

# FAMILY LAW REVIEW

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## ARTICLES

### **Less House, More Home: Adolescent and Young Adults' Experiences of Home Following Parental Separation** – *Leanne Francia and Prudence Milllear*

Drawing on interviews with adolescents and young adults (N = 17), this qualitative study explored experiences of home following parental separation. Children's sense of home was primarily constituted through the emotional connection with parents and a sense of belonging. A "transition space" between two households was identified. Children's sense of home was fluid and two themes emerged as creating ambiguity in their sense of home. First, ongoing co-parental conflict, comprising denigration of the other parent, difficulties in sharing care of children, and withholding of financial resources. Second, parent-child relationships following parental re-partnering. Ongoing co-parental conflict appeared to tie together poorer experiences of children's sense of home. Our preliminary work tentatively concluded that it is not the amount of time, but potentially the quality of relationship with members of each household, that contributes to children's sense of home following parental separation. ....

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### **Equity, the Free Market and Financial Agreements in Family Law: *Thorne v Kennedy*** – *Lisa Sarmas and Belinda Fehlberg*

*Thorne v Kennedy* (2017) 91 ALJR 1260; [2017] HCA 49 is of interest to equity lawyers, to family lawyers and to couples who have entered into or are contemplating entering into financial agreements. In *Thorne* the High Court skilfully traversed the boundaries of "control" and "choice" in the context of intimate relationships and highlighted equity's special and nuanced role in defining those boundaries. The case is thus reassuring for vulnerable parties to financial agreements. It is, however, troubling for monied parties seeking to protect their assets through such agreements. The case also poses a challenge to recent federal government policy as it represents a setback to the wider trend in Australian family law toward private agreement and formal equality concepts. ....

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### **English Pension Sharing after Australian Divorce** – *David Salter and Ellie Foster*

This article explores the options available, on or after an Australian divorce, to divide pension benefits which are situated and administered in England. It discusses the approaches to dealing with and dividing pensions under English law and possible routes of enforcement of an Australian order or agreement concerning English pension benefits. We explain the applicable law and procedure that can be employed in England to transpose into English law an agreement or intention from an Australian court where the Australian order is not otherwise capable of implementation or recognition by the pension scheme. We offer practical tips and solutions and highlight traps for the unwary. ....

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PROFESSIONAL INSIGHTS

**Practical Tips from *Thorne v Kennedy*** – *Genevieve Smit*

The memorable facts of *Thorne v Kennedy* (2017) 56 Fam LR 559; [2017] HCA 49, and the future of Financial Agreements generally, became a “hot topic” for discussion among family lawyers in the immediate aftermath of the High Court’s decision. This article summarises some key facts of *Thorne v Kennedy* and submits there are three practical tips solicitors should consider and implement to reduce the risk of their clients’ Financial Agreements being set aside in future. .... 37

CHILD SUPPORT – *Editor: Simon Bacon*

**The Substitution Order in Child Support Litigation** – *Simon Bacon*

In *Godwin v Glass* [2017] FCCA 1695 the Federal Circuit Court recognised that the relationship between a child and his or her parent is often improved if the child can see the parent making a direct financial contribution to the child’s upkeep. This raises the issue of the substitution order and when such an order should be made in child support litigation. .... 42

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