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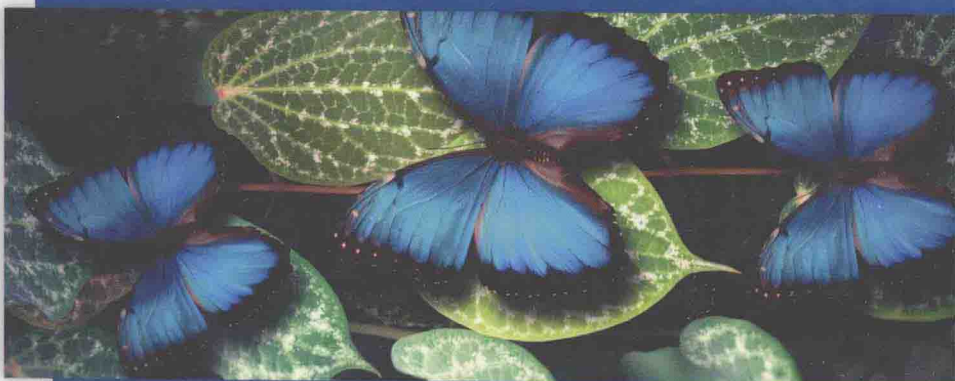
Family Law

6TH EDITION

Eithne Mills

Marlene Ebejer

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Family Law

6th edition

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Family Law

6th edition

Eithne Mills dedicates this book to her parents, Kay and William Lawless; her sons, Scott and Sheamus Mills; and last but not least, to her partner Lynton John Clay.

Marlene Ebejer dedicates this book to all those providing quality services and outcomes to the men, women and children embroiled in the family law arena.

Preface

This book is intended primarily as a guide for legal practitioners and students studying for a degree in law, but is also suitable for students in many related disciplines. Throughout the book, we have attempted to discuss the law in language suitable to a broad spectrum of readers.

Family is the most fundamental building block of society. The inter-connectedness and sense of belonging derived from the family unit is, for many people, their main source of power, inspiration and purpose. The bonds stemming from the family underpin much of the selfless and kind behaviour in society. There are often no bounds to the deprivation and sacrifices that people voluntarily and, often, happily endure in order to advance the interests of their family members. Life can be complete without familial bonds but is almost certainly richer with them.

Family law, however, is not mainly about facilitating familial relationships or regulating conduct during the course of such relationships. This is a matter best left to individual choice. Family law is mainly about regulating the conduct of people following the termination of a family relationship — traditionally that of husband and wife, but equally that of *de facto* partners whether same sex or heterosexual. Since the inception of the Family Law Act 1975 (Cth), a great deal has been written about family law, and many reforms have been made. Recent reforms have meant that all couples whether married, *de facto*, heterosexual or same sex are regulated by the Family Law Act. Other reforms have put family violence into focus and the system is grappling with how to deal with the effects of violence and the particular impact that has on children in their ongoing relationships with their families. It may be argued that, of all areas of law, it is family law that most accurately reflects the changes in society. There is now general acceptance that many marriages will end in divorce and *de facto* partnerships in separation. Yet, for those families using the system, little has changed in terms of human feelings. Sadness, disruption, feelings of failure, and often great bitterness are common in the breakdown of a relationship.

Given the centrality of family to the lives of most people, it is not surprising that the severing of such bonds can have a devastating impact on the wellbeing of those involved. There is a need for legal regulation at this point. A person who feels that they have lost all that is meaningful in life can often behave without thought to the consequences. Intense love can readily turn into intense disappointment, if not anger. Many of the cases in this book are a reflection of anger and lost expectations. This is particularly evident in matters relating to children. The importance of international human rights instruments should not be disregarded in a discussion of family law. These international human rights laws will be discussed in various topics throughout the book.

This book sets out the principles and rules which govern family relationships and breakdown in Australia. Throughout the book, we discuss the rationale for the essential principles and express our views regarding the likely future development of controversial aspects of family law.

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Eithne Mills and Marlene Ebejer

Melbourne

August 2014

Table of Cases

All references are to paragraphs

A

A, In the Marriage of (1984) FLC 91-590 7.27
 — (1998) 22 Fam LR 756; FLC 92-800 5.38
 Aaron and Robinson [2013] FMCAfam 41 5.7
 Abbey and Walburn [2014] FCCA 1440 5.46
 Abdoo and Essey [2011] FMCAfam 772 5.60
 Abdullah, In the Marriage of (1981) 6 Fam LR 654; FLC 91-003 8.126
 Adams and Randall [2011] FamCAFC 204 9.20
 Aiken and Aiken [2011] FMCAfam 910 5.44
 Aird and Hamilton-Reid [2007] FamCA 4 4.25
 Aitken and Deakin [2010] FMCAfam 35 9.5, 9.14
 AK and NC [2003] FamCA 1006 4.18
 Akston and Boyle [2010] FamCAFC 56 5.55
 Alan and Eastman [2013] FCCA 174 5.7
 Albany and Albany (1980) FLC 90-905 8.90
 Aldridge and Keaton [2009] FamCAFC 229; (2009) 42 Fam LR 369; FLC 93-421 5.19
 Aleksovski, In the Marriage of (1996) 20 Fam LR 894; FLC 92-705 8.36, 8.53
 Alex (Hormonal Treatment for Gender Identity Dysphoria), Re (2004) 31 Fam LR 503; [2004] FamCA 297 5.67
 Allan and Allan (No 2) [2010] FamCA 998 8.133
 Allenby and Kimble [2012] FamCA 614 9.10
 Althaus and Althaus (1982) FLC 91-233 9.21
 AM (Adult Child Maintenance), Re (2006) FLC 93-262 6.30
 Amador and Amador [2009] FamCAFC 196 5.6
 A M Cowling and J H Cowling [1998] FamCA 19 5.28
 AMS and AIF [1999] HCA 26; (1999) 199 CLR 160; 163 ALR 501; 24 Fam LR 756 5.29, 5.50
 Anast v Anastopoulos (1981) 7 Fam LR 728; (1982) FLC 91-201 7.37, 7.49
 Andrew, Re (1996) 20 Fam LR 538; FLC 92-692 5.38
 Antonarkis v Delly (1976) 1 Fam LR 11,334; FLC 90-063 8.139
 Archer and Archer [2013] FCCA 226 6.26
 Ascot Investments Pty Ltd v Harper (1981) 148 CLR 337; 6 Fam LR 591; FLC 91-000 8.100, 8.140
 Ashton, In the Marriage of (1982) FLC 91-285 7.65
 Asprey and Delamarre [2013] FamCA 214 9.12
 Astbury, In the Marriage of (1978) 4 Fam LR 395; FLC 90-494 7.19
 Attorney-General v Family Court at Otahuhu [1995] NZFLR 57; (1995) 12 FRNZ 634 3.23

