

DIVORCE SETTLEMENTS AND INHERITANCE

June, 2004

The Family Court recently considered a case where one of the parties had an expectation of inheriting his parent's substantial estate. The parties were married for 16 years with two children. The Trial Judge determined that the property pool was valued at \$864,000 and that the contributions were equal, but made an adjustment of 40% in favour of the wife, pursuant to the "future needs" requirement of Section 75(2).

The relevant factors in this decision were that the husband had an earning capacity of \$150,000 a year and also had superannuation of \$112,000 compared to the wife's \$37,000. The husband also had an expectation that he would inherit an estate valued at approximately \$2.8 million. The husband appealed against the ruling but the appeal was dismissed.

Changes in Family Law are occurring constantly. The Federal Government recently released a Report making wide-ranging recommendations, including the establishment of a new Tribunal to take over most of the Family Court's child responsibilities and the recommendation that there should be shared parenting of children. With the constant change in Family Law, professional advice is now even more important than ever.