement – Doing it Right!
- ‘Close-up’ Article
- Forward this Flyer to a Friend!

NEW: ‘GUIDE TO FAMILY LAW’ BOOK OUT NOW!

We are pleased to announce that the updated “Guide to Family Law” Book will be released and distributed this week! The book is FREE and fully up-to-date with all the latest changes in Family Law including, children’s arrangements, Child Support and property settlements for de facto couples!

With over 50,000 copies distributed to date, our book is the only one of its kind in Queensland!

To get useful and important information about Family Law – order your FREE copy today! Be quick – don’t miss your chance to get your copy – ph. 3221 4300.

NEXT – CELEBRATING OUR 100TH EDITION!

The Family Flyer has almost reached its 100th Edition! To celebrate, we will issue a Special Edition hard copy of the flyer, as well as our usual e-Flyer edition!

The Family Flyer has been running for more than 13 years and its readership is growing larger every year – there are now over 5000 readers! As usual, the 100th Special Edition will include an assortment of topical articles, with useful Family Law tips and advice.

Keep an eye out for our Special Edition!

OBITUARY: DEATH OF THE FEDERAL MAGISTRATES COURT

The Government last week announced that the Federal Magistrates Court will soon be gone!

Following a government enquiry, a recommendation has been made to replace the Court by absorbing it into a new two-tier Family Law Court structure. The new structure will have a combined Registry and the Court will sit as:

- **2nd tier:** (the re-modeled Federal Magistrates Court) This will be the first ‘port of call’ for most Court Applications. Federal Magistrates will be known as ‘Judges’.
- **1st tier:** (The existing Family Court) Judges will deal with Appeals and other complex matters.

No date has yet been set for the start of the new system.

PRE-NUPTIAL AGREEMENT – DOING IT RIGHT!

Pre-nuptial agreements are important documents which can help to protect your assets and exclude them from the property pool, in the event of separation.

If you are documenting a pre-nuptial agreement, it is important certain formalities are followed. The rules are quite strict and if they are not followed, it is likely the agreement will not be binding!

In a recent Court case a Husband had a documented pre-nuptial agreement but ran into a number of difficulties. The agreement was found to be invalid and the facts should be a salutary lesson to all.



Facts:

- The Husband proposed marriage to the Wife when visiting her in the Philippines.
- Before the marriage, he received advice about entering a pre-nuptial agreement. An agreement was prepared and signed by a solicitor of the Supreme Court of Queensland.
- The Husband presented the agreement to the prospective Wife and advised her it was a legal document and enforceable in Australia. He told her it was a pre-nuptial agreement and that if she did not sign the agreement he would not marry her.
- The Husband told the Court that he believed the Wife “fully comprehended” what was being discussed.
- The Husband said that he knew that the Wife was going to take the document to a lawyer in the Philippines, to be signed and witnessed. He said he did not interfere with the Wife’s process of signing the documents.
- The Wife stated that she did go to a lawyer’s office in the Philippines and that while she waited at the reception, the document was taken out of her sight and then returned shortly after with the signature of a Solicitor from the Philippines.

Court Found:

- The Wife had not received legal advice

and the agreement had not been signed by an Australian solicitor. There had not been substantial compliance in the completion of the document and the Wife could not have made an informed decision.

- The Husband knowingly allowed the Wife to seek legal advice and have the agreement signed by a lawyer outside the Australian jurisdiction.

Court Order:

- The Wife’s lawyer was not a practitioner in Australia, therefore the agreement was set aside and held to be unenforceable.

‘CLOSE-UP’ ARTICLE

Domestic Violence often arises when couples are separating. In this edition’s ‘Close-up’ article we consider – What is Domestic Violence? and How is it considered in different legal proceedings? To read more visit www.mlfl.com.au/media/articles.

FORWARD THIS FLYER TO A FRIEND!

Sharing up-to-date information on Family Law has never been easier! You can select any edition of the Family Flyer online and forward it instantly to a friend.

If you have any comments regarding the Family Flyer – in response to articles or suggestions for new articles – we want to hear from you! Please email us by visiting www.mlfl.com.au/contact.

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