

# FAMILY Flyer



THIS ISSUE -

No. 232

- Final seminars – book now!
- 10 Quick Tips brochure – free to order
- No cheer squad in court
- What is a voluntary intervention order?
- Objection to subpoena - overruled

## FINAL SEMINARS – BOOK NOW!

Don't miss our last public seminar series for the year. "7 Secrets to Surviving Property Settlement" is our most popular seminar and a must for anyone that is going through a separation and wants to know the best way to navigate a property settlement and reduce financial pressure.

Although the presentation is valued at over \$500, the attendance cost is ONLY \$20, payable at the door.

Accredited Family Law Specialist Michael Lynch will present in an easy-to-understand style and answer questions, such as:

- Am I separated if we are still in the one house?
- Will I be prejudiced if I move out of the house?
- How is property divided?
- What are the consequences for my superannuation?
- How do I document a property settlement?
- And much more...

### "7 Secrets to Property Settlement"

- [Brisbane City](#): 1-2pm – Tuesday, 28 October, The Sebel Suites, Cnr Charlotte & Albert St, Brisbane City
- [Sunnybank](#): 6-7pm – Wednesday, 29 October, Sunnybank Community & Sports Club – 470 McCullough St, Sunnybank

To register, call (07) 3221 4300 or email [law@mlynch.com.au](mailto:law@mlynch.com.au). Book now, seating is limited.

## 10 QUICK TIPS BROCHURE – FREE TO ORDER

If you work in Accounting, Legal or Counselling industries, it is likely that you have had someone who is separated, ask you for advice.

Did you know what to say? Quite right, you're not meant to – but wouldn't it be great if you could help?

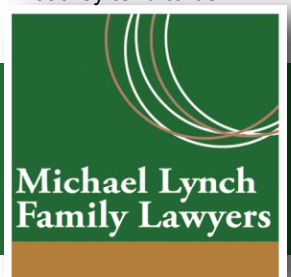
To help you in these situations, we have developed a brochure you will find useful – "10 Quick Tips on Family Law".

The brochure has proven to be very popular and has now been re-printed – if you would like a bundle of the "10 Quick Tips" brochure for your reception call us now on (07) 3221 4300 or email [law@mlynch.com.au](mailto:law@mlynch.com.au).

## NO CHEER SQUAD IN COURT

A practice which arises from time to time in parenting disputes in the Family Court is for one (or both) of the parties to file affidavits by their friends or family in support of their case.

These affidavits often contain few facts concerning the dispute but a lot of self-serving comments to say how good that spouse is. They have been aptly termed as "cheer squad" affidavits, as more often than not they tend to be



closer to a character reference than that of an affidavit.

Supporting affidavits are certainly important in cases, it is important however, that before an affidavit in support is finalised that thought is given to whether it will actually add strength to the case.

Affidavits should always contain statements of fact that are relevant in the case of the party who relies on that affidavit. Relevance is critical for admissibility, as the opinion of an interested party or hearsay about a situation is usually not relevant, and therefore is not admissible.

It is unlikely that a court would place any real value in an affidavit by a close family member who is only giving a glowing account of one of the parties.

## WHAT IS A VOLUNTARY INTERVENTION ORDER?

Most people are familiar with the basic orders that can be made by a Magistrate Court in Domestic Violence matters. The two main types being a Protection Order or a Temporary Protection Order. It is now open to a court to impose a further order on a Respondent – a “Voluntary Intervention Order”.

A Voluntary Intervention Order does not “replace” a Protection order but rather can be made in addition to a Protection Order or Temporary Protection Order.

A Voluntary Intervention Order requires the alleged offender (respondent) to attend an approved intervention program (such as a behavioural change program) and/or counselling with an approved counsellor.

This order can only be made if the respondent is present in court at the time the order is made. Further the respondent

must be assessed for their suitability to participate in a program or counselling.

Sometimes a “victim advocate” may contact the aggrieved spouse to assess their safety on an ongoing basis over the course of the program. The aggrieved spouse can refuse to participate in any program or counselling.

## OBJECTION TO SUBPOENA – OVERRULED

Someone served with a subpoena can object to having to respond to it by filing a notice of objection with the court outlining the reasons for the objection. A recent court case considered an objection claiming “confidentiality”.

- The father issued a subpoena to the children’s school seeking, among other things, student file notes and that a report be prepared by the school counsellor regarding the counselling of the children.
- The school counsellor objected on the ground that the counselling was ‘Family Counselling’ and therefore was inadmissible under s10E of the *Family Law Act*.
- The court found that the definition of ‘Family Counselling’ under the *Family Law Act* was focussed on counselling for the “marriage relationship” or the “interpersonal relationship of the parents” and the effects of the breakdown of the relationship.
- As the parties had been separated since 2006 (many years earlier) the Judge concluded that the counselling with the children would not fall under the definition of ‘Family Counselling’.
- The objection was rejected and the documents were required to be produced.

Copyright 2011

This document contains general comments and should not be relied upon as specific legal advice. Readers should contact this Office for advice on any topic in this document. Changes to the law occur regularly, no responsibility for any loss or damage caused to anyone acting in reliance on this document shall be accepted by this Office. No part of this document may be reproduced without our written approval.

**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](http://www.mlfl.com.au)

