

# FAMILY Flyer



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## WELCOME!

Welcome to new readers of the Family Flyer who have joined after attending our recent public seminar series. The fortnightly Family e-Flyer is now read by over 5,000 people.

The final seminars for the year were a success, providing a great opportunity for us to not only give practical legal information but also answer lots of audience questions.

## NEW SENIOR ASSOCIATES!

We are pleased to announce the recent promotion of four of our Accredited Specialist solicitors to the position of Senior Associate. To Elizabeth Millar, Amy Campbell, Amy Honan and Clare McCormack, congratulations!

Michael Lynch Family Lawyers now has the most Accredited Family Law Specialists of any firm in Queensland and is also the only firm in Queensland where all solicitors are Accredited Family Law Specialists.

## "CLOSE-UP" EDITION

The *Family Law Act* defines superannuation as 'property'. A superannuation entitlement will often represent one of the largest items of property in a property settlement, so it is not only important that it is included, but also that it is protected (if necessary) pending a final settlement. Read: "[Protecting superannuation pending final property settlement](#)".

## 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.

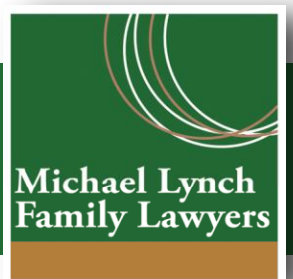
Navigating separation and the surrounding legal issues is stressful so any certainty you can get is a good thing. We have a fixed cost for our initial appointment of \$330 (including GST).

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 Specialist 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.

## A COSTLY AFFAIR

The Family Law Act is based on a 'no fault' principle, therefore "bad" behaviour or conduct of a party to a marriage or de facto relationship, such as infidelity, being an absent parent or excessive spending, are usually not relevant considerations for the Court when determining a property settlement.





However, in a recent case the wife's extra-marital affair ended up having a significant financial cost for her.

In this case the parties separated when the wife took the children on a holiday to Fiji. In her absence, the husband found and read her diaries which indicated that not only had she been having an ongoing affair with another man but, relevantly for the Court, that she had also been giving her lover substantial sums of money.

Shortly after that discovery the husband had a heart attack which his treating medical advisers suggested was brought on by the enormous stress of the discoveries.

The husband had ongoing health issues as a result of his heart attack which limited his ability to work and legitimately reduced his income earning capacity.

The Judge required that \$122,500, being the approximate sum given by the wife to her lover during the affair, should be "added back" to the asset pool – in other words the wife would be treated as having an asset worth \$122,500 in her possession even though it no longer existed, having been given to her lover.

The wife was ultimately awarded 60% of the total asset pool of \$650,126 because of her primary care of the parties' 3 children and because the husband earned more than her (although not as much as before his heart attack). However \$122,500 of her \$390,076 share no longer existed, so in reality she only ended up with \$267,576 which was 41%

## TIPS ON SUBPOENAS

- You are not allowed to issue more than 5 subpoenas in a court proceeding.
- If a subpoena requires a person to attend court to give

evidence, it must be served personally on the person subpoenaed at least 7 days before the date for attending court.

- If a subpoena requires a person to attend court and produce documents it must be served personally on the person subpoenaed at least 10 days before the date for attending court.
- The person required by a subpoena to produce documents may object by filing a 'Notice of Objection – Subpoena' before the date specified for production of the document.
- The documents identified in the subpoena must be provided to the Registry before the date of production, even if the person required to comply with the subpoena lodges a Notice of Objection.

## WEALTH OF INFORMATION

Our FREE fortnightly flyer provides a wealth of information on the constant changes in Family Law, as well as keeping you updated on our regular public seminars.

Below are some of our recent articles:

- Tips for achieving overseas holiday travel with children ([Edition 205](#)).
- Adult child maintenance ([Edition 191](#)).
- Getting money released ([Edition 187](#)).
- What school? ([Edition 202](#)).
- Make sure you consider splitting super ([Edition 206](#)).

For any of these articles and more, visit our website at [www.mlfl.com.au](http://www.mlfl.com.au).

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