

FAMILY Flyer



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SUCCESSFUL SEMINAR SERIES

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 Seminar Series was well attended and provided a great opportunity to not only give practical legal information but to also answer lots of audience questions. It was nice to meet so many of you.

DATE CLAIMER – SEMINAR FOR COUNSELLORS

On Tuesday 29 April 2014, Accredited Family Law Specialist, Amy Campbell, of our office will be presenting a one hour seminar to Relationship Counsellors. This MUST SEE seminar will be at the Broncos Leagues Club, Red Hill and will provide valuable tips on how to navigate confidentiality issues. Note your diary for 6.00pm and DON'T MISS “Counsellors, Court and Confidentiality”.

Full details in the next Flyer!

FREE BOOK – “GUIDE TO FAMILY LAW”

If you are separated and you don't have a copy of our FREE book "A Guide to Family Law - everyday answers", you're missing out!

The book is fully up-to-date and is an invaluable resource for anyone going through separation or anyone dealing with separated couples. It includes practical and straightforward

information on children's arrangements, child support, and property settlement, and lots more.

Best of all – it's **FREE!** If you would like a copy posted out to you (or if you are with an organisation and would like a number of copies) please call us on 3221 4300.

WHAT IS A CHILD-INCLUSIVE CONFERENCE?

The Family Court has the ability to direct that couples in a dispute regarding their children, attend a child-inclusive conference. So, what is that? It is a court-ordered assessment by a family consultant to consider the issues in dispute about the children.

The Family Consultant interviews each parent and the children and then assists the Court by making suggestions about what needs to be considered for the children. The conference briefly explores each parents perspective, but the focus is on how the issues impact the children. It also provides an opportunity for the parties to discuss arrangements for the children and negotiate their own agreement. The discussions held at the conference are reportable to the Court.

The process usually involves the family consultant first speaking with the adults. The consultant will then talk to the children. The purpose of talking to the children is to find out what has been happening and what is important to them. After seeing the children, the consultant may give feedback to the adults about this.



A court-ordered child-inclusive conference has a limited time and is not a full family assessment. At the conclusion of the process, the consultant will either give an oral report to the Court or write a memorandum to the Court, and the parents will receive a copy.

POTENTIAL BONUS?

Generally a court will determine the asset pool of the parties at the date of a trial. A recent case considered whether a pending work bonus should be included in the pool of assets.

- Following separation in December 2011, the husband had commenced working in Dubai and was receiving a significant salary package, in excess of \$400,000 per annum. The package included a base salary, an annual company bonus, health insurance, a motor vehicle and superannuation.
- At the date of trial, the husband had received advice from his employer that he would receive the 2012 company bonus approximately 3 weeks after the trial. The wife sought that the prospective bonus, which was \$32,000 (AUS) net, be included in the property pool.
- The Court noted that whilst the general approach to property division is to value the property at the date of trial, where an asset had been acquired post-separation and from resources including labour, the court held it was open to the Court to find that assets that were not joint matrimonial property could be divided between the parties.
- The court decided that as the bonus arose from the husband's employment in 2012 (post-separation) it should not be included in the list of property as it was not contributed to by the parties' joint endeavours.

HOME ALONE

When deciding where a child should live, the court must consider each parent's capacity to safely care for the child and to make appropriate decisions about the child's welfare.

One decision parents may have to make is whether to leave their child at home unsupervised? This raises the question of what age is appropriate when considering the child's level of maturity and how long the child can reasonably manage on their own.

In a recent case, a child who had been living in a 50 / 50 arrangement with both parents, was ordered to live with her father and the mother's time was significantly reduced to daytime visits only, because she left the child home alone.

The extraordinary facts of this case were that the mother had admitted to leaving the child, who was only 19 months old, home alone on at least 2 occasions of 40-50 minutes while she went to the gym.

The Judge was extremely concerned about the potential risks to the child and the mother's failure to appreciate how serious those risks were. The Judge stated that:

- There was no excuse for leaving such a young child unattended even for a short period of time let alone for a period of what was admitted of some 40 to 50 minutes.
- The child was left in a room with a bottle where there was the risk of serious injury.
- Anyone that reads the newspapers is shocked and horrified by situations that children get into where they have been left unattended, even for a matter of minutes.
- The mother showed signs of remorse, although it was questionable whether that remorse was because she had been caught out or whether she had a genuine understanding of the seriousness of the situation.

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Principal: Michael Lynch*
*Queensland Law Society
Accredited Family Law Specialist



CONTACT:
Telephone: 07 3221 4300
Address: Level 6, 193 North Quay
Brisbane QLD 4000
Website: www.mlfl.com.au

