



# family flyer



Issue # 129

## 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!
- 10 Years of Pre-nups
- “Close-up” Edition
- Supervised Contact
- Home Schooling

## SEMINAR SERIES – ON NOW!

Welcome to new readers of the Family Flyer who have joined after attending the first 2 public seminars.

The interactive audiences and great questions have provided an excellent start to this series!

[Read our seminar comments.](#)

DON'T MISS this Seminar Series!

Each seminar provides a wealth of information – valued at over \$500 – but for ONLY \$20! There is also a **Special Offer** – only for attendees.

Upcoming dates are:

“Separation & Children”:

- Tuesday, 3 August, 6-7pm – Redcliffe Leagues Club, Cnr Klingner & Ashmole Rds, [Redcliffe](#).
- Thursday, 5 August, 6-7pm – Sherwood Services Club, Clewley St, [Corinda](#).

“Separation & Property”:

- Tuesday, 17 August, 1-2pm – Chifley at Lennons Hotel, 66 Queen St, [Brisbane City](#).
- Thursday, 19 August, 6-7pm – Redland Bay Golf Club, North St, [Victoria Point](#).

Book Now! – ph. 3221 4300 or email [law@mlynch.com.au](mailto:law@mlynch.com.au)

## 10 YEARS OF PRE-NUPS

10 years ago pre-nuptial agreements first became legally enforceable in Australia. Since then, they have become increasingly popular, it is reported that about 1 in 10 couples now sign a pre-nuptial agreement before they tie the knot.

A pre-nuptial agreement allows a couple to protect their assets and wealth from one another if separation does occur. A pre-nup is a type of Binding Financial Agreement (BFA), it is not registered with the Court and it has a high level of technical requirements.

It is the only way property can be excluded from the property “pool”, if a separation occurs.

## “CLOSE-UP” EDITION

It is common for couples to remain living together even after separation has occurred. How can the Court decide whether the parties have actually separated? Read this edition’s “Close-up” – [“Separation – Under the One Roof.”](#)

## SUPERVISED CONTACT

A Father recently challenged a Court Order that provided that his contact time with his children be supervised indefinitely. The 2 children were aged 7 and 9.

In this case, the Mother had relocated with the children to Ireland without the Father’s consent. The Father began proceedings and the Mother agreed to return to Australia with the children.

The Judge Ordered that the Mother have sole parental responsibility and be allowed to relocate to Ireland with the children. The Court also Ordered that the Father have supervised time with the children, as his language was described as “atrocious.” He also told the children they tell their Mother they wanted to stay in Adelaide and to give her a hard time. The Court did not state when this supervision would cease.



The Court did not allow the Father's Appeal. It was found that the Trial Judge had given proper consideration when deciding the Father should have indefinite supervised contact. The Judge had the option to decide whether the contact should be reviewed, however he did not make an error in not doing so.

## HOME SCHOOLING

It is not uncommon for disputes to arise between parents over which school the children should attend, but what if one parent decides they don't want the children to attend a school at all? The Court recently had to consider a situation where the Mother wanted the children to continue being home-schooled by her, however the Father disputed this and wanted the children to attend mainstream school.

### **The Facts:**

- The parents had 2 daughters, aged 13 and 9
- Initially the parents had both agreed that the children would be home schooled but they had also agreed they would re-evaluate the home schooling.
- The eldest daughter had dyslexia and had previously attended school for 2 years. The 9 year old daughter had always been home schooled by the Mother.
- The children had lessons at home with the Mother on Monday, Wednesday and Friday. On Tuesday they would attend excursions, sport and other activities with families that also home schooled their children. On Thursday the children spent time with their grandparents.

- The Father re-evaluated the home schooling and believed it did not serve either of the children well.
- Both children had high verbal comprehension, but weak skills in reading, spelling and comprehension and were behind in Maths and English.
- The Mother argued that the learning program she had designed for the children had been approved by Queensland Education.
- The eldest daughter wanted to continue home schooling and preferred it over mainstream school. She believed that she learnt more at home and that if she was made to go to school, she would try and get expelled. The youngest daughter also did not want to go to a mainstream school.
- A social worker evaluated whether both children should remain being home schooled. The social worker noted that the eldest daughter should remain being home schooled, however an attempt could be made to enrol her in a school if it was carefully managed.

### **Court Found:**

- The Court agreed with the evidence of the social worker that the youngest daughter would benefit from attending school.
- Both children were behind their peers and did not have the opportunities available to them that would be available in a mainstream school, which included social skills and being taught by professional teachers.

### **Court Order:**

The children attend school at the beginning of the next term.

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