Attorney-General (Commonwealth) and 'Kevin and Jennifer' [2003] FamCA 94 3.22, 3.25
 Attorney-General (NSW) v Brewery Employees' Union of NSW (1908) 6 CLR 469 2.25
 Attorney-General of Canada and Mossop, Re (1993) 100 DLR 4th 658 1.12, 1.15, 1.18
 Attorney-General (Vic) v Commonwealth (the Marriage Act case) (1962) 107 CLR 529 2.25
 Atwill, In the Marriage of (1981) 7 Fam LR 573; FLC 91-107 7.19
 Australian Securities and Investments Commission v Rich (2003) 31 Fam LR 667; FLC 93-171 8.6
 Axtell, In the Marriage of (1982) 7 Fam LR 931; FLC 90-208 7.34

B

B and B v Minister for Immigration and Multicultural and Indigenous Affairs (2003) 199 ALR 604; 75 ALD 64; 30 Fam LR 181 5.4, 5.67
 B and B; Family Law Reform Act 1995 (1997) 21 Fam LR 676; FLC 92-755 5.4, 5.24, 5.25, 5.31, 5.38, 5.46, 5.47, 5.50, 5.54
 B and B; Holmes, In the Marriage of (1988) 12 Fam LR 331; FLC 91-944 5.50
 B and B (No 2), Re (2000) 26 Fam LR 437; FLC 93-031 7.41
 B and J (1996) 21 Fam LR 186; FLC 92-716 5.19, 6.5, 6.29
 B and R and the Separate Representative (1995) 19 Fam LR 594; FLC 92-636 5.60
 Baars v Brendstrup (1986) DFC 95-029 9.34
 Baber, In the Marriage of (1980) 6 Fam LR 796; FLC 90-901 7.27, 7.34
 Babich and Sokur [2007] FamCA 236 4.27
 Baby D (No 2), Re (2011) 45 Fam LR 313; [2011] FamCA 176 5.67
 Bachiega and Hamilton [2013] FamCA 58 5.3
 Baglio and Baglio [2013] FamCA 105 5.7
 Bailey, In the Marriage of (1978) 4 Fam LR 86; FLC 91-424 7.27, 7.36, 8.87
 Balmaves, In the Marriage of (1988) 12 Fam LR 488; FLC 91-952 8.22
 Balzia and Balzia [2009] FamCA 679 8.92
 Baranski and Baranski [2012] FamCAFC 18 10.53
 Barkley, In the Marriage of (1976) 1 Fam LR 11,554; (1977) FLC 90-216 7.27

- Barnett, In the Marriage of (1973) 2 ALR 19 4.59
- Barry and Dalrymple [2010] FamCA 1271 9.10
- Barzetti and Barzetti [2014] FamCA 233 5.20
- Bassingthwaite v Leane (1993) 16 Fam LR 918; FLC 92-410 6.24
- Bassola (No 2), In the Marriage of (1985) 10 Fam LR 413; FLC 91-623 8.123
- Bates, In the Marriage of (1976) 2 Fam LR 11,407; FLC 90-123 7.56
- Bates and Sawyer (No 2), In the Marriage of (1977) 3 Fam LN N10; FLC 90-249 4.52
- Baumgartner v Baumgartner (1987) 164 CLR 137; 11 Fam LR 915; (1988) DFC 95-058 9.46-9.48
- Baxter and Baxter [2010] FamCAFC 183 8.36
- Beard and Fisher [2013] FCCA 755 6.26
- Beck, In the Marriage of (1982) 8 Fam LR 340; FLC 91-235 7.56
- (No 2) (1983) 8 Fam LR 1017; FLC 91-318 7.43
- Beck and Beck, In the Marriage of (2004) 31 Fam LR 467; FLC 93-181 8.116
- Becker and Becker [2014] FCCA 1154 5.38
- Bellenden (formerly Satterthwaite) v Satterthwaite [1948] 1 All ER 343 8.30, 8.36, 8.50
- Beneke, In the Marriage of (1996) 20 Fam LR 841 8.29, 8.76
- Bennett, In the Marriage of (1990) 14 Fam LR 397; (1991) FLC 92-191 5.52, 5.53
- Benson and Browne [2013] FamCA 710 5.3
- Berda and Kalil [2012] FamCA 712 4.14
- Bernadette, Re [2011] FamCAFC 50; (2011) 45 Fam LR 248 5.67
- Bernadette (Special Medical Procedure), Re (2010) 43 Fam LR 467; [2010] FamCA 94 5.67
- Bertei and Feher (1999) DFC 95-214 9.29
- Best, In the Marriage of (1993) 16 Fam LR 937; FLC 92-418 7.62, 8.17, 8.90
- Bevan, In the Marriage of (1993) 19 Fam LR 35; (1995) FLC 92-600 7.11, 7.14, 7.17, 7.22, 7.37, 7.60
- Bevan and Bevan [2013] FamCAFC 116 8.9, 8.27
- [2014] FamCAFC 19 8.27
- Biddulph, In the Marriage of (1977) FLC 90-243 7.8
- Biltoft, In the Marriage of (1995) 19 Fam LR 82; FLC 92-614 8.24, 8.33, 8.45
- Bing and Bing [2007] FamCA 418; (2007) FLC 93-318 7.37
- Bingham and Montgomery [2014] FCCA 197 5.46
- Birch, In the Marriage of (1976) 2 Fam LN N8; FLC 90-088 4.55
- Black and Kellner, In the Marriage of (1992) 15 Fam LR 343; FLC 92-287 8.37, 8.41, 8.54
- Blake and Blake [2011] FMCAfam 796 7.71
- Boege and Boege [2001] FamCA 1167 8.50
- Bondelmonte and Bondelmonte [2014] FamCAFC 29 7.14
- Bonnici, In the Marriage of (1991) 15 Fam LR 138; (1992) FLC 92-272 8.74
- Bourke, In the Marriage of (1992) 16 Fam LR 325; (1993) FLC 92-356 8.17
- Bourke and Golby [2013] FMCAfam 228 9.10
- Brady, In the Marriage of (1978) 4 Fam LN N54; FLC 90-513 7.8, 7.19
- Brainard and Wahlen [2011] FamCA 610 5.39
- Branchflower, In the Marriage of (1979) 6 Fam LR 188; (1980) FLC 90-857 7.1
- Breare and Corcoles-Alfaro (1997) 22 Fam LR 219; FLC 92-768 5.46, 5.54
- Brease, In the Marriage of (1998) 22 Fam LR 518; FLC 92-973 8.71, 8.72
- Bremner, In the Marriage of (1994) 18 Fam LR 407; (1995) FLC 92-560 8.53, 8.76
- Bretton and Bondai [2013] FamCAFC 168 5.65
- Briginshaw v Briginshaw (1938) 60 CLR 336 5.38, 5.47
- Broda and Docas [2007] FamCA 369 4.22
- Brown and Brown [2005] FamCA 1165 7.12
- [2007] FamCA 151; (2007) 37 Fam LR 59; FLC 93-316 7.37
- Brown and George (1998) 24 Fam LR 58 9.45
- Brown and Pedersen, In the Marriage of (1988) 12 Fam LR 506; FLC 91-967 5.47
- (1992) FLC 92-271 5.38
- Browne and Green, In the Marriage of (1999) 25 Fam LR 482; FLC 92-873 7.8, 8.50
- Buckland v Buckland [1967] 2 All ER 300 4.19
- Budding and Budding [2009] FamCAFC 165 7.12, 7.16, 7.37
- Burke and Burke [2009] FMCAfam 984 5.50
- Burke and Elliott, In the Marriage of (1990) FLC 92-161 6.24

