

FAMILY MATTERS

THE NEWSLETTER OF BERRY FAMILY LAW

JULY 2011 ISSUE 1

Welcome

Welcome to Family Matters, the newsletter from Berry Family Law, which seeks to keep you updated on matters regarding our firm, Family Law and legal tips and pitfalls for professionals generally.

Berry Family Law News

New Practice Manager

We take great pleasure in introducing our new Practice Manager, Harvey Ashton. Harvey comes to us with over 30 years of experience managing law firms ranging in size from 30 to 400 staff.

Harvey has an accounting qualification and has also completed a special course run by the Australian Institute of Company Directors for Directors of Friendly Societies.

Harvey has also found time for significant involvement in organised sport, both on and off the field. He has played hockey, cricket, golf, basketball, tennis and badminton at various times and has also raced on push bikes and rowed for several years. Harvey also umpired hockey for many years and was an Internationally 'badged' umpire. Harvey has also been involved in the administration at local, state and national level of hockey and at club & state level of golf, including membership of the Golf Victoria Board.

Harvey is married to Robyne (for 39 years) and has two children, Megan and Drew. Harvey & Robyne are waiting for grand children and whilst waiting look after Drew's cat.

New Premises

Due to our recent expansion in workload and staff, Berry Family Law has, for some time, been seeking new premises for our office in the Central Business District in Melbourne. We are pleased to confirm that we have now committed to a new location at 552 Lonsdale Street, Melbourne, and are currently finalising contracts and arrangements for the upcoming grand opening. The new office is located in close proximity to the Family Law Courts which will assist us in offering improved services to our clients.

New Solicitor

We welcome a new family law solicitor, Elisa Garzarella to our team. Elisa has practised exclusively in family law since she was admitted to practise. Elisa comes to us from a mid tier firm.

Elisa has three degrees, she obtained her Juris Doctor from Melbourne University.

Elisa has gained respect and experience dealing with high net worth complicated property matters, bitterly contested childrens matters for married, defacto and same sex couples. Elisa enjoys financial agreements to protect client's assets.

Elisa has a reputation for obtaining the best results through negotiation and where negotiation is not possible she pursues matters aggressively to final trial.

Elisa has been a media commentator for family law and related issues.

Elisa is a mother of two robust boys.

She enjoys practising in family law as she works with people in difficult situations to obtain results that have eluded them prior to her intervention.



Berry  Family Law

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10 things to do if you have just separated

- 1. Contact your bank or financial institution by facsimile to stop joint funds being removed or liabilities increased.**
- 2. Look at your Will and consider if it is still what is appropriate and if you do not have a Will have one drafted.**
- 3. Ensure any powers of attorney are revoked, and have appropriate ones drafted.**
- 4. Consider whether your nominated death beneficiary for your superannuation entitlements is appropriate.**
- 5. Photocopy all of your and your ex's financial documents and put them in a secure location (this should not be your home or motor vehicle).**
- 6. Contact the Child Support Agency and find out how much is to be paid or is payable.**
- 7. Do title searches on your properties. If your home is in your ex's name or it is held as tenants in common ensure you place caveats over the properties. If your property is held jointly, ensure you sever the joint tenancy.**
- 8. If there has been family violence in the relationship. Seek an Intervention Order.**
- 9. Start a diary which keeps track of time with the children and any adverse behaviour of your ex.**
- 10. Most importantly seek advice from an experienced Family Lawyer.**

Legal News

Professional Privilege

An area which can potentially cause great grief to professionals is that of 'legal professional privilege', where an expectation exists that communications with both in-house and external legal representatives will remain confidential.

The right for legal advice to be maintained as confidential, and excluded from being used as evidence in any Court proceedings, is known as legal professional privilege. However, it is vital that business employees are aware of the numerous ways in which legal professional privilege can be waived, when a waiver (deliberate or not) means that a solicitor's file can be admitted as evidence.

It is generally known that, during the Court process, copies of documents relevant to the issues in dispute must be produced to the other side for inspection and, if appropriate, copying. However, there are a number of precedents for the proposition that, if reference is made in discoverable material to legal advice that the party has received concerning the matter (for example, in the minutes of a director's meeting or an internal memorandum), legal professional privilege has been waived with regard to that piece of advice.

In other words, a casual comment in a discoverable document concerning legal advice can mean that a whole of a solicitor's file can itself become a discoverable document. This is relevant in not only Family Law matters, but also in many commercial disputes, where an ongoing relationship with a solicitor can mean that an enormous amount of material becomes open to inspection by the other side (in the event of a waiver).

We are open to discussing any queries regarding this area, and the summary in this article cannot be a substitute for legal advice.

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