

FAMILY Flyer



THIS ISSUE -

No. 153

- Seminar Series – On Now!
- Q & A

- A Paraplegic Parent
- Dealing with Capital Gains Tax

SEMINAR SERIES – ON NOW!

If you are after explanations to the legal challenges of separation, don't miss these popular seminars!

Get easy-to-understand legal information and advice on separation, children's arrangements and property division.

The 1 hour seminars are valued at over \$500 – but are ONLY \$20, payable on the night! There is ALSO a Special Offer for all those that attend! Upcoming dates:

“Separation & Property”

- Grange: Wednesday, 27 July, 6pm at Crushers Leagues Club, 41 Agincourt Street;
- Brisbane City: Monday, 8 August, 1pm at Chifley at Lennons Hotel, 66 Queen Street Mall;
- Eight Mile Plains: Wednesday, 10 August, 6pm at Michael's Oriental Restaurant, 223 Padstow Road.

“Separation & Children”

- Redcliffe: Tuesday, 2 August, 6pm at Redcliffe Leagues Club, Cnr Klingner & Ashmole Road.
- Birkdale: Thursday, 4 August, 6pm at Redland Sporting Club, Anson Road.
- Woolloongabba: Tuesday, 9 August, 6pm at Diana Plaza Hotel, 12 Annerley Road.

Book Now! – ph. 3221 4300 or email law@mlynch.com.au.

For more information visit www.mlfl.com.au/seminars.

Q & A

Q: I am worried my ex-partner is going to take the children out of the country without my permission, is there anything I can do?

A: You can apply to the Court for an Order that the children's names be placed on the Airport Watch List. Once a Court Application has been filed, the Federal Police can list the children's names, which means that if the departing parent attempts to take the children out of the country, the children will be stopped at the airport and not allowed to leave. If the situation is urgent and cannot wait for an Application to be filed, the Court has an emergency number that can be called.

If you have any questions email us at law@mlynch.com.au.

A PARAPLEGIC PARENT

The Court recently had to consider whether a Father's paraplegia would affect his capacity to care for his 3 year old child.

The Facts:

- The parents were together for 1 year before planning to marry, but 1 week before the wedding the Father was involved in a motor vehicle accident which rendered him a paraplegic.

- The parents had 1 child, a daughter, who was born 4 months after the Father's accident and was 3 years old at the date of the hearing.
- The parents remained together for a further 1 ½ years after the Father's accident, before separating.
- 3 years after the accident, the Father was almost completely independent but confined to a wheelchair.
- The Mother was the full time carer of the child and the Father had spent time with the child since birth, however he was dissatisfied with the frequency of the contact.
- The Father proposed that the child spend time with him on an increasing time basis over a year – which involved a once a week 5 hour supervised visit – increasing to, one overnight per week – increasing to, two overnights per fortnight, followed by four overnights per fortnight to eight overnights per fortnight. The Father also sought time with the child for half of the school holidays.
- The Mother proposed that within a timeframe of 2 years the child's time with the Father would increase from the current level, to a longer day-time contact, to one overnight each fortnight, to two overnights each fortnight, to four overnights each fortnight until 2012, when the child would commence school.

Court Found:

- The Family Report writer's observations and the Father's own evidence about his physical capacity to provide for the child, lead the Court to decide that there was no need for the Father to have supervised time and the fact that he was a paraplegic was not an issue.

- The Father's proposal meant he would become the child's primary carer (8 nights per fortnight) in just over 1 year, which did not reflect the child's needs or her strong relationship with the Mother.
- The Mother's proposal was also viewed as unrealistic and did not reflect the developing relationship between the child and the Father.

Court Order:

The 'child spend' time with the Father gradually increasing, as follows:

- Starting – every Saturday from 10am to 5pm – for 6 months;
- Then from 10am Saturday to 5pm Sunday each alternate weekend and from 10am to 5pm on the alternate Saturday – for 6 months;
- Then 10am Saturday to 5pm Sunday every weekend – for 1 year;
- Thereafter, from after school Friday to before school Monday on the 1st week, then after school Wednesday to before school Thursday in the 2nd week, and holiday contact.

DEALING WITH CAPITAL GAINS TAX

It is important not to make any hasty decisions about transferring property between spouses, before a property settlement is properly documented – why? Capital Gains Tax (CGT) rollover relief is only available if the transfer of the property (usually an investment property) is being done pursuant to a Court Order or Financial Agreement.

For a CGT asset that is transferred pursuant to a Consent Order or a Financial Agreement, the CGT is rolled over and it is therefore not payable at the time of the property settlement transfer.

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