

Family Matters

THE NEWSLETTER OF BERRY FAMILY LAW: AUTUMN 2018

Congratulations to Michael Lipshutz OAM

"It's an honour to be recognised but no-one spends hours on community service to get an award. Doing community service is reward enough."



Michael was awarded a Medal of the Order of Australia in the recent Australia Day honours for his work in the Jewish community and on the Glen Eira Council.

The list of Michael's community service is as follows:

- **1998-2001: Maccabi Victoria board member.**
- **2001-03: Education officer of the Jewish Community Council of Victoria.**
- **2003-05: President of the Jewish Community Council of Victoria.**
- **2003-2005: Vice President Executive Council of Australian Jewry.**
- **2006-08: Chairman of B'nai B'rith Anti-Defamation Commission.**
- **2005-2016: City of Glen Eira Councillor and Deputy Mayor.**

The Order of Australia is the principal and most prestigious means of recognising outstanding members of the community at a national level and nominations are encouraged from all members of the Australian public.

The Order of Australia was established in 1975 by Her Majesty Queen Elizabeth II. Prior to 1975 Australians were recognised under the British honours system, also known as Imperial awards.

The Order of Australia has four levels and two Divisions (General and Military):

- Companion of the Order (AC)
- Officer of the Order (AO)
- Member of the Order (AM)
- Medal of the Order (OAM)

The Governor-General approves appointments and awards in the General Division on the

Medal of the The Order of Australia (OAM)



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recommendation of the Council of the Order of Australia and in the Military Division on the recommendation of the Minister for Defence.

The Order operates on the principles of independence and freedom from political patronage.

The Council for the Order of Australia is an independent body that considers nominations for appointments and awards in the General Division of the Order and makes recommendations to the Governor-General.

There are 19 members including representatives of each state and territory, public office holders (ex-officio)

and community representatives. The community representatives on the Council are appointed by the Governor-General on the recommendation of the Prime Minister.

The Council meets twice a year, usually in February and August, to consider whether each nominee in the Order of Australia has:

- demonstrated achievement at a high level
- made a contribution over and above what might be reasonably expected through paid employment, or
- made a voluntary contribution to the community which stands out from other volunteers.

As necessary, the Council develops policies to assist in maintaining the integrity of the process.

The Medal of the Order of Australia is a badge with a gold-plated silver insignia of the Order in the centre. The central insignia is inscribed with the word "Australia". The circle also contains two gold sprigs of mimosa. The insignia is ensigned with the Crown of St Edward.

Everyone at Berry Family Law is extremely proud of Michael's achievement as we appreciate his work ethic and his belief in family and community service.

Social media and family law proceedings

Today most households have access to the internet and use social media such as Facebook Twitter, YouTube, Instagram or participate in online forums. Many members of the public will use the internet to 'discuss how they are feeling' and to express their disdain. These comments may be available to friends, friends of friends or even the general public. Once a comment is published on the internet it can remain there for a long time after it is deleted, possibly forever. Although a comment may be deleted with the click of a button it can be retrieved and may have been copied by a member of the public before being deleted.

The bottom line is that once you publish something on the internet you lose control over it. On the internet items can be copied, onforwarded and even retrieved long after being deleted.

Although most Family Law Court sessions are open to the public Section 121 of the Family Law Act 1975 restricts the

publication of Court proceedings. This means that a person is guilty of an offence if they publish or disclose to the public any account of proceedings which identifies a party to the proceedings. Upon conviction of such an offence the person may be imprisoned.

In the midst of litigation it may be tempting to post a comment on matters before the Court but this is clearly unwise. There have been a number of cases where a person who has done so was found to have contravened Section 121 of the Family Law Act 1975.

In one instance the father in a family law dispute created an internet website where he identified details of the proceedings between him and his wife in the Court. He also named the parties in the matter and uploaded photographs of lawyers and experts involved in the proceedings. Those parties were identified under the heading "List of Corrupt Legal Professionals". The Court found that the father was responsible

for the material published on the website. The Court was satisfied that Section 121 of the Act had been breached.

The fact that the details were published on the internet and remained "published" and thereby available for any person, anywhere in the world to access at any time of the day or night on an ongoing basis led the Court to believe there was a need for injunctive restraint.

It was noted by the judge that "publication on the internet is quite different to one of publication on television or a radio program or any paper article where the publication is limited in time and place.

The Court also considered that the public attack on the integrity of the lawyers representing the mother and children was "deliberately intended to intimidate them into ceasing to act for the mother and the children and to act as a deterrent to others from so acting.

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