

FAMILY Flyer



THIS ISSUE -

No. 189

- New Website Launch
- Fixed Cost Initial Appointment Gives Certainty
- Child Support – Who Pays Private School Fees?

- Trauma Insurance Payout and Property Settlement
- Mother Wins Lunch Box Custody
- Conference or Professional Development Day?

NEW WEBSITE LAUNCH!

We are very excited to announce the launch of our new look website! The website will have all the same great content as our old website, with an updated, fresh new look! Go to www.mfl.com.au and have a look around! If you have any feedback on the new website, we would love to hear from you. Email us at law@mlynch.com.au or call (07) 3221 4300.

FIXED COST INITIAL APPOINTMENT GIVES CERTAINTY

With anything urgent or serious in your life you speak to an expert – Family Law is no different.

Having assisted over 5000 clients through separation, over almost 20 years, one thing is clear to us – getting Family Law advice early will minimise your stress and costs.

Navigating separation and the surrounding legal issues is stressful so any certainty you can get is a good thing. We have a fixed cost for our initial appointment of \$330 (including GST).

Our initial appointments are 1 hour. If a situation is more involved we will provide the extra time required, without any additional cost – the cost remains fixed. You obtain expert Family Law advice with certainty of cost.

If you are separated or looking at separation please contact us on 3221 4300 for a fixed cost initial appointment.

CHILD SUPPORT – WHO PAYS PRIVATE SCHOOL FEES


The CSA formula assessment is based on children attending a State school, not a private school.

If parents have an ‘agreed intention’ that their child should attend a private school, then the Agency will look at including a proportionate amount of the school fees in a “re-assessment”. The parents’ intention is usually evidenced by the completion and signing of a school enrolment form, however the CSA will consider the type of education intended by both parents rather than any particular school intended by the parents.

The situation becomes more complicated if the parents disagree about whether the payment of school fees was made by way of child support. If this is agreed the payment can be credited as a direct payment. However, where the parent receiving child support does not agree, the paying parent is still able to have a maximum of 30% of the monthly child support payment credited towards the school fees. These are referred to as “non-agency payments” and are available if the paying parent is having less than “regular care” (i.e. less than 14% care).

TRAUMA INSURANCE PAYOUT AND PROPERTY SETTLEMENT

When determining how property is to be divided between separating couples, the first step is to identify and value the matrimonial property. The definition of ‘property’ under the



Family Law Act is very wide and includes superannuation and inheritance and possibly Trust assets. A recent Family Court case has considered the treatment of a trauma insurance payout.

The Facts:

- The parties had a long relationship of almost 30 years.
- After separation, the husband was diagnosed with cancer. During his treatment, he received monthly income protection payments, as well as a lump sum payment of \$428,069.
- The husband and wife agreed that their contributions until the date of separation were equal.
- The parties argued over the inclusion of the trauma payout in the property pool.

Court Held:

- The insurance policy would not have been in place if the parties had not jointly made contributions to the premiums.
- The trauma payment was included in the property pool, making up approximately 30% of the pool available for distribution.

Court Found:

- Given that the husband had suffered the trauma and stress of the cancer and treatment, the Court made a 10% adjustment in the husband's favour.

MOTHER WINS LUNCH BOX CUSTODY

The Australian media recently reported a parenting case where the Mother objected to her young son being given fruit by the Father that was not cut up. She asked the Court that their six-year old live with her because of the Father's lack of care for his nutrition.

Copyright 2011

This document contains general comments and should not be relied upon as specific legal advice. Readers should contact this Office for advice on any topic in this document. Changes to the law occur regularly, no responsibility for any loss or damage caused to anyone acting in reliance on this document shall be accepted by this Office. No part of this document may be reproduced without our written approval.

The Mother argued that the boy's school lunches of "whole fruits and jam sandwiches" were no good for the "fussy eater", and also claimed that the boy could not eat fruit unless it was cut.

The Father argued that his former Wife was indulging the boy, who regarded cut up fruit as "baby food".

The Judge said that petty criticisms were indicative of a lack of trust between the parties and that "this child is not likely to come to any lasting harm if he has a jam sandwich for lunch or fails to eat a banana".

The Court found that although the parents had an inability to adopt a common approach, neither parent would neglect the boy's nutritional needs and both were good parents.

The Court ordered that the parents have shared parental responsibility and that the boy live with his Mother and spend significant time with his Father.

CONFERENCE OR PROFESSIONAL DEVELOPMENT DAY? NEED A SPEAKER?

If you are looking for a speaker on Family Law matters for your next Conference or Professional Development day, please give us a call!

Our Principal, Michael Lynch, presents over 50 seminars a year to Accounting, Financial Planning and Legal Firms, as well as other groups.

If you want your staff to be better equipped to serve clients (or you would like to offer your clients tips e.g. protecting assets in property settlement) call us on (07) 3221 4300 to organise a **FREE** seminar.

The seminars are generally for 1 hour and include a powerpoint presentation and additional hand-out material. For more information or possible seminar topics, visit our [Seminar Series webpage](#) or phone 3221 4300.

Principal: Michael Lynch*
*Queensland Law Society
Accredited Family Law Specialist



CONTACT:
Telephone: 07 3221 4300
Address: Level 6, 193 North Quay
Brisbane QLD 4000
Website: www.mlfl.com.au

