

# FAMILY Flyer



THIS ISSUE -

No. 201

- Solicitor Appointment
- Conference or Professional Development Day? Need a Speaker?
- What's your address?
- Mediation – Tips – No. 3
- How Does a Court Deal with Furniture?

## SOLICITOR APPOINTMENT

We are pleased to announce the appointment of Sharon Beresowskyj as a new Solicitor at our office. Sharon practices exclusively in Family and Relationship Law.

Sharon joins our team with good experience in all aspects of Family Law and with excellent Family Law credentials. Sharon's experience reinforces our position as one of the largest Specialist Family Law Firms in Queensland.

## 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.

## WHAT'S YOUR ADDRESS?

Parents often ask us if they have to provide their address to the other parent, particularly if they are worried about possible domestic violence.

The answer is – it depends? There is no set rule and disclosing or not, depends on the circumstances of your case.

In a recent case a mother was required to disclose her address to the father despite her concerns about domestic violence.

### The Facts:

- The parties had one child, a daughter aged 4.
- They reached an agreement that their daughter would live primarily with the mother, and spend 2 nights each week with the father, and that they would have equal shared parental responsibility for her.
- The mother had a Domestic Violence Order against the father. She did not want to disclose her address (and therefore the child's address) to the father because she was concerned that the father might commit further acts of domestic violence against her.

### The Court's Decision:

The Court decided that the mother should disclose her address to the father because:



- It was in the child's 'best interests' if equal shared parental responsibility was to be achieved, and this was more likely to be achieved if both parents were informed as to the whereabouts of the other.
- It would be in the child's 'best interests' as she moves between households if she is free to discuss with each parent, in a manner suitable to her age, her experiences in the other household – i.e. that she does not have to keep matters relating to her own living arrangements secret from the other parent.
- While the mother had concerns, she had the protection of a Domestic Violence Order and the father had been successfully prosecuted for a breach of it. The Court was satisfied that the father now understood his obligation to abide by the terms of the Domestic Violence Order and that even when it expired, he was to ensure that the mother lived free of any harassment or abuse from him because that behaviour could only be bad for the child and contrary to her best interests.
- The Judge said: *“Overall I am satisfied that there are sufficient safety mechanisms in place for the mother’s safety to continue even with the making of an Order for disclosure of address and phone number. However, I make it clear that the father’s attending the mother’s premises or utilising the phone number provided to him for the purpose other than making appropriate and confined contact in relation to [the child], would be to cause difficulties not just for the parents but also for [the child] and should not happen.”*

## MEDIATION – TIPS – NO. 3

**Myth:** *“the purpose of mediation is victory”*. The belief that

your lawyer is there at mediation to put your case as if you were in Court and convince the other side you are right.

**Reality:** The purpose of mediation is not “victory” but “resolution”. Your lawyer is there to assist resolution and therefore plays a different role than being merely your advocate. It can sometimes be surprising or confusing for participants, when the lawyer who has been forcefully advocating their cause with the opposing party, suddenly in the mediation says *“Let’s think about settling the matter”*.

## HOW DOES A COURT DEAL WITH FURNITURE?

It is common in family law proceedings for parties to agree to split the furniture between themselves without the intervention of the court, but what does the court do when parties can't agree?

In a recent court case the trial judge ordered that each spouse retain the assets that they held in their possession. The result of this was that the Wife would retain a number of Persian carpets that remained in the former matrimonial home in which she was living. The Husband appealed the judgement on the basis that the judge had failed to take into account the value of the carpets in the property split.

The appeal court held that if a party seeks that a value for furniture be included in a property settlement the onus lies on that party to put evidence before the court. The Husband had not obtained any valuation at the trial and the appeal was therefore dismissed.

**Note:** The case highlights the importance of obtaining a valuation from an expert if you want to assert a value for an item of furniture, where the value of the furniture is in dispute.

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