



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 – Starts Today!
- Filing Deadlines
- Contravention becomes Variation
- “Close-up” Edition
- “Special” Contributions as a Homemaker

SEMINAR SERIES – STARTS TODAY!

Want practical information on Family Law without the confusing legal jargon? Don't miss our last Seminar Series of the year – starting today!

In a **new** 2 hour seminar “**Surviving Separation**”, presented by Principal, Michael Lynch – you will receive easy-to-understand information about shared parenting, property settlements and more for ONLY \$30 (valued at over \$800!).

Book today – limited seats available! Ph 3221 4300 or email law@mlynch.com.au to attend:

- **Sunnybank** – Today, 26 October, 6-8pm – Paloma Centre, Main Road, Sunnybank.
- **Redcliffe** – Tomorrow, 27 October, 6-8pm – Redcliffe Leagues Club, Cnr Klingner & Ashmole Roads, Redcliffe.
- **Victoria Point** – Thursday, 28 October, Redland Bay Golf Club, North Street, Redland Bay.

FILING DEADLINES

The Family Court has set the 12th of November, 2010 as the deadline for filing all applications for Parenting Orders relating to the summer (Christmas) school holidays.

Applications will be accepted no later than 4pm on that day.

CONTRAVENTION BECOMES VARIATION

What happens when one parent breaches a

Court Order? In some situations the parent in breach of the Order may have a “reasonable excuse,” the Court considers this to be:

1. If the parent did not understand the obligations of the Order; or
2. If the parent believed on reasonable grounds that it was necessary to protect the health and safety of themselves, the child or someone else.

Can a Court make an Order varying the primary Order if a party has contravened the primary Order? The Court recently had to consider an Application by a Father claiming the Mother had breached 2 parts of an Order.

The 2 parts:

1. The 2 children to live with the Father during half of the school holidays provided the Father gave the Mother 4 weeks written notice.
2. Each parent be able to travel with the children (with written consent of the other), whether within Australia or overseas for 4 weeks, provided full contact details and a copy of the itinerary and airline tickets were provided to the other parent.

The Facts:

- The Mother contravened the Order by:
 - Refusing to allow the Father to spend time with the children during the Christmas holidays, and
 - travelling interstate with the children without the Father's prior written consent and not providing full contact details for the children, or an itinerary.



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Issue # 135

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The Court recently had to consider whether a Wife made a “special” contribution as a homemaker.

The Facts:

- The Husband and Wife had 3 children aged 20, 15 and 14.
- The Husband and Wife were together for 8 years before the Husband became a quadriplegic after a motorbike accident. The Wife was pregnant with the youngest child at the time of the accident.
- The Husband sought 60% of the property pool in favour of the Wife and argued that there was equal contribution by both parties.
- The Wife argued a “special contribution” by way of her care for the children and Husband, since the Husband’s accident.
- The Husband’s financial contribution had been limited. He had provided money to support the family and he had provided the deposit on an investment property.

Court Found:

- The Wife’s contribution as a parent was the most significant contribution and she received no relief.
- The Husband’s financial contribution was not balanced by the Wife’s homemaker and parent contribution, as the Wife’s efforts were onerous.

Court Order:

- The Wife received an adjustment of 10% for her “special” contribution.
- The Wife received 70% of the property pool and the Husband received 30%.

- The Father did not seek a penalty against the Mother, but rather sought a variation of the Order.

Court Found:

- The Father had given the relevant notice, and the Mother had not provided the Father with the relevant travel details.
- The Order was problematic in that:
 - The notice to be given by the Father of 4 weeks was too short.
 - For a parent to get written consent from the other parent to travel within Australia is unnecessarily restrictive.

Court Order:

- The Mother contravened both Orders without reasonable excuse.
- The parents should be given the opportunity to make submissions about what variations should be made to the Court Order.

“CLOSE-UP” EDITION

Did you know that step-families have increased in numbers by 35% in the last decade? As second marriages increase, step-parents often question – Can I adopt my step-children? Read more in “Step-parent Adoption”.

“SPECIAL” CONTRIBUTIONS – AS A HOMEMAKER

The Court recognises that a homemaker’s contributions are to be given equivalent weight as those of the primary “breadwinner”.