



family flyer

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Family Lawyers

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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:

- Need Answers? – New Q&A Series
- Overseas Banks Ordered to Disclose
- “Close-up” Edition
- Gradual Increase in Time
- Increase in Jurisdictional Limits

NEED ANSWERS? – NEW Q&A SERIES

We often receive emails from readers asking questions about different Family Law topics. We’re happy to assist.

For the benefit of all our readers we have decided to introduce a ‘Question & Answer’ column in our Flyer. Each fortnight we will publish a question emailed in by one of our readers, followed by our response.

If you have queries on anything in Family Law, whether it be the procedures of the Family Court or terminology or anything else that has you puzzled – email us at law@mlynch.com.au.

OVERSEAS BANKS ORDERED TO DISCLOSE

The Court requires parties in proceedings to make full and frank disclosure, but of course there are circumstances where parties try and hide assets to avoid the inclusion of the asset in the property pool.

In a recent case, the Husband told the Court that he had lost millions of dollars in Portugal at the end of the parties’ 30 year marriage. The Wife believed the Husband was hiding approximately \$7.5 million in bank accounts overseas.

The Husband was uncooperative in signing authorities to trace the money.

The Court Ordered that the Spanish Banks that held the bank accounts in the Husband’s name, from which he claimed to have lost the millions, release information on the accounts.

“CLOSE-UP” EDITION

The percentage division in a property settlement hinges upon the weight given to different ‘contributions’. That weight can vary depending upon the length of a marriage. This Edition’s “Close-up” looks at [‘Property Settlement in a Short Marriage’](#).

GRADUAL INCREASE IN TIME

How does the Court deal with a situation where a parent wants to increase the contact time with a young child, to equal time? The Court recently had to consider how to approach this in a case where the Mother and Father were both proposing different gradual increases in time.

The Facts:

- The Mother and Father had a short relationship and had a child aged 2.
- The child lived with the Mother. There was an arrangement for the Father to spend increasing time with the child over 12 weeks, until the Father would be spending 4 nights a fortnight with the child.
- The Father’s proposed progressive time arrangements with the child involved a ‘week about’ arrangement in 6 months time.



However, the Mother's proposed gradual increase in time did not involve the child spending a 'week about' arrangement with the Father until the child turned 6.

- The Mother also wanted the arrangements for the child to continue without any adaptation made for either parent to have a holiday with the child in the next 3 ½ years.
- When the Father re-partnered, the Mother inappropriately called the new partner at her work and sent harassing messages when the child spent time with the Father over Easter.

Court Found:

- The Mother was self-centred and not child-focused.
- The Mother displayed a degree of anger when attempting to communicate with the Father.
- The Father's gradual time increase to equal time in 6 months failed to recognise the child's primary attachment to the Mother. The Mother's increase in time, however, was far too slow in considering the child's right to develop a relationship with both parents.

Court Order:

- The Father's time with the child to be gradually increased to equal time when the child turns 3.
- The graduated steps to include the Father spending time with the child were, as follows:

- First 20 weeks – each alternate week from Thursday afternoon until Monday morning;
- Second 20 weeks – each alternate week from Wednesday afternoon until Monday morning;
- Third 20 weeks – each alternate week from Tuesday afternoon until Monday morning;
- Thereafter, the Father spends time with the child on a 'week about' basis.

INCREASE IN JURISDICTIONAL LIMITS

From 1 November 2010, the jurisdictional limits have increased for the Magistrates and District Court.

The District Court has increased its previous monetary limit of \$250,000 to \$750,000. The District Court now also has the same power of removing a caveat and granting other reliefs or remedies as the Supreme Court. The Magistrates Court's monetary limit has also been increased from \$50,000 to \$150,000.

Both Courts are now also able to deal with (pre – 1 March, 2009) defacto relationship property proceedings.

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