

FAMILY Flyer

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LET US PRESENT TO YOU!

Since first presenting the new seminar ‘Counsellors, Courts and Confidentiality’ earlier this year, our Senior Associate, Amy Campbell has received a number of requests from organisations for her to present it to them.

If you would like Amy to come to your organisation to present this practical and engaging 1 hour FREE presentation or if you would like further information about it, please contact us now on 3221 4300. Available dates before the end of the year are limited.

FINAL PUBLIC SEMINAR – TODAY!

The final public seminar in our current series is on in Brisbane TONIGHT!

Don't miss the opportunity to hear Accredited Family Law Specialist, Michael Lynch, explain how property settlements are determined. He will also identify some common traps people encounter and give tips on how to overcome them. The seminar ‘Separation and Property’ is being held:

- [Brisbane City](#) – Tuesday, 26 August 2014, 6-7pm at The Sebel Suites, Cnr Albert & Charlotte St, Brisbane.

The seminar is open to everyone and the attendance fee is ONLY \$20.

For more information, or to book your seat, contact our office on (07) 3221 4300 or email law@mlynch.com.au.

CONSIDER A CHILD SUPPORT AGREEMENT

The Child Support Agency applies a formula to calculate the amount of financial support that parents need to contribute to the care of their children after separation.

It's important to understand that the process can be cumbersome and difficult to apply fairly in every case. There are also some arrangements that the formula doesn't consider, including (but not limited to) private school fee's and children that have high care needs.

There is scope for parties to reach a mutual agreement that is binding for Child Support outside of the Agency. This is done by way of a Child Support Agreement and it can be a good way to make an arrangement more specifically tailored to the parties needs.

To discuss your child support situation, call us on 3221 4300 for a ‘fixed cost’ initial appointment.

“CHALLENGING A PRE-NUP”

Pre-nuptial agreements are binding in Australia, provided they have been completed correctly. The *Family Law Act* sets out a long list of provisions that must be met if a financial agreement is to be binding. Over recent years, there has been an increase in the number of challenges being made to pre-nuptial agreements.



In a recent case, the wife sought a declaration from the court that the agreement was not binding as she had not received the requisite legal advice before signing the agreement. It is relevant to note that:

- the effect of this particular agreement was that the husband received “the lion’s share” of the parties assets;
- the husband attended most of the appointments between the wife and her solicitor; and
- the husband paid for the wife’s solicitor.

The Court held at first hearing:

- The wife had the onus of proving that she did not receive independent legal advice;
- The court was not “reasonably satisfied” on the wife’s evidence that the provisions in relation to receipt of independent legal advice were not complied with; and
- The court dismissed the wife’s application to have the agreement set aside.

This decision was appealed by the wife.

The Appeal Court held:

- That the trial judge was in error in relation to who had the onus of proof. That is, the onus of proof lies on the party who is seeking to establish that a financial agreement is binding. In this case it was the husband who bore the onus of proof. The appeal court went on to say that “once the party seeking to rely upon the agreement produces in evidence the certificate signed by the other party’s solicitor, there is an obligation on the other party (in this case the wife) to give evidence that she was not provided with the proper legal advice (or at least throw into doubt the conclusion to be drawn from the certificate)”.

- That does not then require an inquiry into the content of the legal advice, but just as to whether the advice was given.
- The wife’s appeal was allowed and the matter was remitted for re-hearing.

Q & A

Q: Can superannuation be divided?

A: Yes, the Family Law Act allows for superannuation to be split as part of a property settlement. This approach is often taken, however this does not mean the superannuation entitlement can be “cashed out”. There are many cases where each party retains their own superannuation. It is important that you get Family Law advice regarding your situation.

TIPS FOR (STEP-PARENTS) GETTING ALONG WITH STEP-CHILDREN

Listen. Take time to listen to your step-children and take their concerns seriously.

Be patient. Give your relationship with your partner’s children time to develop.

Reassure them. Let the children know that you are not trying to take their parent away from them, or replace their other parent.

Compliment them. If things are tense, and your relationship is very negative, try giving your step-child a compliment. This lets them know that there are things you do like about them, and take the focus away from the negatives.

Maintain boundaries. Don’t go overboard with your step-children by trying to be extra nice. Children still need firm boundaries.

(CSA) Guide Book

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