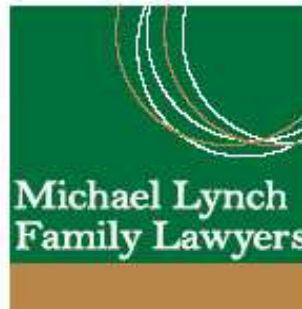


family flyer



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:

- New brochure - 10 Quick Tips!
- Seminar Series – Last Chance!
- What is a Recovery Order?
- “Close-up” Edition
- Property Settlement – An Even Share
- What Happens with Jewellery?

NEW BROCHURE – 10 QUICK TIPS!

If you work in the accounting, legal or counselling industry, it is likely that you have had someone who is separating ask you for advice.

Did you know what to say? Quite right, you're not meant to – but wouldn't it be great if you could help?

The breakdown of a relationship is an emotionally difficult time and taking the right steps and making the right decisions is critical!

To help you in these situations, we have developed a new brochure you will find useful – “10 Quick Tips on Family Law”.

We have received many requests for this brochure - If you would like a bundle of the “10 Quick Tips” Brochure and a FREE stand for your reception, call us now – ph.3221 4300.

SEMINAR SERIES – LAST CHANCE!

DON'T MISS your last opportunity to get a better understanding of Family Law. To get useful tips, attend our last seminar in this series, [“Surviving Separation”](#) -

- Tuesday, 23 March, 6-7.30pm at Windsor International Hotel, Cnr of Lutwyche Rd and Bryden Street, Windsor. Cost: \$20

Ph. 3221 4300 to secure your seat!

WHAT IS A RECOVERY ORDER?

If you have a Court Order that sets out the time that your child “lives with” you and the other

parent unreasonably withholds the child from you (or moves away) you are entitled to apply to the Court for a Recovery Order.

When doing this there are some things you need to be aware of:

- You must have a Court Order in the first place (not a Parenting Plan).
- The Court needs to specifically grant a “recovery” Order.
- Only the Federal Police can act on the Order – not the State Police.

The Order results in the Federal Police collecting the child and returning the child to the primary carer parent.

“CLOSE-UP” EDITION

What happens when legal advice is delayed? This week's “Close-up” looks at the consequences of not getting legal advice soon enough, read – [“Get Legal Advice Early”](#).

PROPERTY SETTLEMENT: AN EVEN SHARE

In determining the percentage apportionment in a property settlement the Court is required to consider a wide array of ‘contributions’ that each spouse has made.

As every couple's circumstances and contributions are different – so every property settlement outcome is different.

The Court recently considered a case that involved a number of large financial contributions that are common to many family situations.



Issue #119

The Facts:

- The Husband and Wife had been together for 24 years and had 4 children, 3 adult children and 1 child, aged 17.
- Both spouses were aged 45 and earned approximately the same income.
- The Husband claimed he should receive 60%, as he received a large inheritance while the parties were married. The Wife however, said that she should receive 60% as her family had provided them with a gift.
- The Husband's inheritance was worth \$134,000, of which he claimed he should receive credit for \$102,000 of that amount. The Wife contributed gifts from family, totalling \$57,500 of which she claimed \$40,000 should be given significant weight, as it allowed the parties to purchase the matrimonial home.
- The couples' main assets consisted of 2 properties, vehicles and shares, totalling \$498,342.

Court Order:

- The Husband and Wife's 'contributions were equal. They received 50% each.

WHAT HAPPENS WITH JEWELLERY?

The first step of a property settlement involves identifying and valuing the property owned by both parties. Generally all property owned by both parties is included in the property pool, whether it be jointly or individually owned. Does the Court include jewellery in the property pool?

A recent case involved a Husband and Wife disputing whether the Wife's jewellery should be included in the property pool.

The Facts:

- The Husband and Wife were together for 14 years.
- The Wife's jewellery were items purchased by the Husband, which included, her engagement ring (\$1,995), wedding ring (\$575), gold padlock (\$970), opal ring (\$3,060) and a gold chain (\$657.60).
- The total value for the jewellery was \$7,257.60. From the valuation certificates, the Husband placed the same value as the purchase price on the items.
- The Wife argued the jewellery should not be included, as they were gifts given to her from the Husband and the valuations were unreliable, being 16 years old.

Court Found

- There was no evidence as to who provided the valuations and whether they were for insurance or replacement purposes.
- The price paid for jewellery is generally not its actual value.

Court Order:

The Wife could retain the jewellery. They were gifts from the Husband and the value was unreliable. The jewellery was not included in the pool.

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