

# Phillips | Family Law Bulletin



## FAMILY LAW PRACTITIONERS ASSOCIATION OF QUEENSLAND CELEBRATIONS FOR THE APPOINTMENT OF HIS HONOUR JUDGE VASTA

On Thursday 18 June 2015 our Senior Associate, Fiona Caulley joined other members of FLPA, colleagues and members of the judiciary at the Bar Common Room to celebrate the recent appointment of Judge Vasta as a Judge of the Federal Circuit Court of Australia.

Judge Vasta spoke at the celebrations and shared his first impressions of hearing matters in the Federal Circuit Court given his past experience in other jurisdictions and the parallels between the two. Our Senior Associate, Fiona Caulley organised the event along with other members of the FLPA Executive Committee and their efforts were appreciated by all whom attended with an abundance of delicious food and drinks flowing throughout the evening.

The event was a great success and everyone enjoyed the opportunity to come together with members of the judiciary and colleagues to welcome Judge Vasta to the Federal Circuit Court.



*There has been an exciting addition to the O'Brien household recently and we just couldn't resist spreading the news.*

*Our Associate, Rebecca gave birth to a beautiful little boy, Samuel in late May and we can confirm both Rebecca and Samuel are doing well.*

*We congratulate the O'Brien family on their new arrival!*



## IMPACT OF RECENT BUDGET ON FAMILY LAW JURISDICTION

Two key measures announced in the 2015/16 Budget are likely to have an impact on the family law jurisdiction. The measures are:

- the formation of a single administrative body, by merging the corporate functions of the Family Court of Australia and the Federal Circuit Court of Australia with the Federal Court of Australia from 1 July 2016. The reform is subject to legislative change and it is proposed that the functional and judicial independence of the three courts will be preserved.
- unspecified changes in court fees from 1 July 2015, to raise \$87.4million over four years. The Attorney-General has said that these measures are '...essential to ensuring the courts' sustainability and meeting the Government's election commitment of streamlining family court processes'.

Some other measures include focus on areas such as intercountry adoption support and a campaign on reducing family violence against women and children. Other measures include:

- \$33.7million over five years from 2014-15 to establish an intercountry adoption support service.
- An additional \$22.5million over four years to the Federal Court of Australia, the Family Court of Australia and the Federal Circuit Court of Australia '...to strengthen their financial positions and enhance their capacity to provide services';
- \$16.7million over three years from 2015-16 on a national awareness campaign focused on reducing family violence against women and children (part of a joint COAG agreement for a \$30million campaign);
- \$17.2million savings by ceasing the Stronger Relationships Trial from 9 February 2015; and
- No new increase or decrease to legal assistance funding.

Further details as to budgetary measures and their impact on the family law jurisdiction may be found [here](#).

*By Fiona Caulley, Senior Associate*

# Case in Point



## Father's tape recordings of mother admitted into evidence in parenting proceedings despite recordings having been obtained illegally

*In the recent Family Court case of Huffman & Gorman (N0.2) [2014] FamCA 1077, Justice Hannman of the Family Court at Parramatta allowed the father to rely on recorded conversations in parenting proceedings, despite the recordings having been obtained unlawfully (in breach of the relevant listening devices and surveillance devices legislation in New South Wales).*

The case involved a parenting dispute regarding the long-term living arrangements for the parties' three children aged 7, 6 and 4 at the time. By way of brief background:

- The parents ended their 5 year marriage and from that time, all 3 children lived with the mother and spent time with the father;
- The father sought final orders for the children to live with him as he contended that the mother exercised controlling and violent behavior that was emotionally and psychologically harmful to the children;
- The mother denied these allegations and sought orders for the children to live with her and for the mother to have sole parental responsibility for the children;
- During the parties' relationship the father recorded some conversations between he and the mother, without the mother's knowledge and consent, using a Dictaphone hidden in his clothing. One of the conversations revealed the mother threatened to harm the children. The children were heard in the background;
- The father contended that he made the recordings so they could be used as evidence if he or the children were killed or seriously injured by the mother, and to convince authorities of the mother's domestic violence, if necessary, due to gender stereotypes;
- The mother objected to the recordings being admitted into evidence on the basis that:
  1. the evidence was unlawfully obtained;
  2. the recordings had been revealed two years after the proceedings had commenced;
  3. the father had manipulated and set up the recorded environment to unfairly prejudice the mother;
  4. the recordings were of partial conversations only and did not record events leading

up to the conversations;

- Both the father and the independent children's lawyer sought to have the recordings admitted into evidence on the basis that:
- The recordings had been legally obtained because they were necessary to protect the father's lawful interests;

Even if the recordings were obtained illegally, the Court should use its discretion to admit it due to its probative value (relevant to the alleged family violence perpetrated by the mother).

To read more and download the Phillips Family Law Newsletter click [here](#)

By Rebecca O'Brien, Associate



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