

# FAMILY Flyer



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## NEW SEMINAR SERIES – “SURVIVING SEPARATION” – STARTS 27 AUGUST!

Our next public seminar series is starting on 27 August 2013. These popular seminars are presented by our Principal and Accredited Family Law Specialist, Michael Lynch, and provide you with important separation advice, but without the legal jargon.

For ONLY \$20, you will receive a 1 hour information session with handouts and have the opportunity to ask questions. There will also be a **Special Offer** for all attendees. There are only 4 seminars in this series, the seminars “**Separation and Children**” and “**Separation and Property**” will be presented at these times:

### “Separation and Children”

- Brisbane City: 1pm – Tues, 27 August – The Sebel Suites, Cnr Charlotte & Albert St, Brisbane.
- Cleveland: 6pm – Wed, 4 September – The Pacific Resort, 128 Middle St, Cleveland.

### “Separation and Property”

- Sunnybank: 6pm – Wed, 28 August – Sunnybank Community & Sports Club, 470 McCullough St, Sunnybank.
- Brisbane City: 6pm – Tues, 3 September – The Sebel Suites, Cnr Charlotte & Albert St, Brisbane.

Seating is limited so register now by calling (07) 3221 4300 or

email [law@mlynch.com.au](mailto:law@mlynch.com.au).

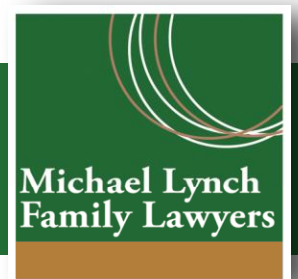
## FAST FACTS

- Cohabitation before marriage has increased significantly in the last 40 years. In 1975, only 16% of those married lived together beforehand, increasing to 23% in 1979. By 2008, however, 78% of those married lived together beforehand.
- From 2006 to 2011, there was a 9% increase in the number of Queenslanders marrying but divorces increased by 12%.
- The median age for married Queenslanders is 50. The median age for those in de facto relationships is 34.
- In 2009-10 the Queensland Courts received 22,754 applications for domestic violence orders (an increase of 8% on the previous year).

## MEDIATION – TIP - NO. 4

This article is the final in our (4) part ‘quick tips’ guide to Mediation.

**Myth:** “*the myth of rationality*”: where a lawyer’s opinion on possible outcomes becomes the non-negotiable position of the client, so that when another possible outcome for the dispute comes into play and participants are asked to consider those possible outcomes, the client feels disappointed and is not prepared to believe other possible outcomes may be worth considering.



**Reality:** This myth is due to clients not feeling comfortable with the negotiation process and what it seeks to achieve – ‘an outcome within reasonable limits for both parties’.

## SHARE TRADING LOSSES CONSIDERED BY COURT?

The Husband opened a margin lending account early in the marriage and traded until 2010. The account showed a significant profit of \$90,000 at separation in 2007. However following the global financial crisis there was a significant reduction in the share value. The shares were sold, resulting in a debt of \$22,000 which the Husband paid by borrowing funds from his family.

The Wife alleged that the Husband’s loss of \$90,000 should be taken into account in the final property settlement. The Husband sought an order that the loan owing to his family of \$60,895 (representing \$22,000 to pay the margin loan and mortgage repayments) should be taken into account.

The Court accepted that there had been significant loss through the Husband’s share trading, however it was not considered ‘waste’, like excessive gambling. The Court considered it should still be taken into account, though in the overall context of contributions. The Court found that when taking all matters into account the parties contributions were equal.

The Court accepted that the Husband’s family did assist in paying the mortgage and the margin loan debt, but that his family did not require immediate payment of the loan. The alleged loan to the Husband’s family was therefore not included as a liability in the final property settlement.

**Editors Note:** Property values change over time, so it is important to get Specialist Family Law advice for your property

settlement, as soon as possible. To arrange a fixed cost appointment call us on 3221 4300.

## THE COURT MAKES A COST ORDER

The *Family Law Act* provides that in most matters before the Court each spouse will be responsible for their own legal costs. The Court can however make a costs order against a party in some circumstances. A recent case illustrates where the Court made a cost order:-

- The Husband and Wife were involved in property proceedings. During the trial the Wife discovered a statement advising that the Husband had an interest in a superannuation policy he had not previously disclosed. A copy of the statement was provided to the Court; however the Husband was not cross-examined about the statement as he had already given his evidence.
- It was discovered a week after the trial that the Husband in fact had (3) superannuation policies that he had not disclosed.
- The Wife made an application to the Court seeking that the Husband pay her costs arising from his failure to disclose the superannuation interests, resulting in the trial having to be reopened and further evidence taken from the Husband.
- While the Court found that the Husband’s non-disclosure of the superannuation was inadvertent, it did lead to a further day in Court.
- The Husband was ordered to pay the Wife’s costs fixed at \$5,500.

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