

FAMILY Flyer



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No. 216

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PUBLIC SEMINAR SERIES - STARTS TOMORROW!

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

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.

The topic, '**Separation and property**' will be presented by Principal and Accredited Family Law Specialist, Michael Lynch, at three separate locations. 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.

"Separation and Property"

- [Sunnybank](#): 6pm – Wed, 26 February – Sunnybank Community & Sports Club, 470 McCullough St, Sunnybank
- [Brisbane City](#): 1pm – Tues, 4 March – The Sebel Suites, Cnr Charlotte & Albert St, Brisbane
- [New Farm](#): 6pm – Thurs, 6 March – New Farm Library, 135 Sydney St, New Farm

Book your seat now! Phone (07) 3221 4300 or email law@mlynch.com.au.

CLOSE-UP EDITION

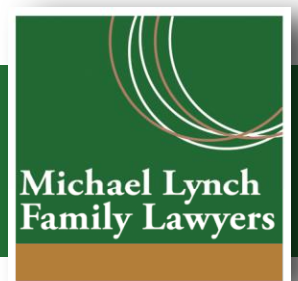
In a relationship break-down a variety of events can occur such as, counselling, mediation, legal advice, specialist medical appointment. A common question is "Are any of these confidential?" The topic is too broad for one article, but the *Family Law Act* does specifically address "Counselling" and "Family Dispute Resolution". Read: ["What's Confidential?"](#)

HIGH COURT OVERTURNS SAME-GENDER MARRIAGE IN THE A.C.T

The High Court of Australia recently handed down its unanimous judgement on same-gender marriage, in favour of the Commonwealth.

The ACT Act which had allowed same gender couples to get married from 7 December 2013 onwards, was deemed of "no effect" by the High Court. The Court felt that the ACT Act could not operate concurrently with the *Marriage Act (Cth)*.

As such, all marriages made under the ACT Act are now null and void.



VERBAL AGREEMENT FOR PROPERTY SETTLEMENT ?

The Court recently considered a case where it was alleged that during the one and a half year marriage, the husband and wife had kept their finances separate in accordance with a verbal agreement.

The Court is accustomed to written “financial agreements” that set out how property should be divided however in this case, there was no documented Financial Agreement, this was only verbal.

Facts:

- The wife entered into the relationship with slightly less property than the husband.
- The husband alleged that he made a substantial financial contribution to the property during the relationship. The wife opposed this.

Findings:

- The parties did not keep their finances separate.
- The wife had made some contributions to the property, which amounted to about 8%.

Order:

- The Court gave no weight to the alleged verbal agreement as the parties had not adhered to it by keeping their finances separate. The Court’s responsibility is to assess the parties’ contributions to the property and determine a just and equitable outcome.

Note: A correctly completed (written) Financial Agreement is the only way that property can be excluded from the “property pool” for consideration in a property division.

BEWARE MICRO-MANAGING IN PARENTING ORDERS

Whether to have limited wording in a court order or a detailed court order is often the dilemma separated parents face when looking to document the arrangements for their children.

The court’s view is that a minimalist approach should be taken unless there are special circumstances.

The court recently considered a case involving a 12 year old child where the parents had a very poor parenting relationship, and a limited capacity to negotiate with each other. During the court hearing, the parents demonstrated an antagonism towards each other. The mother maintained her rage against the father, and the family report writer identified the mother as not being a team player.

The father sought primary care of the child and this was supported by the independent child’s lawyer (ICL). The mother opposed this and put forward 4 different parenting options. The report writer was dissatisfied with any of these because of the parents’ inability to co-operate, and ultimately proposed another alternative arrangement.

The court changed the child’s living arrangements, placing him in the father’s full-time care and making a detailed order for the mother’s contact, stating that it would not be in the child’s best interest for the court to adopt a minimalist approach in the wording of the terms of the court order.

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