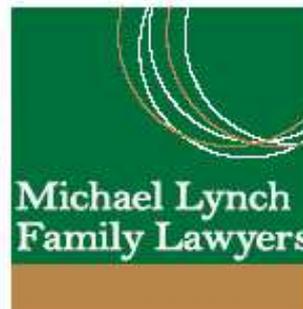


family flyer



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:

- Seminar Series – On Now!
- Stimulus Payments Help Child Support
- Close-up – Shared Parenting
- Can You Change a Court Order?
- Get the Right Value for Superannuation

SEMINAR SERIES – ON NOW!

Our Seminar Series is underway! If you have missed the first few seminars – don't worry! There are still a number of seminars with a variety of locations to choose from – coming soon!

By attending, you will be up-to-date with the latest changes in Family Law and learn some useful tips on surviving the difficulties of separation. For tips and advice and a package filled with information, the \$20 attendance fee is great value!

Book by phoning 3221 4300. Next week's dates are:

- Monday, 3 August, 6-7.30pm – Windsor International Hotel, Windsor;
- Tuesday, 4 August, 6-7.30pm – USQ, Springfield Lakes;
- Wednesday, 5 August, 6-7.30pm – Wantima Country Club, Albany Creek.

For more information on upcoming seminars visit www.mlfl.com.au/seminars.

STIMULUS PAYMENT HELPS CHILD SUPPORT

The Child Support Agency (CSA) has this year successfully recovered double the amount of outstanding Child Support than in the previous year, as a result of the government's stimulus bonus!

The Child Support Agency has the power to intercept any ATO payments – whether that be tax refunds or (unexpected) Government Stimulus package payments – for payment of

outstanding Child Support. With everyone eager to lodge their tax returns to claim the Government's Tax Bonus, the CSA has managed to recover \$32.4 million in outstanding payments in the last 5 months.

Last year, money was recovered for payment of outstanding Child Support payments from 13,880 late tax returns, however this year the figure has almost doubled, to a recovery from 26,797 tax returns!

CLOSE-UP – SHARED PARENTING

Every edition we take a closer look at a useful Family Law topic in an easy-to-understand format. You can read these articles by visiting www.mlfl.com.au/media/articles.

This edition we look at Shared Parenting in high conflict cases. What approach is the Court taking? 'What is "Parallel Parenting"?' Read more in this edition's article – "[The Challenges of Shared Parenting](#)".

CAN YOU CHANGE A COURT ORDER?

The Court recently considered a parenting case where the Mother wanted the existing Court Order changed, however the Father opposed the change, arguing the 'Rice v. Asplund' rule.

What does this mean? This rule states that where a Final Order regarding children's arrangements have been made, before the Court can consider a new Application to vary the parenting issues, the parent seeking the change must establish that there has been a "significant change in circumstance".



Michael Lynch
Family Lawyers

Facts:

- The Mother and Father had 2 children, aged 12 and 11.
- The Court previously made Orders that the children live with the Mother and spend time with the Father 1 school night a fortnight and on part of the weekends and school holidays.
- A previous Family Report described the parents as being “high conflict” parents. The Report also showed that the 12 year old child had been placed in the center of the dispute.
- The Mother wanted the previous Court Order suspended and that any time the children spend with the Father to be at the children’s request.
- The Mother wanted an urgent psychological assessment of the needs of the 2 children. The Father opposed this, stating it was not in the children’s ‘best interests’.
- The Father said that the Court should not re-consider the matter, as the Mother had failed to establish a “significant change in circumstance”.

Court Order:

- The Court decided not to re-visit the living arrangement made in the previous Orders as it was not in the children’s ‘best interests’ and there had not been any significant change in circumstances.

GET THE RIGHT VALUE FOR SUPERANNUATION

For defacto couples (separated since 1 March 2009) and married couples, Superannuation

forms part of the property for division in a property settlement. It is therefore essential that it be valued correctly.

The Court has long stated that property is identified at the date of separation but valued at the date of agreement (or Court Hearing).

The treatment of Superannuation in a property settlement is complex and Specialist Family Law advice should be sought when considering it. In simple terms though, a Superannuation fund is either a “Defined Benefit” or an “Accumulation” fund.

The majority of Superannuation funds are Accumulation funds. Those funds are essentially reflected as a “bank balance” and therefore an Annual Member Statement can provide an accurate value of the fund.

Many older and larger public Superannuation funds (particularly in Government and for the military) are Defined Benefit funds. As the value of these funds is calculated pursuant to a complex formula (involving years of employment, salary level etc), you should not rely on the Annual Member Statement in determining a value of these funds for Family Law property settlement purposes. These funds must be independently valued.

Superannuation funds are significant in most property divisions and Specialist Family Law advice should be obtained. For further information and a “fixed-fee” initial consultation, contact us on 3221 4300.

Issue #104

Contact details

Michael Lynch Family Lawyers

Principal
Michael Lynch*

Senior Associates
Helen Bryden*

Associates
Kirstie Colls
Elizabeth Millar
Amelia Trotman

Solicitors
Clare McCormack

*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



Copyright 2008

This document contains general comments only and should not be relied upon as specific legal advice. Readers should contact this Office for a detailed information or advice on any topic in this document. Changes to the law occur regularly, no responsibility for any loss or damage caused to any person acting in reliance on this document shall be accepted by the Principal of this Office. No part of this document may be included on any document, circular or statement without our written approval.