

# FAMILY Flyer



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## NEW SEMINAR – "SEPARATION & PROPERTY" – 17 MAY!

Our next public seminar is on 17 May 2016!

Don't miss this opportunity to learn from Accredited Family Law Specialist, Michael Lynch. The topic is "**Separation & Property**".

In 'plain-english' Michael will explain the complexities of this area, identify the common traps and (more importantly) the tips to overcome them. Anyone recently separated needs to know this!

### What you will learn:

#### Property:

- How a property settlement is determined and dispelling many of the common myths.
- What is property? – You will be surprised.
- Know your values – it is usually not what it seems.
- and much more...

The seminar is open to everyone and the attendance fee is ONLY \$30 (payable at the door).

### "Separation & Property"

- Brisbane – 1-2pm, Tuesday, 17 May, Berkleys on Ann, 255 Ann St, Brisbane City

Seating is limited so register now by calling (07) 3221 4300 or email [law@mlnych.com.au](mailto:law@mlnych.com.au).

## 'CLOSE-UP' ARTICLE

Child Support payments (under the Child Support Agency) only relate to children until they are 18 years of age.

Beyond 18 years, a parent can still be required to continue providing financial support for a child – particularly if the child has a physical disability. Find out what the requirements are in our latest "Close-Up" Article; [Claiming Adult Child Maintenance](#).

## SO, WHAT IS A CAVEAT?

How can you make sure that real estate registered in the other spouses name is not sold, transferred or put up as security without your knowledge? Protection may be found in a caveat.

### What is a caveat?

A caveat is a document that can be lodged with the Titles Office. Once a caveat is lodged, the owner of the property is not able to deal with the property in any way including selling, transferring or further encumbering the property until the caveat is removed.

### Are you able to register a caveat?

In order to register a caveat, a person must first establish a caveatable interest. In many family law matters, a former partner is usually able to demonstrate an interest in the property as a result of their 'financial and non-financial contributions' to the 'acquisition, maintenance and improvement' of the property during the course of the marriage or relationship.



## Risk in registering a caveat

There are risks of registering a caveat. If the person who lodges the caveat is found to have no caveatable interest, and the owner of the land suffers some kind of financial loss as a consequence of the caveat, the owner of the land can recover those losses from the person who lodged the caveat.

We recommend that anyone who has concerns about property being disposed of without their knowledge or who is thinking of lodging a caveat should contact us for Specialist Family Law advice.

Ph (07) 3221 4300.

## WHAT IS A COMMUNICATION BOOK?

In cases where parents have difficulty communicating about their children, the court often orders that the parents use a 'communication book'.

What is that?

A 'communication book' provides a way for parents to communicate important issues and events relating to their child, without face-to-face interaction, in order to avoid disputes.

The child typically carries the book in their bag between visits to each parent. It is preferable if it is a bound book with numbered pages.

It is important that parents only make entries in the book that are brief and child-focussed. It should not be used for argumentative or self-serving reasons.

## PARENTAL RESPONSIBILITY – NAVIGATING CULTURAL DIFFERENCES

Cultural differences between parents can create difficulties when it comes to making important, long-term decisions for a child. The court recently considered the effect that cultural differences had on what time each parent spent with the child and who should have parental responsibility for the child.

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The child was nearly 4 at the time of the trial. The mother was Hindu Punjabi. She stated that in her culture, little girls did not spend overnight time away from their mother. The father disagreed. There was some written evidence before the court that the mother's view was correct.

The father was seeking overnight time with his daughter, which was supported by the family report. The court ordered that the child spend overnight time with the father starting from when the child turned 4. The time was to increase to 4 nights per fortnight from when the child commenced school.

The judge stated that, although the cultural beliefs of each parent are relevant, they cannot override the benefit to the child of having a 'meaningful relationship' with the other parent.

The mother was awarded sole 'parental responsibility' for decisions regarding the child's education, religious and cultural upbringing and health. In making this decision, the judge considered the highly conflictual background of the parents, and the fact that the chances of them being able to communicate and reach agreement on these matters was slim. The judge found that the making of an order that required them to communicate was not in the child's 'best interests'.

## Q & A

**Question:** My child's doctor has prepared a report and it does not help my case. Do I have to give a copy to the other party?

**Answer:** If a party obtains an expert medical report for a parenting case, whether before or after a case has commenced, a party must disclose a copy to the other party and the Independent Children's Lawyer (if appointed). If a report is obtained before the case starts, then at least 2 days before the first court event or if the report is obtained during proceedings, then within 7 days after the report is received.

The rules of court are absolute and unlike obligations of disclosure in financial cases where there is no general requirement to disclose an expert's report. The rule further sets out a mandatory obligation to disclose regardless of any argument that the document may be privileged.

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