



- Public Seminar Series Starts in 2 weeks!
- "Close-Up" Edition
- Should there be an Interim Property Settlement?

- Child Wishes – 14 Year Old
- Getting a Second Opinion

PUBLIC SEMINAR SERIES STARTS IN 2 WEEKS!

It's the start of a new year and our first Public Seminar Series is starting soon!

Our first Seminar Series for the year will provide you with the opportunity to get up-to-date information on Family Law in an easy-to-follow 1 hour seminar.

There are 2 Seminar topics being presented by Accredited Specialist, Michael Lynch, including "**Separation and Children**" and "**Separation and Property**". For only \$20 you will receive information valued at over \$500, as well as the opportunity to ask questions and there will be a **Special Offer** for all attendees.

The seminars will be held at different locations around Brisbane.

"Separation and Children"

- [Sunnybank](#): 6pm – Tuesday, 26 February, Sunnybank Community and Sports Club, 470 McCullough Street.
- [Red Hill](#): 6pm – Wednesday, 27 February, Broncos Leagues Club, 98 Fulcher Road.

"Separation and Property"

- [Brisbane City](#): 1pm – Tuesday, 5 March, The Sebel Suites, 95 Charlotte Street

"CLOSE-UP" EDITION

If a parent withholds a child from the other parent, and there are no Orders in place, that parent may need to make an

urgent application to the Court for the recovery of that child. For a recent case example of this, see our article "[Withholding a Child – An Example](#)".

SHOULD THERE BE AN INTERIM PROPERTY SETTLEMENT?

It can take time before a Final Hearing is allocated in Court, in these cases parties can often be left in limbo regarding the use of, and access to, property. A recent case considered whether a couple's joint funds received from the sale of the former matrimonial home and held in a Trust Account should be distributed before the final trial.

Facts:

- The Husband and Wife had been involved in protracted legal proceedings for over 12 months. The matrimonial pool consisted of net proceeds of sale in excess of \$700,000 and superannuation. The parties (by consent) had each already received \$100,000 from the net sale proceeds.
- 3 months prior to the final hearing, the husband filed an application seeking a further interim distribution of the net sale proceeds to the parties of \$100,000 each. The Husband sought the funds to satisfy a business loan of \$90,000 which was outstanding and attracting interest.
- The Wife opposed the further distributions to the parties, as she wanted to retain the majority of the net sale proceeds to allow her to purchase a home for herself and the child.

Court Found:

- There was no evidence that the Husband was being actively pursued by creditors for the outstanding sum.
- It was preferable that there be only one final hearing for property settlement proceedings, rather than a succession of provisional hearings, particularly as the Court had decided that the hearing was only 3 months away.

Court Ordered:

- The Husband's application was dismissed.

Editor's Note: Everyone's situation is different. Quite frequently interim property orders are made by the Court (or agreed upon by the parties). These applications can also be used to obtain funds for legal costs. Anyone concerned about their situation should contact us for an initial fixed cost (\$330 incl. GST) appointment on (07) 3221 4300.

CHILD'S WISHES – 14 YEAR OLD

In a recent Family Court case, a child of 14 ½ years expressed a strong and consistent wish to live with his Mother. Despite this wish, the Court determined that it was in the child's 'best interests' to remain living with his Father. This case highlights the discretion the Court has in these matters, and the overriding consideration of the "best interests of the child".

Facts:

- The child lived primarily with his Father in Melbourne, spending school holiday time with his Mother who lived in Queensland.
- The child had expressed a wish to move to Queensland to live with his Mother, and had previously run away and flown to Queensland.

- The Court had evidence from a psychologist that the child was "immature and vulnerable".
- The psychologist was also of the view that the child's relationship with his father would suffer if he moved to live with his Mother.
- The psychologist gave evidence that the Father was in a better position to give the child firm boundaries, which was important due to his age and behavioural problems.
- The Father was more likely to promote the child having a "meaningful relationship" with both parents.

Court Found:

- The Mother's previous behaviour showed that the Father was more likely to comply with Orders and foster a relationship with the mother.
- Despite his wishes, it was in the child's best interests to remain living with his Father in Melbourne.

Order:

- The parents have equal shared parental responsibility for the child.
- The child "live with" the Father and "spend time" with his Mother in school holiday periods and as otherwise agreed.

GETTING A SECOND OPINION

Family Law is a complex and ever changing area of law.

All of the lawyers at Michael Lynch Family Lawyers practice solely in Family and Relationship Law. We are often requested to provide a second opinion on legal advice people have received elsewhere.

We are happy to assist in providing this Specialist assistance and have a fixed fee initial consultation of \$330 (incl. GST).

To make an appointment call us on (07) 3221 4300.

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.

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