C

- C and D (falsely called C), In the Marriage of (1979) 5 Fam LR 636; FLC 90-636 3.19, 3.21, 3.22, 4.25
- C and J, Re (1996) 20 Fam LR 930; FLC 92-697 5.38, 5.47
- C and M [2000] FamCA 1086 8.74
- C and T [2006] FamCA 1198 5.43
- Caitlin and Kent, In the Marriage of (1986) 11 Fam LR 639; (1987) FLC 91-815 8.26
- Calder and Cheffer [2013] FCCA 1812 9.5
- Calverley v Green (1984) 155 CLR 242; 9 Fam LR 940; FLC 91-565 9.32
- Campani and Suyapto [2008] FamCA 1121 4.24, 4.25
- Campbell and Cade [2012] FMCAfam 508 4.34
- Canik, In the Marriage of; Ceylan; Oakley Thompson & Co (1995) FLC 92-589 2.35
- Canning and Canning [2013] FCCA 2019 5.53

Table of Cases

- Cannon and Acres [2014] FamCA 104 5.58
 Cantarella, In the Marriage of (1976) 1 Fam LR 11,483; FLC 90-056 7.48
 Cape and Cape [2013] FamCAFC 114 5.72
 Caretti, In the Marriage of (1977) 3 Fam LR 11,374; FLC 90-270 4.41
 Carlson and Bowden [2008] FamCA 1064 5.55
 Carnell and Carnell (2006) FMCAfam 476 6.5
 Carpenter and Carpenter [2014] FamCAFC 100 5.38
 Carpenter and Lunn (2008) FamCAFC 143 5.6
 Carriel and Lendrum [2013] FCCA 284 5.65
 Carrington and Carrington (No 2) [2010] FamCA 982 8.113
 Carroll and Maybury [2013] FCCA 288 7.19
 Carse and Carse [2012] FMCAfam 7.17
 Carson, In the Marriage of (1999) 24 Fam LR 360; FLC 92-835 8.17
 Carter, In the Marriage of (1981) 7 Fam LR 41; FLC 91-061 8.31
 Cartland and Dean [2013] FCCA 1545 4.61
 Carvell, In the Marriage of (1984) 9 Fam LR 1055; FLC 91-586 8.17
 Castlemaine Tooheys Ltd v South Australia (1990) 169 CLR 436 3.18
 Cattanach and Leavens, In the Marriage of (1977) 3 Fam LR 11,276; FLC 90-246 5.53
 Cawthorn, In the Marriage of (1998) 23 Fam LR 86; FLC 92-805 8.113, 8.114
 Cazet and Faulkner [2011] FMCAfam 117 6.26
 CDJ v VAJ (1998) 197 CLR 172; 23 Fam LR 755 5.33, 8.93
 Central Authority v Perry (1995) 20 Fam LR 380 5.44, 5.46
 Champness and Hanson [2009] FamCAFC 96 5.51
 Chancellor and McCoy [2013] FCCA 740 9.21
 Chandler, In the Marriage of (1981) 6 Fam LR 736 5.37
 Chapa and Chapa [2013] FamCAFC 52 5.38
 Chapman, In the Marriage of (1979) FLC 90-671 7.65
 Chapman and Jansen, In the Marriage of (1990) 13 Fam LR 853; FLC 92-139 2.34
 Chappell and Chappell (2008) FLC 93-377 5.6
 Chaucer and Lake [2013] FCCA 953 8.12
 Chemaisse and Commissioner of Taxation (No 3) (1990) 97 FLR 176; 13 Fam LR 724; FLC 92-133 7.40
 Christian and Donald [2004] FamCA 1171 6.26
 Christie and Holden [2013] FamCA 1009 5.35, 5.60
 Clark v The Queen [2009] NSWCCA 112 5.38
 Clarke, In the Marriage of (1986) 11 Fam LR 364; FLC 91-778 4.34, 4.49, 4.50
 Clauson, In the Marriage of (1995) 18 Fam LR 693; FLC 92-595 7.37, 7.49, 7.60, 8.33, 8.90, 8.95-8.97
 Clisbey and Viges [2011] FamCA 611 9.14
 Coghlan, In the Marriage of (2005) 33 Fam LR 414; FLC 93-220; [2005] FamCA 429 8.87, 8.90-8.93
 Collins, In the Marriage of (1992) 16 Fam LR 261; (1993) FLC 92-343 8.19
 Collu and Rinaldo [2010] FamCAFC 53 5.29
 Commonwealth v Australian Capital Territory [2013] HCA 55 2.26, 3.18
 — v Verwayen (1990) 170 CLR 394; 95 ALR 321 6.29
 Cooper v Crane [1891] P 369 4.20, 4.22
 Corbett v Corbett [1971] P 83 3.20, 3.22, 3.23, 3.25
 Cordell, In the Marriage of (1977) 3 Fam LR 11,588; FLC 90-382 7.56
 Cording and Oster [2010] FamCA 511 9.23
 Cormick, In the Marriage of; Salmon (Respondent) (1984) 9 Fam LR 880; FLC 91-554 2.25, 2.28, 2.29
 Corner, In the Marriage of (1978) 4 Fam LR 91; FLC 90-438 7.8, 7.19, 7.24
 Cosgrove and Cosgrove (1996) FLC 92-700 6.30
 Coulter, In the Marriage of (1989) 13 Fam LR 421; (1990) FLC 92-104 8.90
 Cowling and Cowling [1998] FamCA 19; (1998) FLC 92-801 5.28, 5.39, 5.51
 Cozanitis, In the Marriage of (1979) 4 Fam LR 709; FLC 90-643 8.42
 Crampton and Robinson [2013] FamCA 65 2.38
 Crapp, In the Marriage of (1979) 5 Fam LR 47; FLC 90-615 8.90
 Crawford, In the Marriage of (1979) 5 Fam LR 106; FLC 90-647 7.20, 8.53
 Cruden and Sackitt [2013] FamCA 999 5.7
 Cummings v Clearmont Petroleum (1996) 185 CLR 124 7.71
 Currie, In the Marriage of (1976) 2 Fam LR 11,307; FLC 90-101 8.36
 CW, In the Marriage of (1998) 22 Fam LR 750; FLC 92-802 5.39
- ## D
- D, In the Marriage of (1984) 10 Fam LR 73; FLC 91-593 8.123
 D, Re (an infant) [1977] AC 602 4.59
 Dabney and Laird [2013] FCCA 214 9.10
 Dahl and Hamblin [2011] FamCAFC 202 9.10
 Dakin and Sansbury [2010] FMCAfam 628 9.10
 Dalton and Rudov [2014] FamCA 164 5.14
 Damiani and Damiani [2012] FamCA 535 8.65
 Danes and Danes [2013] FMCAfam 281 5.20
 Danes and Kennedy [2014] FCCA 497 5.7
 Danford and Danford [2010] FamCA 420 8.36
 — [2011] FamCAFC 54 8.36
 Daria and Daria [2009] FamCA 385 8.78

