

# FAMILY Flyer



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## PARENTING PLAN V. CONSENT ORDER

When separated couples reach an agreement regarding the arrangements for their children, they are confronted with 2 options for how to document the agreement, either a Parenting Plan or a Consent Order. There are significant differences between the two.

### What is a Consent Order?

- A standard court form that is completed by the parties, lodged with the court and if accepted by the court becomes a court order and is binding and enforceable.
- A court order is difficult to change.

### What is a Parenting Plan?

- There is no set form. It has low formality requirements, (i.e only needing to be signed by both parents and there is no witnessing requirement).
- The Parenting Plan is not lodged with the court, does not become a court order and is not enforceable. It can only act as evidence of what the parents agreed upon and it tends to be more flexible in its wording of arrangements than a consent order.
- A Parenting Plan that is made after a court order will override the court order whenever the 2 documents conflict.

It is essential that you obtain Specialist Family Law advice before completing any documentation regarding your children's

arrangements. For a fixed cost "no obligation" initial consultation, call us for an appointment on (07) 3221 4300.

## COPING WITH CHRISTMAS

Over the last couple of years one of our most popular articles has addressed the challenges faced by separated families over the Christmas holiday period, but more particularly, Christmas Day. To avoid Christmas being a time of disappointment and disagreement and in the lead-up to the Christmas holiday period, we again share with you our article entitled "[Coping with Christmas – Timely Tips for separated Mums and Dads](#)".

Onforward the article to anyone you feel would benefit from it!

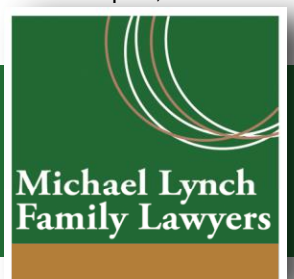
## CONFERENCE OR PROFESSIONAL DEVELOPMENT DAY? NEED A SPEAKER?

If you are looking for a speaker on Family Law for your next Conference or Professional Development day, please give us a call!

Our Principal, Michael Lynch, presents many seminars each year to accounting, financial planning and legal firms, as well as other groups.

If you want your staff to be better equipped to serve clients (or you would like to offer your clients tips e.g. protecting assets in property settlement) call us on (07) 3221 4300 to organise a FREE seminar.

The seminars are generally for 1 hour and include a PowerPoint presentation and additional hand-out material and we come to you. For more information or possible seminar topics, visit our



[Seminar Series webpage](#) or phone 3221 4300.

## PROPERTY SETTLEMENT - 32 YEAR MARRIAGE

Because one of the factors looked at in the determination of a property settlement is the 'contributions' that each spouse has made, all cases will be different. A recent case before the court involved a marriage of 32 years.

### The facts:

- At the hearing the husband was 60 and the wife was 65. Their property pool was approximately \$1.5 million.
- The wife sought 80%. She said this was 60% for her 'contributions' and 20% for her 'future needs' due to the husband having a greater income earning ability. The husband sought a 50%/50% division.
- There were no assets at the commencement of the relationship. The relationship was traditional in that the husband was the primary income earner and the mother was the homemaker and care giver to the children. All other contributions were equal, except for an inheritance received by the wife late in the marriage in the sum of \$60,000.
- The wife had not been employed for 10 years. The husband has stopped work 4 months before the hearing. He said he had depression and his ability to work was reduced. The husband's income had previously been \$290,000 per year. The wife claimed that the husband still had that capacity.

### Court found:

- The wife should get a 2% adjustment for the

inheritance.

- The wife had limited employment prospects whereas although the husband had a reduced work capacity he did have an income earning capacity of \$40,000 per year for about the next 5 years. The Judge provided the wife with a further adjustment of 5%.

### Court ordered:

- That the property be divided 57% to the wife and 43% to the husband.

## CHANGING CHILD SUPPORT IF YOU PAY FOR A STEP-CHILD

Where a parent has a second family that includes a step-child, the responsibility of financially supporting the step-child can rest with that parent if neither of the child's biological parents can pay for the costs of their child (example, due to illness, death or caring responsibilities).

In these special circumstances, a parent with a Child Support liability for their own children but who is also caring for a step-child can apply for a "change of assessment" to have their child support payments reduced. To be eligible for such a "change" in Child Support payments requires either, that:

- the 'step-child' lives with that parent but is not their biological child;
- the 'step-child' has lived with that parent for 2 years;
- the biological parents cannot provide financial support for their child; and
- the child is under 18 and not a member of a couple and requires financial assistance.

It is not necessary for the step-parent to establish legal responsibility for the child (pursuant to a court order) nor for the parent to be married to the child's parent.

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