

Family Matters

THE NEWSLETTER OF BERRY FAMILY LAW: SPRING 2021



Meet Jethro Fries



Jethro has worked primarily in family law since 2016. Previously he had a more generalist practice including commercial law, property law and wills and estates. He brings this broader experience to his family law practice and has a particular interest in financial cases involving businesses and complex structures, but also handles parenting, relocation and Financial Agreement matters.

Jethro has appeared as an advocate in the Family Court, Federal Circuit Court and the Magistrates' Court regarding property and maintenance cases, parenting cases and Intervention Orders.

Family law is specialised and is always evolving. To add to his practical experience in his chosen field, Jethro is currently studying a Master of Laws degree majoring in family law.

Jethro's Reflections

What keeps me working in family law is the opportunity to help people with the problems that are most important to them by providing clear, practical advice and solutions.

I see my role as giving my clients the insight, knowledge and representation they need to be able to cut through the noise and work efficiently towards the outcomes that are best for them and their families.



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Custody arrangements for children



Clients often ask for legal advice about “custody” arrangements for children. However, under the Family Law Act 1975 (Cth), the concept of “custody” no longer exists. Instead, when deciding parenting Orders the Family Law Courts must consider the issues of:

1. the allocation of “parental responsibility”;
2. which person the children should “live” with; and
3. which person the children should “spend time” with.

In all decisions about children, the Court must have regard to the child’s best interests as the paramount consideration.

In determining parenting disputes on a final basis, the Court must first determine the issue of the allocation of parental responsibility. This is colloquially called “guardianship”. This is the responsibility to make important long term decisions about children, such as decisions about their education, medical treatment, where they live and religious upbringing. Commonly, parents will be ordered to have equal shared parental responsibility with respect to the children, requiring such decisions to be made together. In certain defined circumstances, (including where there is significant domestic violence) the Courts can award one parent sole parental

responsibility for the children. This enables that parent to make such decisions about children to the exclusion of the other parent.

Once parental responsibility is resolved the Court must determine who the children should live with. Depending on the individual circumstances of the case, the Courts can Order that the children:-

1. Are to live with both parents (such as by living with one parent for one week and the other parent for the next week);
2. Are to live with one parent and spend substantial and “significant time” with the other parent (commonly includes every second weekend, half of school holidays and special occasions);
3. Are to live with one parent and spend no time with the other parent. This occurs in very few circumstances.

Given the misconceptions about Family Law in Australia, it is important that parties seek independent legal advice about parenting before formalising any short term or final agreements, or before they commence or respond to Court proceedings.

Closure of Williamstown Office

It is with some sadness that we advise that we have closed our Williamstown office.

Our founder, Peter Berry, started the practice in Williamstown in 2002 and subsequently expanded into the CBD in 2011.

Being forced to work from home for a large part of 2020 meant that we found that we could provide a high level of service to our clients and also reduce our reliance on paper based records.

Our staff have enjoyed the flexibility that working from home has given them and the time not spent in commuting to work has also been a welcome bonus.

As a result, it made sense to consolidate the practice into one office located near the courts in the Melbourne CBD and continue to work flexibly.

Peter Berry Consultant

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