- Davidson, In the Marriage of (1994) 17 Fam LR 656; FLC 92-469 7.37, 8.118
- Davis, In the Marriage of (1976) 1 Fam LR 11,522; FLC 90-062 10.58, 10.59
- (1982) 8 Fam LR 975; (1983) FLC 91-319 10.60, 10.62, 10.63
- Davis and Spring [2007] FamCA 1149 5.60
- Davut and Raif, In the Marriage of (1994) FLC 92-503 8.33
- Dawes, In the Marriage of (1989) 13 Fam LR 599; (1990) FLC 92-108 8.69
- Dawson and Dawson (SSAT Appeal) [2010] FMCAfam 221 6.24
- (No 2) [2010] FMCAfam 1106 7.14, 7.37
- Deacon and Castle [2013] FCCA 691 5.53, 5.61
- Dean, In the Marriage of (1977) 2 Fam LR 11,691; FLC 90-213 10.58–10.62
- De Angelis, In the Marriage of (1998) 30 Fam LR 304 8.74
- Debono and Debono [2013] FamCA 46 8.41
- [2014] FamCA 3 8.41
- (No 2) [2012] FamCA 1086 8.41
- (No 2) [2013] FamCA 797 8.41
- (No 3) [2013] FamCA 872 8.41
- Debrossard and Official Trustee in Bankruptcy [2011] FamCA 648 8.23
- Deiter and Deiter [2011] FamCAFC 82 5.39
- De L v Director-General, NSW Department of Community Services (1996) 20 Fam LR 390; FLC 92-706 5.70
- Demara and Montijo [2013] FamCA 612 8.27
- Dench, In the Marriage of (1978) 6 Fam LR 105; 4 Fam LN N39; FLC 90-469 7.63, 8.90, 8.98, 8.120
- Deniz, In the Marriage of (1977) 31 FLR 114; 7 Fam LN N3; FLC 90-252 4.23, 4.24
- Dennis and Pradchapet [2011] FamCA 123 5.22
- Department of Health and Community Services (NT) v JWB and SMB (Marion's case) (1992) 175 CLR 218; 15 Fam LR 392; FLC 92-293 5.26, 5.67
- Department of Social Security v SRA (1993) 43 FCR 299; 118 ALR 467 3.23
- Deputy Commissioner of Taxation v Swain [1988] FCA 238; (1988) 20 FCR 507 8.25
- De Soysa and Ferrera [2013] FamCA 515 4.11
- Dickons and Dickons [2012] FamCAFC 154 8.52
- Dickson, In the Marriage of (1999) 24 Fam LR 460; FLC 92-843; [1999] FamCA 278 8.86, 8.90
- Diesel, In the Marriage of (1980) 6 Fam LR 1; FLC 90-841 4.58
- Di Mento v Visalli (1973) 1 ALR 351 4.19
- DJM and JLM (1998) 23 Fam LR 396; FLC 92-816 7.63, 8.120
- DL and W [2012] FamCAFC 5 5.65
- Dodds and Storace [2014] FamCA 209 5.20
- Dodge and Krapf, In the Marriage of (1991) FLC 92-214 6.5
- Doherty, In the Marriage of (1995) 20 Fam LR 137; (1996) FLC 92-652 8.63, 8.64
- Dougherty and Dougherty (1987) 11 Fam LR 577; FLC 91-823 8.13
- Dover and Dwight [2014] FamCA 346 5.38, 5.60
- Dovey, Re; Ex parte Ross (1979) 5 Fam LR 1; FLC 90-616 8.133, 8.139, 8.140, 10.54
- Dow-Sainter, In the Marriage of (1980) 6 Fam LR 684; FLC 90-890 7.19, 7.27
- DP v Commonwealth Central Authority [2001] HCA 39; (2001) 180 ALR 402 5.71
- Drysdale and Drysdale [2011] FamCAFC 85 7.13
- Dudley v Chedi [2011] FamCA 502 5.22
- Duff, In the Marriage of (1977) 3 Fam LR 11,211; FLC 90-217; 15 ALR 476 8.16, 8.17, 8.19, 8.38
- Duke and Duke [2009] FamCAFC 174 7.1, 8.43
- Dunstan and Jarrod [2009] FamCA 480 5.19, 5.60
- Durham v Durham (1885) 10 PD 80 4.27
- Dwyer and McGuire (1993) 17 Fam LR 42; FLC 92-420 6.24

E

- Eakins and Eakins [2013] FCCA 1114 6.30
- Eastman v The Queen [2000] HCA 29 2.26
- Edwards and Simpson [2013] FCCA 14 5.65
- Ejje and Ejje [2002] FamCA 1003 8.25
- Elder and Elder [2008] FamCA 850 8.56
- Eliades, In the Marriage of (1980) 6 Fam LR 916; (1981) FLC 91-022 7.6, 7.13
- Elias, In the Marriage of (1977) 3 Fam LR 11,496; FLC 90-269 9.37
- Ellershaw and Survant [2013] FamCA 510 5.29
- Elsbeth and Peter [2006] FamCA 1385 5.59
- Elvin and Daking [2014] FamCA 218 5.36
- Elwood and Fisher [2012] FMCAfam 415 9.10
- Enmore and Smoothe [2014] FamCAFC 131 5.38, 5.66
- Eufrosin and Eufrosin [2013] FamCA 311 8.72
- Evans, In the Marriage of (1978) 4 Fam LN N13; 30 FLR 566n; FLC 90-435 7.22, 7.29
- Everett and Everett [2014] FamCAFC 152 6.30

F

- F, In the Marriage of (1982) 8 Fam LR 29; FLC 91-214 7.47
- F, Re; Ex parte F (1986) 10 Fam LR 940; FLC 91-739 2.18, 2.21, 2.22, 2.25
- F and R, In the Marriage of (1992) 15 Fam LR 533; FLC 92-300 5.17
- Fadden and Fadden [2009] FamCAFC 157 8.29, 8.38

Table of Cases

Fairbanks and Fairbanks [2009] FamCA 654
 7.64, 7.66

Fairchild and Fairchild [2010] FMCAfam 527
 8.65

Fairfax and Maguire [2013] FamCA 174 5.7

Falk, In the Marriage of (1977) 3 Fam LR 11,238;
 FLC 90-247 4.33, 4.34, 4.37, 4.38, 4.40, 4.43

Fan and Napoli [2011] FMCAfam 761 5.38

Farmer and Bramley (2000) 27 Fam LR 316; FLC
 93-060 8.72, 8.82

Farmer and Rogers [2009] FamCAFC 117 5.55

Farnham and Farnham [2012] FamCA 742 5.3

Fedeale, In the Marriage of (1986) 10 Fam LR 1069;
 FLC 91-744 10.62

Fell and Hartell [2014] FamCA 111 5.3, 5.36

Feltus, In the Marriage of (1977) 2 Fam LR
 11,665; FLC 90-212 4.51

Fenech, In the Marriage of (1976) 1 Fam LR
 11,250; FLC 90-035 4.42, 4.44

Fenton and Marvel [2013] FamCAFC 132
 9.5, 9.12

Ferdinand and Ferdinand [2010] FMCAfam 465
 8.65

Ferguson, In the Marriage of (1978) 4 Fam LR
 312; FLC 90-500 7.54, 7.55, 8.29, 8.63

