A FAMILY LAW LAWYER EXPLAINS THE IMPORTANCE OF GIVING INSTRUCTIONS

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Engaging a family law lawyer in a dispute can be critical to ensuring you fulfil your obligations to the court and its procedures. This will ensure that your matter does not experience significant delays.

What happens if you do not provide a response to the other party?

Negotiating and corresponding with your ex-partner in a dispute can be both tiresome and challenging. Often each party to the relationship will seek legal representation from a family law lawyer so that correspondence can occur efficiently.

However, in the event that one party does not seek to respond after proceedings have been initiated by the other person, a family law lawyer will advise you of the possibility of filing a document to the court. This document is called a 'notice to admit facts'.

What is a Notice to Admit and what does it do?

The *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* provide a set of guidelines outlining the court's powers. It also regulates and provides details of the rights of parties and their family law lawyer's obligations during live proceedings.

Rule 8.01 allows one party to serve the other with a Notice to admit. This document essentially asks the other party to admit to certain facts that have not been responded to or are of importance to resolving the dispute in proceedings.

Once this document has been drafted by your family law lawyer and served on the other party, they will have an opportunity to respond to each of the facts listed. This response will be provided in a form known as a 'Notice Disputing a Fact or Document.'

The Notice Disputing a Fact or Document must be provided to you within 14 days after your family law lawyer served the Notice to Admit (Rule 8.02) to the other person.

What happens if A Notice Disputing a Fact or Document is not served?

In the event that a Notice to Admit is not responded to by the other party, the Court will recognise the fact as admitted (i.e. the fact is true or the document is genuine). This presumption is only possible when the 14 day response period lapses.

It is important to understand that a family law lawyer can only act on the instructions provided to them by their client. Although they may receive a Notice to admit facts or documents, they cannot provide a response on your behalf until they are instructed to do so. To remain active in

proceedings and to abide by court procedures (complex as they may seem) it is advised that a family law lawyer is contacted.

Contact us on 1800 300 170 or email us at famlaw@matthewsfolbigg.com.au

Disclaimer

Family law situations can be complex and sometimes they can involve serious issues. Information outlined is proposed to provide general guidance only. Due to the seriousness of legal matters as well as the uniqueness of your individual situation, professional advice should be sought. For advice, please contact one of our Family Lawyers.