FAMILY Flyer

THIS ISSUE - No. 253

OUR GROWING TEAM

We are pleased to announce the recent appointment of Stephanie Brown as a new solicitor at our office. Stephanie practices exclusively in family and relationship law.

Stephanie joins our team with good experience in commercial law and in all aspects of Family Law. Stephanie's expertise reinforces our position as one of the largest Specialist Family Law firms in Queensland.

SEMINAR SERIES – ONLY 3 WEEKS AWAY!

Don't miss your chance to attend our most popular public seminar series, presented by Accredited Family Law Specialist, Michael Lynch.

For only $30, you will receive a 1 hour information session and have the opportunity to ask questions. There will also be a **Special Offer** for all attendees.

"Separation and Children"

- Albany Creek: 6-7pm – Tuesday 1 September, Wantima Golf Club, 530 South Pine Road, Albany Creek

"Separation and Property"

- Mt Ommaney: 6-7pm – Wednesday, 2 September, McLeod's Country Golf Club, 61 Gertrude McLeod Cres, Mt Ommaney

Seating is limited so register now by calling (07) 3221 4300 or email law@mlynch.com.au.

ATTORNEY-GENERAL SUED OVER DIVORCE FEE INCREASE

A national litigation firm has commenced legal proceedings against the Federal Attorney-General seeking to reverse a decision to significantly increase court filing fees.

In early June 2015 the Federal Government sought to increase the Family Court filing fees. On 25 June 2015 the Senate disallowed this fee increase however, the government then proceeded to sign off on the fee increase anyway.

As a result, filing fees have increased from the 13th July 2015. The cost of filing a divorce has jumped 40% from $845.00 to $1,200.00 and the cost of filing a subpoena has increased 225%, to $125.00.

It is possible that the fees might be changed again when the Senate next sits, in the week commencing 10 August 2015.

CHILD SUPPORT AND CONTACT – BEWARE!

When it comes to child support and child contact beware of making emotionally driven decisions or following bad second-hand advice.

Two of the classic traps for separated couples are:

- Thinking that child support is a moral choice and that payment is therefore dependent upon how the money is spent; and
- That if child support is not being paid then the primary carer parent can stop the child's contact.

Michael Lynch Family Lawyers

Let's dispel these myths.

Firstly, the law says that every parent has a legal obligation to provide for the support of their child. This obligation does not stop because:

- You separate;
- Your child does not live with you;
- You don't have any contact with your child;
- You and your ex-partner fight;
- You think your ex-partner will misuse the money you pay for child support; or
- Your ex-partner has a new partner.

Secondly, the law provides that contact is not dependent upon child support being paid.

- Children have a right to know and be cared for by both parents.
- Contact is a right of the child.
- Contact is not a right of either parent.
- Children who have regular contact with both their parents adjust better and generally do better in life.

If you have separated and need assistance with children's arrangements or child support, call us on 3221 4300 for a fixed-cost initial consultation.

THE RISKS OF DELAYING A PROPERTY SETTLEMENT

A husband and wife delayed their property settlement until six years after separation. The Judge hearing the matter was critical of both parties for the delay in finalising matters and noted that the lapse of time since separation had greatly increased the complexity of resolving an otherwise straight-forward matter.

It was contended that whilst the wife had received the advantage of remaining in the home, she had accrued substantial debts relating to her living expenditure. The husband on the other hand had made use of assets in his sole control and dissipated approximately $150,000.00 on expenses which included a luxury holiday for him and his new partner, school fees and legal expenses.

The husband had also "gifted" the party's eldest son the sum of $200,000.00 to put towards the purchase of a unit in the son's name. The husband had lived with the son since separation and contended that it was unreasonable of the court to include their son's unit in the property pool available for distribution. The court noted that neither party had called evidence from the eldest child.

The Judge criticised the parties saying that he considered that the failure to call evidence regarding the asset in the son's name was an omission of a basic and fundamental step and therefore any imprecision in the calculation of the final property division would be a consequence of the parties. The court did not take into account the current value of the unit but did take into account the $200,000.00 "gift" as representing the party's interest in the unit.

The court also took into account $100,000.00 of the $150,000.00 expended as it related to the holiday and legal fees and noted that it largely offset any percentage adjustment the husband would have otherwise been reasonably entitled to under the "future needs" percentage component. The wife was also allowed to include the debt she had accrued post separation.

The court determined that the assets be split in the husband's favour 55%/45%, which was mainly due to the husband having made a more significant "initial contribution".

It is important to note that, if so much time had not elapsed the husband may have received a greater percentage adjustment.

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