



Family Matters

THE NEWSLETTER OF BERRY FAMILY LAW: SUMMER 2019

Introducing Ema Stefanovic



Ema Stefanovic joined our firm in May 2017. She is in her final year at Monash University, completing her Bachelor of Laws and Bachelor of Arts. Ema is majoring in Criminology and minoring in Human Rights.

Ema started her degree in 2014 and shortly after commenced volunteering at the Monash Oakleigh Legal Service (Family Law Assistance Program), providing advice and assistance to members of the community dealing with family breakdown, divorce, parenting and property matters.

In 2016 Ema coordinated the Education Support Program for Friends of Refugees Inc located in Dandenong. The Program aims to ensure children seeking asylum and refuge in Victoria's South East have access to education support and supplies. Ema helped launch the Support Program's curriculum for Grades Prep to Year 11. This involved planning lessons, coordinating volunteers and

ensuring that students could safely access the service.

Alongside working at Berry Family Law and studying full-time in 2018, Ema completed her placement at the Springvale Monash Legal Service specialist legal clinic in partnership with the South Eastern Centre Against Sexual Assault.

Ema's reflections:

Through my experience at Berry Family Law and various community legal centres, I have seen the importance of ensuring that the best interests of children, who are the key stakeholders in any parenting matter, are met.

Financial ties between parties can be incredibly complex. I have been very fortunate to learn from the specialists at Berry Family Law the best ways to resolve financial ties between separating parties.



Berry Family Law

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Separation & Inheritances

Two of the most traumatic experiences in a person's life include divorce and the death of their parents. Both events occurring in a short timeframe must be even more difficult. How then does Family Law deal with the inheritance received by the already grieving spouse? Can an inheritance be left out of the property division if it was received near separation?

Judges in Family Law interpret what the Family Law Act means. Recently their views on inheritances have changed. Once the Courts' view was settled. In summary, the other spouse cannot be regarded as having contributed significantly to an inheritance received just before or after the relationship ended, except in rare circumstances. Late in time inheritance tended to be kept by the spouse who received it.

Since 2014, the approach of the Family Court has changed though a series of five important decisions. These cases took a less mathematical approach.

Some things are now clear. First, the Court must consider all assets of the parties at the date of trial. Second, the asset pool includes assets acquired after separation but before trial. Third, it is wrong to make any existing assets excluded or immune from consideration in the Court process.

But there is some good news for a case well argued. An inheritance forms part of the asset pool for division between the parties. The important task for the Court is to consider the level of contribution by each party. The contribution value of the inheritance must be weighed up by the Court in assessing all of the various contributions made by the parties from start to end. A decent inheritance should weigh as a significant contribution by the person who received the inheritance. The inheritance and the value of that inheritance properly should change the division percentages for the asset pool. So with good argument and reference to the right cases, a good outcome can be reached which gives proper consideration and weight to an inheritance.

Some hints on how to keep your legal fees down

We want to get the best result for you - net of legal costs. Taking a pragmatic approach can minimise your costs. Here are a few hints aimed at getting better value, working together.

- 1 If you are providing us with documents, copy or print the documents yourself. Otherwise you will incur charges for copying and/or printing the documents. If you collate the documents into order and include an index if possible, it will save your lawyer's time and your money.
- 2 Try to avoid sending voluminous amounts of documents attached to emails. You will incur charges for us printing the documents. You will save money by printing the documents yourself and sending them by mail to our office, or bringing them in when you next visit.
- 3 Each attendance by our professional staff is charged in 6 minute units. If you want to discuss something, make a list of what you want to discuss, rather than contacting us every time you think of something. One attendance, rather than numerous attendances is less expensive for you.
- 4 The more time you spend with our lawyers the more your costs will be. If you can prepare for meetings and be concise it will be less expensive for you.
- 5 Keep a diary, particularly for parenting cases, it is helpful to document important events as they occur. For example, the days and times the children are spending time with you, or any changes in their care arrangements.
- 6 Don't be afraid to issue in court. Often it is less expensive to progress your matter this way rather than going back and forth to the other side without much compromise. If the other side is not cooperative the Court will require them to do things by certain dates. The court will require compulsory mediation in most cases.
- 7 Ethically we must respond to a reasonable request made by the other side. We cannot ignore their communication. We are ethically required to at least acknowledge their communication and confirm we shall seek your instructions.
- 8 Most costs are incurred in the last three months or so before a final hearing. Before that step is reached, we will do whatever we reasonably can to settle your matter. Most matters settle well before the final hearing.
- 9 If the other party is uncooperative or obstructive, this can increase your costs. If the other party is reasonable we can usually settle your matter efficiently and cost effectively.
- 10 Some law firms can be difficult to deal with. They can be combative, unreasonable or their firm's culture is to "fight every point". If your spouse engages one of these firms, your costs may be higher.
- 11 If your spouse acts for themselves, your costs may be higher.

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