

FAMILY Flyer



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SEMINAR SERIES – LAST CHANCE!

Are you separated or considering separation and want some simple Family Law answers? Our 1 hour plain English public seminars will assist you in understanding the latest in children and property arrangements in Family Law.

Each seminar will not only provide an opportunity to ask questions, but there is also a **SPECIAL OFFER** available ONLY to attendees. The \$20 attendance fee is payable at the door. For more information and to read comments from previous attendees visit www.mfl.com.au/seminars.

Don't delay! Only 2 seminar dates left:

“Separation & Property”

- Eight Mile Plains: Wednesday, 10 August, 6pm at Michael's Oriental Restaurant, 223 Padstow Road.

“Separation & Children”

- Woolloongabba: Tuesday, 9 August, 6pm at Diana Plaza Hotel, 12 Annerley Road.

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

‘CLOSE-UP’ EDITION

Most people assume that only couples together for 2 years are defined as ‘defacto’, however the definition extends further than that. So what is a defacto relationship and what do the recent 2009 laws mean for defactos entering into property settlements? Read [‘Defacto Property Settlements under the Family Law Act’](#).

“I WANT TO GO TO BOARDING SCHOOL”

When a Court makes a decision about a child's arrangements, consideration must be given to the child's wishes. The ‘weight’ given however, will depend upon the child's age and maturity. The Court recently had to consider a situation where an 11 year old child, who had younger siblings, stated that she wanted to attend an all girls boarding school. While the child was clear about her wishes, the Court had to consider – was this in her best interests?

The Facts:

- The Father and Mother were together for 12 years and had three daughters, aged 11, 8 and 6.
- The Mother brought an application to the Court for the 11 year old daughter to start at boarding school, in grade 7.
- The Mother said it had been a “long term dream and goal” for the child to attend boarding school.
- The Father however, was worried about the impact it would have on the daughter and her relationship with her sisters if she went to boarding school. It appeared the daughter had helped in making sure that the ‘week about’ arrangement with her younger sisters (between the parents) was successful.
- The Father also disputed the daughter's alleged ‘wishes’ and argued that if a boarding school was to be considered, it should be in the future when the daughter was older, such as in grade 9 and onwards.
- The Mother and Father had both attended boarding school and the daughter said she had become interested in attending boarding school when she was in grade 3.

- The daughter made her own inquiries and sat for a scholarship for the boarding school. She was successful in receiving a scholarship at the boarding school.
- The Family Report writer said the daughter believed she would thrive better academically and make friendships in a boarding school environment.
- The daughter had confided in her current school principal that one of the reasons she wanted to go to boarding school was to get away from the fighting between her parents.

Court Found:

- There was a risk that attending boarding school at such a young age would have a negative impact on the child and her younger sisters.
- The school the child was attending was meeting her needs.
- The parents were not in a financial position to commit and pay the ongoing costs of the boarding school.

Court Order:

- The Application for the child to attend boarding school be dismissed.

\$3 MILLION INHERITANCE

When one spouse receives an inheritance and following that, the couple separates, the question often arises as to how the inheritance should be dealt with in the couple's property settlement. The Court recently considered such a case.

The Facts:

- The Wife, aged 52 and Husband, aged 57 were married for 20 years and had 4 children, aged 24, 21, 19 and 16 years.
- At separation, the Wife left the home to move in with her new partner. The Wife was not in paid employment. The Husband worked as a tradesman and earned \$60,000

per year. The children lived with the Husband after the couple separated.

- Throughout the marriage, the Husband and Wife lived rent free in a home owned by the Wife's Mother.
- The Husband and Wife cared for the Wife's Mother in her later years, when she lived in a nursing home.
- The Wife suffered from serious mental health issues and had been admitted into medical clinics for months at a time on more than one occasion.
- 4 years before the couple separated, the Wife's Mother passed away and the Wife inherited shares and antique furniture worth \$3.03 million.
- Aside from the inheritance, the couple's only other property, at the time consisted of the Husband's superannuation of \$120,259.
- The Wife sought a division of 80% of the property to her and 20% to the Husband. She submitted that the Husband should keep all of his superannuation.
- The Husband, however, said that the property should be divided equally. He submitted that the entirety of the contributions should be taken into account, his included attending upon the Wife's Mother every evening in her last 4 years, caring for the children and being homemaker while the Wife was ill and his care of the children after separation without the assistance of the Wife.

Court Found:

- The rent free accommodation by the Wife's Mother was seen as a contribution made by the Wife.
- The Husband had worked full-time for the entire marriage and contributed to the family's financial circumstances and the welfare of the family.
- The inheritance was a contribution on behalf of the Wife.

Court Order:

- The Wife receive 75%, while the Husband receive 25% of the property pool.

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