Ferguson and Monte [2014] FCCA 838 5.46

Fern and Lumsden [2014] FamCA 7 5.7

Ferraro, In the Marriage of (1992) 16 Fam LR 1;
 (1993) FLC 92-335 8.33, 8.60, 8.81, 8.82,
 8.100

Fickling, In the Marriage of (1996) 20 Fam LR
 258; FLC 92-664 8.96

Fielding and Fielding [2012] FCWA 86 9.8

Figgins, In the Marriage of (2002) 29 Fam LR 544;
 FLC 93-122; [2002] FamCA 688 8.65,
 8.74, 8.82

Findlay and Punyawong [2011] FamCA 503
 5.22

Fisher, In the Marriage of (1990) 13 Fam LR 806;
 FLC 92-127 7.55, 8.62, 8.63

Fisher v Fisher (1986) 11 Fam LR 11; FLC 91-767;
 [1986] HCA 61 2.25, 8.27

Fitzpatrick v Sterling Housing Association Ltd
 [1999] 1 FCR 21 1.15, 1.19

Flacks and Chatburn [2014] FamCA 428 5.55

Fleming, In the Marriage of [2007] FamCA 4490
 8.74

Ford (falsely called Stier) v Stier [1896] P 1
 4.26

Forsythe and Latimer [2010] FMCAfam 478
 6.29

Fotherdell and Stadley [2009] FamCA 606
 5.53

Fountain and Alexander (1982) 8 Fam LR 67 at
 81; FLC 91-218 2.22

Franklin and McLeod, In the Marriage of (1993)
 17 Fam LR 793; 121 FLR 430; (1994)
 FLC 92-481 8.113, 8.114

Freeman and Freeman, In the Marriage of [1986]
 FamCA 23 5.65

Friar and Friar [2011] FamCAFC 71 8.22
 — [2013] FamCA 121 8.22

Frost and Sheahan [2008] FCA 1073 8.25

G

G and G [2004] FamCA 1179 8.30

G and T (2003) 32 Fam LR 101; (2004)
 FLC 93-176 8.133

G, In the Marriage of (1978) 4 Fam LR 537; FLC
 90-498 4.35

G v H (1994) 18 Fam LR 180; 181 CLR 387
 5.17

Gabbard and Gabbard [2010] FMCAfam 1486
 8.90

Gahen and Gahen [2014] FamCAFC 122 5.38

Galazin and Galazin [2010] FMCAfam 1149
 7.65

Galliano and Galliano [2011] FamCAFC 149
 8.50

Gamble and Gamble (1978) FLC 90-452
 6.30

Gamer, In the Marriage of (1988) 12 Fam LR 73;
 FLC 91-932 8.44

Garmonsway, In the Marriage of (1986) 10 Fam
 LR 1026; FLC 91-746 8.25

Gastana and Salah [2013] FamCA 113 5.38

Gatto and Norton [2012] FMCAfam 1175 2.53,
 4.31

Gazzo v Comptroller of Stamps (Vic) (1981) 7
 Fam LR 675; FLC 91-101 2.9, 2.10

Gelley (No 2), In the Marriage of (1992) 15 Fam
 LR 483; FLC 92-291 8.125

Gerber and Gerber [2010] FamCA 861 8.41

Ghanem and Hilal [2014] FamCA 137 5.3

Gill, In the Marriage of (1984) 9 Fam LR 969; FLC
 91-582 8.50

Gillespie and Gillespie [2013] FCCA 872 5.61

Gillick v West Norfolk and Wisbech Area Health
 Authority [1985] 3 All ER 402 5.26

Gillie, In the Marriage of (1978) 4 Fam LR 127;
 FLC 90-442 10.58, 10.60, 10.63

Gilmore and Ray [2013] FamCA 153 5.7

Giumelli, In the Marriage of (1999) 196 CLR 101
 8.22

Gladdis v Freir (1990) DFC 95-092 9.32

Gollings and Scott (2007) FLC 93-319 8.36

Gonzales and Garcia [2011] FamCAFC 49
 7.66

Good, In the Marriage of (1982) 2 Fam LR 354;
 FLC 91-249 8.22

Goode and Goode (2006) 206 FLR 212; 36 Fam LR
 422; FLC 93-286; [2006] FamCA 1346 5.28,
 5.29, 5.51

