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10 QUICK TIPS BROCHURE – FREE TO ORDER

If you work in the accounting, legal or counselling industry, it is likely that you have had someone who is separated, 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?

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

This brochure has proven to be very popular and has now been re-printed – if you would like a bundle of the “10 Quick Tips” Brochure for your reception, call us now – ph. 3221 4300 or email law@mlynch.com.au.

“CLOSE-UP” EDITION

This year has presented some unpredictable crises. Queensland has faced both flood and cyclone damage and the GFC would seem to be far from over. These events impact on property values. How does this affect property settlements? And what should you keep in mind? Read '[Floods, GFC's and the Challenges of Valuing Property](#)'.

COPING WITH CHRISTMAS

For most people, Christmas is a happy time - for separated families where the children's arrangements are in dispute, Christmas can be a time of disappointment and disagreement.

In the lead up to the Christmas holiday period, we have included an article on our website entitled "[Coping with Christmas - Timely Tips for Separated Mums and Dads](#)". On-forward it to anyone you feel would benefit from it.

CONSIDERING A HIGH INCOME

It is not uncommon that one spouse will earn more than the other in most couples, particularly when that lower income earning spouse has taken on the homemaker and carer role. In a recent case, the Court had to consider whether an adjustment should be made to the property pool in the Wife’s favour, since the Husband earned almost 10 times more than the Wife had been earning during the marriage and after separation.

The Facts:

- The Husband, aged 58 and Wife, aged 57 were married for 30 years and had one adult child.
- The property pool was valued at \$1.5 million.
- The Husband was the main income earner and the Wife was the homemaker and carer.
- The Wife had a business for 8 years and it was valued at \$44,749. The Husband claimed that the Wife earned \$112,000 per year from her business, which the Wife denied. The Wife said her average income was \$35,000 per year when her business was operating well.
- The Husband had a yearly income of \$320,000. He said that the Wife excessively spent and had large credit card debts during their marriage and he had increased the mortgages to consolidate the debts.
- During the 2 years after separation the Wife’s Father had provided the Wife with \$54,000 to support her living expenses.

Court Found:

- Even if it was accepted that the Wife had the capacity to earn \$112,000 per year, that level of income had never been achieved during the time she had the business.
- The Wife would have been unable to support herself from her income during the marriage as well as after separation.
- The Wife was entitled to a 12% adjustment since the Husband had a significantly higher earning capacity over a long marriage.

Court Order:

- The Wife receive 62% of the property pool and the Husband 38%.

RELOCATION – WHAT’S YOUR PLAN?

When a parent wants to relocate with the children, the other parent will often object. In such cases, it is important that the objecting parent has a plan of their own for caring for the children.

In a recent case the Father opposed the Mother relocating but, due to his frequent overseas travel for work – he proposed that the children live with his new Wife. The Court had to decide on an Interim basis, whether the children should continue living with the step-mother or be allowed to relocate to where the Mother had moved to.

The Facts:

- The Father and Mother were together for 8 years and had 2 children, aged 8 and 10.
- Since separation, the parents had shared care of the children, which included a week about arrangement.
- The Mother and Father had since re-partnered and the Mother had another child with her new Husband.
- The Mother and Father were both living in North Qld before the Mother had decided to move with the children to NSW to live with her new Husband. The move was not unknown

to the Father, however they had not reached an agreement about it.

- The Mother said that the move was to be closer to her Husband’s mother who needed care and assistance.
- The Father was overseas for work when the Mother moved and he decided to file an urgent application which resulted in the children being Ordered to return to North Qld. The Mother sought a Court Order that she and the children be allowed to relocate to NSW and the children spend time with the Father in the school holidays.
- The Father proposed that if the Mother stayed in NSW, the children live with him. However, at the time of the hearing the children were living with their step-mother and the Father was overseas for work for several months at a time.

Court Found:

- The Father placed the relationship between the children and the step-mother above the children’s relationship with the Mother.
- If the children lived with the Mother they would be able to interact with the Father on the same basis as they did at the time of the hearing, as the Father was away overseas and they only had telephone and internet contact with him during this time.
- The children were separated from their half-sister, whom they had previously lived with since her birth.

Court Order:

- The children live with the Mother in NSW and the Father spend time with the children during school holidays when agreed. The step-mother be allowed to spend time with the children for 1 week during the upcoming school holidays.
- Once the Father returns from overseas, a Family Report be prepared to consider the children’s wishes and make an assessment of the parents’ capacities.

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