

# FAMILY Flyer



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## FREE BOOK – ‘GUIDE TO FAMILY LAW’ – OUT NOW!

We have just released the updated – 2013 edition – of our popular book – “**A Guide to Family Law – Everyday Answers**”. Over the years, more than 120,000 copies have been printed and distributed.

The book is **FREE** and is an invaluable resource and includes information on children’s arrangements, child support and property matters and is a **MUST** for anyone going through separation.

Deliveries are occurring this week so if you have not received your copy from us in the next 2 weeks and would like a copy (or if you are with an organisation and would like a number of copies) please call us on (07) 3221 4300.

## DATE CLAIMER – NEW SEMINARS

Our next public seminar series starts on 27 August! These popular seminars are presented by Accredited Family Law Specialist, Michael Lynch, and offer invaluable information on children, property and separation. There are 2 topics to choose from, “Separation and Children” or “Separation and Property”, and we have 4 dates to choose from.

### Upcoming dates are:

- 27 August – Brisbane City (lunchtime)
- 28 August – Sunnybank (evening)

- 3 September – Brisbane City (evening)
- 4 September – Cleveland (evening)

Mark your diary now and keep an eye out for the next e-Flyer, for more details.

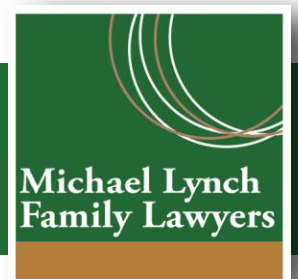
## “CLOSE-UP” EDITION

Getting a property settlement involves negotiating the agreement and then documenting it. It sounds straight-forward, but there can be harsh lessons for those people that don’t take the time to carefully document the agreement. This editions ‘close-up’ article focusses on the problems that can arise when an agreement doesn’t say what it was intended to – read [“Is the Agreement ‘Impracticable’ or just a ‘bad bargain?’”](#).

## WHAT SCHOOL?

How does a Court decide where a child should attend school when the parents can’t agree? A recent case has considered that question.

- The parents had one child, a 14 year old son who lived primarily with the Mother following separation. Historically, the Father had been frequently absent, working in other parts of Australia and overseas.
- The Mother filed a Court application seeking to change the child’s secondary school. The school fees were an additional \$10,000 per annum which the Mother proposed she would be solely responsible for.



- The Father objected to the change of school. His main objections were that the child had attended his current school since prep, he was happy at the school, was progressing well and could walk to and from school.
- The child indicated to the ICL that he would like to continue to attend his current school, however, was not opposed to the school that was proposed by the Mother.
- The Court found that on balance, the school proposed by the Mother would provide the opportunities for the child to improve his study results and also enable him to enjoy more extensive sports. It was believed that the child would make an easy transition to the new school given that he enjoyed sport, made friends easily, already had friends that attended that school and was prepared to attend the other school.

## FAQ

**Q: Since I was married I have always been a housewife. My husband says that if I leave, I will leave with nothing. Is that true?**

**A:** No, that is not true. The law entitles you to a share in all assets that are owned either by you or your husband, even if you do not have any assets in your name and you never worked during the marriage. The law recognises that you have made a contribution by looking after the children and doing the housework.

## “ADDING BACK” DRINK DRIVING COSTS!

Funds which parties have spent since separation may, in some circumstances, be ‘added back’ to the ‘property pool’ and then taken into account when determining a property division. ‘Add backs’ generally fall into one of three categories; legal fees, funds that have been recklessly or carelessly wasted or funds

that have been prematurely disposed of following separation.

A recent family law case considered whether the Husband’s drink driving costs were a wastage of funds and should be ‘added back’ into the property pool. The costs included \$4,000 of fines and legal fees, as well as \$26,000 for a driver to take him to work while his licence was suspended.

The Husband argued that his drink driving charge and the money spent following that incident did not amount to negligent or reckless conduct because his actions did not involve assets of the marriage. The Court disagreed, stating that where a parties’ reckless or negligent action have resulted in a reduction in the matrimonial property pool, that amount could be considered on ‘add back’.

## WHAT ABOUT A CONFIDENTIALITY AGREEMENT?

In a property settlement spouses are obliged to fully disclose all relevant financial documents. Can you demand a confidentiality agreement if you think documents are too sensitive?

In a recent case, the Husband made such a request of the Wife and her solicitor.

- The Husband was involved in a number of companies and was concerned about having the documents about the companies being made public and possibly falling into the hands of competitors.
- There was no evidence that the Wife would use any of the documents from the Husband improperly.
- The Judge did not require the Wife (of her solicitor) to sign a confidentiality agreement. The Court ordered the Wife (and her solicitor) to sign an acknowledgment confirming her obligations not to disclose the documents.

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