Gordons and Hasse [2010] FamCA 1162 8.47

Gosper, In the Marriage of (1987) 11 Fam LR 601;
 FLC 91-818 8.73

Gottspiel and Rufus [2009] FamCA 512 5.19

Grabar, In the Marriage of (1976) 2 Fam LR
 11,581; FLC 90-147 7.45

- Grace, In the Marriage of (1997) 22 Fam LR 442;
(1998) FLC 92-792 8.100
- Graft and McCormick [2014] FamCAFC 28
.... 5.14
- Grattan and Bancroft [2012] FamCA 913 5.3
- Green and Morgan [2010] FMCAfam 1514 8.43
- Grenfell and Grenfell [2010] FamCA 1078
8.130
- Grimshaw-Grieves and Grieves [2011] FMCAfam
125 7.65
- Grinnyway and Looper [2013] FamCA 1018 5.7
- Guinness and Guinness [2008] FamCAFC 10 5.28
- Guthrie v Millar (SC(WA), Wheeler J, 21
November 1996, unreported) 9.35
- Guyopar, In the Marriage of (1986) FLC 91-769
.... 7.65
- GWV and CMW, Re (1997) FLC 92-748 5.67
- Gyselman, In the Marriage of (1991) 15 Fam LR
219; (1992) FLC 92-279 6.22, 7.31
- ## H
- H, In the marriage of (1981) 7 Fam LR 451 at 465
.... 6.30
- H (an infant), Re [1964-5] NSW 2004 4.29
- H and M [2006] FamCA 1071 5.43
- Halabi and Artillaga (1993) 17 Fam LR 675;
(1994) FLC 92-470 8.100
- Halifax and Fabian [2009] FMCAfam 972 5.19
- Hall and Hall (1979) FLC 90-713 10.51
- (No 3) [2013] FamCA 1975 7.66
- Hall and Rushton, In the Marriage of (1991) 14
Fam LR 907; FLC 92-249 6.24
- Hallas and Kefalos [2012] FamCA 860 4.22
- Halley and Halley [2011] FMCAfam 296 7.15
- Hamblin and Dahl [2010] FMCAfam 514 9.10
- Hamilton, In the Marriage of (1984) 9 Fam LR
996 8.102
- Hampton and Temple [2012] FamCA 681 6.27
- Hand and Bodily [2013] FamCAFC 98 7.19
- Harding and Crawley [2011] FamCA 581 5.51
- Harper and Harper [2013] FamCA 202 7.12
- Harradine and Harradine [2014] FamCA 188
.... 6.30
- Harris, In the Marriage of (1980) 6 Fam LR 450;
FLC 90-906 10.55
- (1991) 15 Fam LR 26; FLC 92-254 8.17
- (1993) 16 Fam LR 579; FLC 92-378 8.101
- (No 2) (1981) 7 Fam LR 515; FLC 91-100
.... 8.140
- Harrison, In the Marriage of (1996) 20 Fam LR
322; FLC 92-682 8.90
- Harrison and Woollard, In the Marriage of (1995)
18 Fam LR 788; FLC 95-598 5.27,
5.44, 5.46
- Hartnett and Sampson [2009] FamCA 106 5.51
- Hauff, In the Marriage of (1986) 10 Fam LR 1076;
FLC 91-747 8.87
- Hayne, In the Marriage of (1977) 3 Fam LN N25;
FLC 90-265 8.48, 8.83
- Hayton and Bendle (2010) 43 Fam LR 602; [2010]
FamCA 592 7.36, 8.90
- Healey, In the Marriage of (1979) FLC 90-706
.... 10.59
- Heath, In the Marriage of (1983) 9 Fam LR 97;
FLC 91-326 8.128
- (No 2) (1984) 9 Fam LR 642; FLC 91-517
.... 8.123, 8.127
- Heath and Yarram [2014] FCCA 1033 6.30
- Heath v Hemming (No 2) [2011] FamCA 749
.... 5.29
- Hedley and Hedley [2009] FamCAFC 179 9.21
- Heeks, In the Marriage of (1980) FLC 90-804
.... 7.44
- Heidt, In the Marriage of (1976) 1 Fam LR 11,576;
FLC 90-077 5.52
- Henley and Beauman [2011] FMCAfam 340
.... 5.38
- Henry v Henry [1996] HCA 51; (1996) 185 CLR
571 4.31
- Hepworth v Hepworth (1963) 110 CLR 309
.... 8.33
- Hickey, In the Marriage of (2003) 30 Fam LR 355;
FLC 93-143 8.33, 8.87, 8.90-8.93
- Hickey and Attorney-General for the
Commonwealth of Australia [2003] FamCA
395 8.36
- Hides and Hatton, In the Marriage of (1997) 21
Fam LR 855; FLC 92-759 6.22, 6.24
- Hirst and Rosen, In the Marriage of (1982) 8 Fam
LR 251; FLC 91-230 7.42, 7.56
- Hodges, In the Marriage of (1977) 2 Fam LR
11,524; FLC 90-203 4.40
- Hodgson and Hodgson [2013] FamCA 1020
.... 5.53
- Hoffman and Hoffman [2012] FMCAfam 1061
.... 8.30
- [2014] FamCAFC 92 8.30
- Holden, In the Marriage of (1986) 11 Fam LR 835;
(1987) FLC 91-842 8.17
- Holmes, In the Marriage of (1988) 12 Fam LR
331; FLC 91-944 8.17
- Horman, In the Marriage of (1976) 5 Fam LR 796;
FLC 90-024 4.59, 5.32
- Horsley, In the Marriage of (1991) 14 Fam LR
550; FLC 92-205 8.84
- Hosking, In the Marriage of (1994) 18 Fam LR
581; (1995) FLC 92-579 4.24
- Houlihan, In the Marriage of (1991) 14 Fam LR
910; FLC 92-248 6.23
- House v The King (1936) 55 CLR 499 8.36,
8.50
- Howard and Lipschitz [2014] FamCA 272
.... 5.36
- Howlett and Pike [2010] FMCAfam 845 9.5
- Huang v Secretary of State for the Home
Department [2007] UKHL 11; [2007] 2 AC 167
.... 1.14
- Hudson, In the Marriage of (1986) 11 Fam LR
189; FLC 91-768 8.123

Table of Cases

Hunter Valley Developments Pty Ltd v Minister
for Home Affairs and Environment (1984) 58
ALR 305 6.29
Hyde v Hyde and Woodmansee (1866) LR 1 P &
D 130 2.24, 2.25, 3.18–3.21, 3.26, 3.28
Hyun and Namgung [2012] FamCA 146 4.10

I

Ibbott and Chaconas [2014] FamCA 73 5.3,
5.53
Ibrahim and Templeman [2013] FamCA 340
.... 5.7
Iris and Cohen (No 2) [2011] FamCAFC 120
.... 5.51
Irish and Michelle [2009] FamCA 66 5.46
Irvine, In the Marriage of (1995) 19 Fam LR 374
.... 5.38
Isbister and Isbister [2013] FCCA 475 7.15
Issom, In the Marriage of (1976) 7 Fam LR 305;
(1977) FLC 90-238 7.53

J

J v Lieschke (1987) 162 CLR 447 5.38
J and W, In the Marriage of (1999) 25 Fam LR
299 10.56
Jacob and Lawrence [2013] FamCA 188 9.12
James, In the Marriage of (1978) 4 Fam LR 401;
FLC 90-487 8.74, 8.83
James and James [2013] FCCA 1188 8.67
Jamie, Re [2011] FamCA 248 5.67
Jamine and Jamine (No 2) [2012] FamCAFC 104
.... 8.41
Jane and Jane [2012] FamCA 1029 5.3
Janssen and Janssen [2013] FCCA 2281 5.46
Jayce and Carter [2013] FamCA 52 5.7
JEL and DDF, In the Marriage of (2000) 28 Fam
LR 1; (2001) FLC 93-075 8.33, 8.82
Jenkins and Archer [2013] FamCA 532 4.10
Jenkins and Rubenstein [2009] FamCA 873
.... 4.10
Jennings, In the Marriage of (1997) 22 Fam LR
510; FLC 92-773 4.37
JG and BG, In the Marriage of (1994) 18 Fam LR
255; FLC 92-515 5.37
JLM v Director-General NSW Department of
Community Services [2001] HCA 39; (2001)
180 ALR 402 5.71
Jodie, Re [2013] FamCA 62 5.67
Jollie and Dysart [2014] FamCAFC 149 5.59,
5.61
Jonah and White [2011] FamCA 221 9.5, 9.10
— [2012] FamCAFC 200; (2012) FLC 93-522
.... 9.5, 9.10
Jones v Skinner (1835) 5 LJ Ch 90 8.16
Jordan and Fielding [2013] FCCA 725 6.29
Jurchenko and Foster [2014] FamCAFC 127
.... 5.51

