

Family Matters

THE NEWSLETTER OF BERRY FAMILY LAW: SPRING 2020



Meet Valerie Yiannikopoulos

Valerie's Reflections

- I view my role as a family lawyer as transforming an emotional and difficult time into one that is manageable by removing the stress of the unknown following the breakdown of a relationship and offering sensible, pragmatic and commercial solutions.
- I aim to achieve the best possible outcome in a cost effective, efficient and dignified manner.

Valerie's experience in family law covers all areas of family law and primarily parenting arrangements, relocation cases,

negotiating property settlements and formalising financial agreements, intervention order matters and family violence, de facto relationships mediation and when necessary Family Law Court proceedings.

Valerie provides methodical, reliable and professional advice whilst offering her clients a range of solutions to accommodate their own individual needs and ideal outcomes. She prides herself on guiding clients through the family law maze with her down to earth approach and compassionate manner.



Berry Family Law

Melbourne 552 Lonsdale Street,

Melbourne Tel: (03) 9397 2488 Fax: (03) 9399 9006

Williamstown 162 Ferguson Street Williamstown 3016 Tel: (03) 9397 2488 Fax: (03) 9399 9006

Email admin@berryfamilylaw.com.au Website www.berryfamilylaw.com.au
Liability limited by a scheme approved under Professional Standards Legislation



Covid-19 and Separation

Across Australia, State and Territory Governments have put in place various restrictions as a result of Covid-19.

These restrictions can make the difficult process of separating even more complex.

Usually, separation occurs when one party moves out of the family home and starts living elsewhere, such as at a rental property or with friends or family. Separation can also occur when a marriage has ended but the parties have nevertheless remained living together in the same house. This is often called "separating under the one roof".

For a variety of reasons, parties who separate during the Covid-19 restrictions, may be inclined to remain living together under the same roof. If so, it is crucial that the parties consider the possibility that their relationship may not always be as amicable. The parties may eventually disagree about the date that separation actually occurred. This can impact upon the timing of a divorce application as well as property settlements and parenting arrangements. This can also lead to expensive litigation to prove the date of separation. In determining the date of separation, the Court may need to consider a range of factors including but not limited to:

1. The manner in which the parties communicated to one another about their separation;
2. The living arrangements before and after separation (such as whether the parties continued to live in the same house and whether they continued to share a bed and maintained a sexual relationship);
3. The public appearance of the relationship before and after separation (such as whether the parties continued to attend important events such as weddings, birthdays and functions as a couple); and
4. The parties' financial arrangements before and after separation (such as

whether the parties continued to operate joint finances or moved to separate bank accounts and maintained their personal expenses).

It is therefore crucial that parties collate evidence to corroborate their claims about separation. When it is safe to do so, communicating clearly to the other that their relationship has ended irretrievably, ideally in writing, is recommended. Corroboration from a third party (such as a friend or family member) can also assist in resolving disputes about the date of separation under the same roof.

People separating from marriages should also consider when the time may be right for them to commence the process of dividing their assets and negotiating parenting arrangements. In doing so, married couples should be mindful that:-

1. The Court must be satisfied that the couple has been separated for 12 months before they will grant a Divorce Order. If there is a dispute about the date of the final separation, a party who is seeking a Divorce may need to provide the Court with evidence to substantiate the appropriate separation date (such as an Affidavit detailing their account and providing supporting evidence as well as Affidavits of any third parties who can corroborate their assertions).
2. If the parties are unable to agree about the division of their assets, they have 12 months from the date of the Divorce Order in which they are able to apply to the Family Law Courts to determine an appropriate division. If they do not apply within this time limit, the Court can refuse to determine the matter unless hardship is substantiated.

Obtaining timely advice from an experienced Family Lawyer can minimise any dispute about the date of separation and can assist parties to divide their assets and implement parenting arrangements.

A dozen things to do if you have just separated

1. Contact your bank or financial institution by facsimile or email to stop joint funds from being removed or liabilities increased.
2. Check your Will to see if it is still appropriate. If you do not have a Will consider having one drafted.
3. Ensure any Powers of Attorney are revoked and have appropriate ones drafted.
4. Consider whether your nominated death beneficiary for your super-annuation 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 in 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 that you place caveats over the properties. If your property is held jointly consider severing 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. Don't get angry enough to send nasty SMS or emails to your spouse. They are the first documents the Judge will see.
11. Consider what to do with any credit card with a secondary card held by your spouse. It is often better to let them know before you cancel their card.
12. Most importantly, seek advice from an experienced Family Lawyer.

Peter Berry Consultant

James Turnbull Partner LL.B ASLIV B App Sc Accredited Family Law Specialist

Lisa Collier BA LL.B (Hons) Accredited Family Law Specialist

Andrew Johnston BA LL.B LP Accredited Family Law Specialist

Michael Lipshutz OAM LL.B AIAMA

David Hanlon LL.B

Valerie Yiannikopoulos BA LL.B GDLP

Jessica Black BA LL.B GDLP

Radu Catrina BA (Hons) LL.B GDLP

