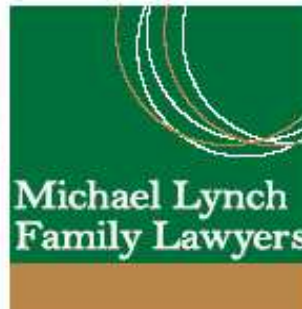


family flyer



Issue # 133

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:

- Getting Expert Evidence Right!
- Final Seminar Series!
- “Close-up” Edition
- What is a Special Skill?
- Part 1: Changing Residence
- FRC: Child Inclusive Mediation

GETTING EXPERT EVIDENCE RIGHT!

If an expert is to be used in a Court Hearing it is important that the evidence is obtained and presented correctly.

In a recent children’s case a Mother came close to not getting important expert evidence before the Court because it was not in the correct form.

For expert evidence to be submitted to the Court, it must be independent evidence and ideally jointly obtained by the parties involved. The report also needs to be filed as an Affidavit of the expert and not attached to an Affidavit of the party filing the application.

FINAL SEMINAR SERIES!

We will soon be presenting our last public seminar series for the year!

The “Family Law – Explained” series is NEW and limited to only 3 venues!

For the first time – we will present a comprehensive 2-HOUR presentation of easy-to-understand information about parenting and property and much more!

Valued at over \$800 – but only \$30 (payable at the door).

Don’t miss your chance to get a practical understanding of Family Law by attending one of our 2 hour seminars, presented by Family Law Specialist Michael Lynch.

Don’t miss these dates, next month:

- Sunnybank- 6-8pm, Tuesday, 26 October - Palermo Centre, Mains Road,

Sunnybank.

- Redcliffe - 6-8pm, Wednesday, 27 October - Redcliffe Leagues Club, Cnr Klingner & Ashmole Roads, Redcliffe.
- Redland Bay - 6-8pm, Thursday, 28 October - Redland Bay Golf Club, North Street, Redland Bay.

Book your seats NOW – call 3221 4300 or email law@mlynch.com.au.

“CLOSE-UP” EDITION

What happens when a parent wants to take a child out of the country without the other parent’s permission? Is there a way of stopping the child from leaving the country? Find out more in [“What is the Airport Watch List?”](#)

WHAT IS A SPECIAL SKILL?

When one spouse has a special business skill that has created an “extraordinary” level of income during the relationship, the Court may make a percentage adjustment in the property settlement in favour of that spouse.

So what is a “special skill”?

The Court has determined that these skills have ranged from successful business entrepreneurs, to well-known Australian artists.

The Court distinguishes these “special skill” situations from those where wealth has been accumulated through chance or luck, or even just hard work. In one case, where the Husband was a partner of a law firm and his income was greater than the average solicitor, the Court found he did not have skills that were within the



“extraordinary level”. It requires something more than being a high income earner!

PART 1: CHANGING RESIDENCE

Orders by the Court for the complete reversal in the “primary care” arrangements for children – from one parent to the other – do happen, although they are rare.

In this “2-part” Article we look at some circumstances where the Court has Ordered such a change.

Case 1 -

The Facts:

- The Mother and Father separated before the child was born.
- After separation, the child lived with the Mother.
- While the child was living with the Mother, the child changed residency 13 times and viewed the Mother in numerous relationships.
- At the Hearing the child was 6. The Father sought primary care and sole parental responsibility of the child, while the Mother sought equal shared parental responsibility.
- The Independent Children’s lawyer supported the Father’s application, provided that the Mother was informed of decisions the Father made.
- The Family Consultant also recommended that the Father should have sole parental responsibility for all major decisions involving the child. She stated that the child’s psychological

health was at risk when the child was in the primary care of the Mother.

Court Found:

- The Mother lacked focus on the child’s emotional needs.
- She also had poor insight into the child’s educational needs and did not accept or address the difficulties the child had at school.
- There was no communication between the Mother and Father

Court Order:

- The Father to have primary care and sole parental responsibility.
- The child spend time with the Mother 4 nights a fortnight.

FRC – “CHILD INCLUSIVE” MEDIATION

Family Relationship Centres (FRC) offer mediation between parents, and more and more are now also offering the opportunity for children to be included as a part of the process.

The child can only be interviewed with the consent of each parent. When interviewed by an Independent Child Consultant, the child is able to discuss their experience of family separation.

This is an option so parents are able to hear the child (via the Consultant) and understand how the child is coping emotionally and what the child’s needs are.

Issue # 133

Contact details

Michael Lynch Family Lawyers

Principal

Michael Lynch*

Senior Associates

Helen Bryden*

Kirstie Colls*

Associates

Elizabeth Millar

Amelia Trotman

Solicitors

Clare McCormack

Amy Honan

*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.