K

K, Re (1963) 5 FLR 38 3.31
— [1964] NSWLR 2004 4.29
— (Appeal) [1994] FamCA 21 5.46
K and B (1994) FLC 92-478 5.38
K and Z, In the Marriage of (1997) 22 Fam LR
382; FLC 92-783 5.32, 5.46
K v Cullen (1994) 36 ALD 37; 126 ALR 38; 18
Fam LR 636 4.29
Kais and Turvey (1994) 17 Fam LR 498 9.29
Kandal and Khyatt [2010] FMCAfam 508 5.2
Kane and Kane [2013] FamCAFC 205 8.82
Kannis and Kannis [2002] FamCA 1150 8.41
Kapadia and Kapadia (1991) 14 Fam LR 883
.... 4.11
Kapur and Kapur [1984] Fam Law R 920 2.19
Keaton, In the Marriage of (1986) FLC 91-745
.... 5.56
Keaton and Mahoney [2012] FamCA 658 5.3
Keisinger and Paget [2008] FamCAFC 23 7.37
Kelada, In the Marriage of (1984) 9 Fam LR 576;
FLC 91-503 4.53, 4.56
Kelly (No 2), In the Marriage of (1981) 7 Fam LR
762; FLC 91-108 7.27, 8.19
Kemsley, In the Marriage of (1984) 10 Fam LR
125; FLC 91-567 10.56
Kenda and Johnson (1992) 15 Fam LR 369;
(1993) FLC 92-331 2.35
Kendling v Kendling (2008) 39 Fam LR 404
.... 7.24
— v — (2008) 40 Fam LR 134; [2008]
FamCAFC 154 5.28
Kennon, In the Marriage of (1997) 22 Fam LR
1; FLC 92-757; [1997] FamCA 27 2.37,
8.63–8.66, 10.53, 10.74, 10.78
Kennon v Spry; Spry v Kennon [2008] HCA 56
.... 8.16, 8.19, 8.31, 8.38, 8.121, 8.126
Kernez and Kernez [2009] FamCA 640 4.24,
4.27
Kessey, In the Marriage of (1994) 18 Fam LR 149;
FLC 92-495 8.73, 8.75
Kessler v Wenigar No 491 WDA 99 6.29
Kevin (Validity of Marriage of Transsexual), Re
[2001] FamCA 1074 3.25
Khademollah and Khademollah (2000)
FLC 93-050 8.134
Khan v Khan (1962) 3 FLR 496 3.19
Khoo and Pride [2013] FamCA 929 5.7
Kimberley and Kimberley [2011] FamCA 406
.... 10.58
Kitson and Black [2014] FCCA 1332 5.38
Koch, In the Marriage of (1977) 3 Fam LN N66;
FLC 90-312 7.8
Korban and Korban [2009] FamCAFC 143
.... 5.46
Kostres and Kostres [2009] FamCAFC 222; (2009)
42 Fam LR 336; FLC 93-420 8.6
Kowaliw, In the Marriage of (1981) FLC 91-092
.... 8.36, 8.50

Kowalski, In the Marriage of (1992) 16 Fam LR 235; (1993) FLC 92-342 8.14, 8.59, 8.60
 Kozma, In the Marriage of; Official Trustee in Bankruptcy (1992) 15 Fam LR 801; (1993) FLC 92-337 2.35
 Kozovska and Kozovski [2009] FMCAfam 1014 8.65
 Kreet and Sampir [2011] FamCA 22 4.22
 Kucera and Kucera [2009] FMCAfam 1032 10.53

L

L and T, In the Marriage of (1999) 25 Fam LR 590; [1999] FamCA 1699 5.56
 Lambert v Lambert [2002] EWCA Civ 1685 8.65
 Lanceley, In the Marriage of (1994) 18 Fam LR 71; FLC 92-491 8.22
 Landin and Eades [2013] FCCA 1276 5.7
 Lane, In the Marriage of (1976) 1 Fam LR 11,385; FLC 90-055 4.37
 Lang, In the Marriage of (1976) 1 Fam LR 11,283 7.56
 Lange and Moores, In the Marriage of (1979) FLC 90-651 7.27
 Langmeil and Grange [2013] FamCAFC 31 5.65
 Lansell, In the Marriage of (1964) 110 CLR 353 2.18
 La Rocca, In the Marriage of (1991) 14 Fam LR 715; FLC 92-222 8.113, 8.114
 Lasic, N, Trustee for the Bankrupt Estate of v Lasic (2009) 41 Fam LR 369; [2009] FamCAFC 64 8.24
 Laudner and Doran [2012] FamCA 452 5.7
 Laue and Laue (Deceased) [2013] FCWA 87 8.103
 Lawrence and Abel [2013] FMCAfam 73 5.6
 Lawrie, In the Marriage of (1981) 7 Fam LR 560; FLC 91-102 7.31
 Law-Smith and Seinor, In the Marriage of (1989) 13 Fam LR 397; FLC 92-050 8.18
 Leach and Leahy [2014] FCCA 1178 5.29
 Lee, In the Marriage of (1977) 3 Fam LR 11,609; FLC 90-314 10.60, 10.61
 Lee and Hutton [2013] FamCA 745 9.10
 Lee Steere, In the Marriage of (1985) 10 Fam LR 431; FLC 91-626 8.33, 8.53, 8.83
 LeMay and Clark [2005] FCWA 23 9.10, 9.12
 Lemnos, G (A Bankrupt), Trustee of the Property of and Lemnos (2009) 41 Fam LR 120; FLC 93-394; [2009] FamCAFC 20 8.23, 8.24
 Lenehan, In the Marriage of (1987) 11 Fam LR 615; FLC 91-814 8.50
 Leroy and Moreau [2010] FMCAfam 903 6.19
 Levine and Levine [2011] FMCAfam 821 6.29
 Liakos and Zervos [2011] FamCA 547 8.50
 Lightfoot and Hampson (1996) FLC 92-663 6.26

Lindon v Commonwealth of Australia (No 2) [1996] HCA 14 8.12
 Lindsay and Baker [2007] FamCA 1273 5.38
 Lipman, In the Marriage of (1989) 13 Fam LR 1; DFC 95-068 9.27
 Little, In the Marriage of (1990) 14 Fam LR 118 8.54
 Liu, In the Marriage of (1984) 9 Fam LR 1060; FLC 91-572 8.116
 Locke and Norton [2013] FCCA 1154 2.32
 Lovine and Connor [2012] FamCAFC168 8.52
 Lucy (Gender Dysphoria), Re [2013] FamCA 518 5.67
 Lusby, In the Marriage of (1977) 3 Fam LN N85; FLC 90-311 7.19, 7.31
 Lute and Ingram [2009] FamCA 503 4.24
 Lutzke, In the Marriage of (1979) 5 Fam LR 553; FLC 90-714 7.32, 7.34

M

M and DB (2006) 36 Fam LR 454; FLC 93-293; [2006] FamCA 1380 8.138
 M and L (Aboriginal Culture) [2007] FamCA 396 5.60
 M and M (1988) 166 CLR 69; 82 ALR 577; 12 Fam LR 606; FLC 91-979 5.38, 5.47
 M and M (2006) 36 Fam LR 97 7.12
 M and W [2006] FamCA 1414 5.43
 Macchi v Scott (1991) DFC 95-104 9.33
 Macri and Macri [2010] FMCAfam 662 5.59
 Madley and Madley [2011] FMCAfam 1007 4.22
 Magas, In the Marriage of (1980) FLC 90-885 8.83
 Magill v Magill [2006] HCA 51; (2006) 226 CLR 551; 231 ALR 277; 81 ALJR 254; 36 Fam LR 1 2.38, 6.28
 Maguire and Sheldon [2011] FMCAfam 919 10.51
 Maharaj v Chand [1986] AC 898 9.40
 Maks v Maks (1986) DFC 95-036 9.31
 Mallet v Mallet (1984) 156 CLR 605 8.36, 8.82
 Mallett, In the Marriage of (1984) 9 Fam LR 449; FLC 91-507 8.29, 8.30, 8.36, 8.44, 8.77, 8.81
 Mallory and Alden and Alden [2009] FMCAfam 61 5.55
 Malone and Malone [2013] FCCA 1243 5.46
 Malpass and Mayson (2000) 27 Fam LR 288; FLC 93-061 8.41
 Malyszko, In the Marriage of (1979) 5 Fam LN N7; FLC 90-650 4.54
 Mandes and Bamford [2014] FamCA 190 5.20
 Manolis and Manolis (No 2) [2011] FamCAFC 105 8.36
 Mapstone, In the Marriage of (1979) 5 Fam LR 205; FLC 90-681 7.22
 Marion, Re (1990) 14 Fam LR 427; (1991) FLC 92-193 5.67

