

FAMILY Flyer



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No. 267

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HAPPY NEW YEAR! DATE CLAIMER.

The account holder of a smartphone is able to access a lot of information from the metadata on the smartphone. This can include current location, caller details, internet history and possibly email communication and account details.

People who have separated should seriously consider:

- Getting a new computer and/or smartphone.
- Checking who owns the phone account.
- Removing any other ID access from the device they use.
- Using a separate computer which has been checked for key logging software.
- Having emails sent somewhere secure.
- If you are continuing to use the smartphone device, disable the location services.
- Changing passwords.

Taking these steps becomes a very real and important consideration for spouses that have separated, especially if domestic violence and stalking is also an issue. If you have any such concerns we would recommend a personal consultation with an expert to ensure that all possibilities are addressed.

ACCOUNTANTS – WEBINAR – REMINDER!

Our first webinar exclusively for Accountants will be held from 2 – 3 pm on Tuesday 22 march 2016.

"Family Law for Accountants Survival Guide" is free and is a must see for all Accountants. Help yourself and your clients.

Registrations are filling fast. Book now visit: _____

TRAVELLING OVERSEAS, DO I NEED CONSENT?

Once a parenting application has been filed with the Court (even if no Orders have yet been made) or while a Parenting Order is in force, it is a criminal offence to take a child outside of Australia except with the written (and properly witnessed) consent of the other allowing the travel. The maximum penalty for taking a child out of Australia without that consent or a court order, is three years' imprisonment.

The government is currently considering legislation which will further extend this section to make it an offence to not only take the child outside of Australia without consent, but a further offence to then retain the child outside of Australia. The proposed maximum penalty, will again be three years' imprisonment.

INTERIM REQUEST TO SET ASIDE TRANSACTION

The Court has recently considered an interim application by a wife to set aside the transfer of a house in the husband's name to his parents'.

The Family Law Act provides that transactions that are intended to defeat the claim of a spouse can be set aside by the Court.

In this case, there were 2 properties in question, which were originally owned jointly by the husband and his brother. In 2014, during the Court proceedings, the husband transferred his interest in the property to his brother for an amount of money. The parties obtained independent valuations of the properties before the transfer was effected.

The husband's evidence was that the money from the sale was used to pay back loans owed to his parents. The wife disputed this loan.

During the proceedings, the brother admitted that he underpaid the Husband for the properties as he was unable to borrow the additional funds. The brother argued that this was a debt owing to the husband, which could be included in the matrimonial pool.

The Court noted the timing of the transaction as being just 5 months before the hearing. The wife contended that the properties were clearly part of the property pool and at the interim hearing (before the final hearing) that the transactions should be set aside.

The Court noted that the evidence indicated that the transactions appeared to be for the purpose of defeating the wife's claim but left the decision on this point to the final hearing. Due to the complexity of the matter, it was transferred to the Family Court for the final hearing, which is yet to be heard.

ONLY IN THE USA!

The US Supreme Court Justice Clarence Thomas was reported last as have broken a 3 year silence in court.

Strange, but true, the Judge had not spoken in court since 2013 and apparently asked his first question in court in 10 years.

(Source: Legalthumour.)

GETTING A SECOND OPINION

Family Law is complex and ever changing area of law.

All of the lawyers at Michael Lynch Family Lawyers practice solely in Family and Relationship Law, we are often requested to provide a second opinion on legal advice people have received elsewhere.

We are happy to assist in providing the Specialist assistance.

To make an appointment call us on (07) 3221 4300.

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