Table of Cases

- Marion's case (1992) 15 Fam LR 392; FLC 92-293; 175 CLR 218 5.26, 5.67
- Mark, Re: An Application Relating to Parental Responsibilities [2003] FamCA 822 5.19
- Markham and Markham [2013] FamCA 212 5.7
- Marlow, In the Marriage of (1995) 18 Fam LR 714; FLC 92-588 6.23
- Marquis and Marquis [2012] FamCA 137 4.24
- Marsden and Winch [2009] FamCAFC 152 5.65
- Marsh, In the Marriage of (1993) 17 Fam LR 289; (1994) FLC 92-443 10.78, 10.79
- Martel and Martel [2013] FCCA 525 5.3
- Marvel and Marvel (No 2) [2010] FamCAFC 101 5.23
- Masterton and Masterton [2012] FMCAfam 913 6.30
- Matthews and Farmer [2012] FamCA 672 5.3
- Matthews and Matthews [2014] FamCAFC 99 6.26
- Maunder, In the Marriage of (1999) 25 Fam LR 579; FLC 92-871 4.57
- Mayne, In the Marriage of [2011] FamCAFC 192 8.67
- Mazorski and Albright [2007] FamCA 520 5.36, 5.43
- McCall and Clark [2009] FamCAFC 92 5.51
- McCoy and Chancellor [2014] FamCAFC 62 9.21
- McDonald and McDonald (1977) FLC 90-317 9.21
- McDougall, In the Marriage of (1976) 1 Fam LR 11,581; FLC 90-076 8.51
- McIntosh and Anderson [2013] FamCA 164 8.12
- McKean and Page (1999) 25 Fam LR 15 10.78
- McKee v McKee (1951) AC 352 5.38
- McL, In the Marriage of (1989) 15 Fam LR 7; (1991) FLC 92-238 5.60
- McLay, In the Marriage of (1996) 20 Fam LR 239; FLC 92-667 8.33, 8.82
- McLeod, In the Marriage of (1976) 1 Fam LR 11,280; FLC 90-043 4.43, 4.44
- McMahon, In the Marriage of (1976) 2 Fam LR 11,267; FLC 90-128 7.39
- McMaster and Wyhler [2013] FamCA 989 9.8
- Mead, In the Marriage of (1983) 9 Fam LR 193 7.55
- Mears and Mears [2012] FamCAFC 52 3.33, 4.15
- Mee and Ferguson, In the Marriage of (1986) 10 Fam LR 971; FLC 91-716 6.24
- Mehra and Bose [2012] FamCA 164 4.11
- Mehta, In the Marriage of [1945] 2 All ER 690 4.26
- Mercier v Mercier [1903] 2 Ch 98 9.32
- Merrett and Bass [2013] FMCAfam 263 5.7
- Mertens and Mertens [2014] FamCA 475 5.38, 5.59
- Mezzacappa, In the Marriage of (1987) 11 Fam LR 957; FLC 91-853 8.41
- Michael — Surrogacy Arrangements, Re [2009] FamCA 691 5.22
- Miller and Harrington [2009] FamCAFC 12 5.65
- Miller and Miller [2009] FMCAfam 302 4.36
- Miller and Sutherland (1990) 14 Fam LR 416 9.28
- Miller and Trent [2011] FMCAfam 324 9.12
- Mills, In the Marriage of (1978) FLC 90-404 5.56
- Mills and Watson [2008] FMCAfam 2 5.6
- Millson and Millson [2014] FCCA 247 5.59
- Milner, In the Marriage of (1963) 3 FLR 499 7.72
- Minister for Immigration and Multicultural and Indigenous Affairs v B [2004] HCA 20; (2004) 219 CLR 365; 206 ALR 130; 31 Fam LR 339 2.2, 5.67
- Minister of State for Immigration and Ethnic Affairs v Teoh (1995) 183 CLR 273 5.4
- Minton v Minton [1979] AC 593 7.61
- Mitchell, In the Marriage of (1995) 19 Fam LR 44; FLC 92-601 7.8, 7.12, 7.14, 7.17-7.19, 7.22, 7.26, 7.28, 7.37, 7.41, 8.90
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 Community Services (2008) 82 ALJR 629
 9.10

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 889; FLC 91-111 5.59
 N and S, In the Marriage of and the Separate
 Representative (1995) 19 Fam LR 837; (1996)
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 Nada and Nettle [2014] FamCAFC 123 5.51,
 5.66
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 Fam LR 889; FLC 92-246 4.26
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 469 6.5, 6.29
 Neale, In the Marriage of (1991) 14 Fam LR 861;
 FLC 92-242 8.35
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 6.19
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 Nolan and Ingram, In the Marriage of (1984) 9
 Fam LR 808; FLC 91-585 8.17
 Nolan and Nolan [2012] FamCA 967 7.13
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 513; 10 Fam LR 819; FLC 91-712 8.29, 8.30,
 8.36, 8.49, 8.50, 8.93
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 8.30
 Norton and Locke [2013] FamCAFC 202 2.32,
 9.11, 10.58
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 FLC 90-896 10.58, 10.59
 Official Trustee in Bankruptcy v Bassola (No 3)
 (1986) 11 Fam LR 557; FLC 91-760 8.123
 Oliver and Oliver (1977) FLC 90-227 6.30
 Olliver, In the Marriage of (1978) 4 Fam LR 360;
 FLC 90-499 7.19, 7.23, 7.56

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 4.15
 Oriolo, In the Marriage of (1985) 10 Fam LR 665;
 FLC 91-653 8.37, 8.41
 Orpheus and Orpheus [2014] FamCAFC 70
 5.51
 Oscar and Acres [2007] FamCA 1104 5.60
 O'Shea, In the Marriage of (1988) 12 Fam LR 537;
 FLC 91-964 8.17
 Ostrofski, In the Marriage of (1979) 5 Fam LR
 685; FLC 90-730 7.34
 Otway, In the Marriage of (1986) 11 Fam LR 99;
 (1987) FLC 91-807 4.24
 Oxenham and Oxenham [2009] FamCAFC 167
 8.12

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 P and P, Application by, Re [1973] VR 533
 4.29
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 8.25
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 8.111
 Paine and Cacatan [2012] FamCA 959 4.10
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 Palmer, In the Marriage of (1985) 10 Fam LR 406;
 FLC 91-606 8.17
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 8.65, 10.53
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 Partington and Cade (No 2) [2009] FamCAFC
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 675; FLC 92-585 8.112
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 5.19
 Patterson, In the Marriage of (1979) FLC 90-705
 7.22, 7.56
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 11,358; FLC 90-051 4.34-4.36, 4.39, 4.43,
 4.45, 7.6, 9.14
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