

Blended Family Solutions

With Grant Abbott





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“Having been in a blended family I can tell you there are always competing interests particularly when there are children from both partners involved. Who loves who more, who spends more time, who gets the most time and so it goes on.

But the big issues come up when the “money hits the town” which is usually on the death of one or more of the leading blended family members. The Courts and AFCA are deluged with cases where children feel as though they have not got what they deserved or have been left out of an estate or trust.

It is up to us to elicit what is to happen if both family leaders passed away yesterday and from ”



Elizabeth Hurley's son cut from father's family trust

Bang Showbiz · 14 hrs ago



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Elizabeth Hurley's son has been cut from his father's family trust.



© Bang Showbiz Elizabeth and Damian Hurley

Before Stephen Bing took his own life last year, he won a court battle overturning his father's attempt to exclude his children, Damian Hurley, 19, and Kira Bonder, 23, from a family trust but that decision has now been overturned on appeal.

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- What is a Blended Family?
 - Is there any easy solution???
 - Discretionary Trust v Leading Member
Discretionary Trust v Living Trust
 - Estate Planning v SMSF Estate Planning
 - Reversionary v non Reversionary Pensions
 - Will v SMSF Will
 - Split Trusts v Cloned Trusts
 - Testamentary Trust v SMSF Proceeds Trust
 - Family Allowances





Case Study – Blended Family SMSF Smash Out – Ready?

John is 63 and has two children from his first marriage, Ben aged 35 and Simon aged 32. They both work in John's business which produces safety gloves and operates through a company SF Pty Ltd with John as the sole shareholder and director.

John has a family home worth \$1.2M and no mortgage, an investment property worth \$600,000 with a \$250,000 mortgage and a SMSF. The SMSF has one member – John and a sole director trustee company. His account balance is \$1M which consists of a \$950,000 factory which is rented to his company and some cash.





Case Study – Blended Family SMSF Smash Out – Ready?

Five years ago, John met Sally, now aged 45 who has a child from a former partner, Adriana who is aged 20 and in rehab. Sally is an artist who has never sold anything but has turned Simon's bedroom in the house to a studio and let Adriana stay in Bens. There is friction between families.

John has promised his boys that if something happens to him that they will get the business and also the factory so that they can keep the family business going. He told Sally that she could have the house and a \$60,000 tax free income until she met someone else.





Case Study – Blended Family SMSF Smash Out – Ready?

John and Sally use part of their pension benefits to pay a school allowance directly to Ben and William to cover boarding and school fees. In their SMSF Wills, apart from the property to go to Mathew, a lump sum is payable to Marie with the grandchildren also paid a benefit, as an income stream or lump sum. At this point in time, John and Sally have been advised that their grandchildren are their financial dependants, while Marie and Mathew are not.

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- There are so many exciting opportunities in succession, asset protection and estate planning space and blended families are now a large part of the equation.
 - The most important part of the piece is to find out what is to happen if both partners died yesterday.
 - AND to find out whether there is likely to be a challenge to an estate – guaranteed almost with blended families
 - Clients need Safety – Security – Certainty!!!



- **MOST IMPORTANT:** Get your firm's or your name on the documentation to drive the process or it will linger and eventually smell and litigate
- Different drivers for different structures
- *Look at what happened in*

NEW SOUTH WALES SUPREME COURT

CITATION: Katz v Grossman [2005] NSWSC 934

CURRENT JURISDICTION:

FILE NUMBER(S): 03731/2004

HEARING DATE(S): 29 August 2005

JUDGMENT DATE: 16/09/2005

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- Living Trust (LM variation) with sub trusts or even break out clones
 - Companies – can separate share classes
 - SMSF split to Living Trust or separate TTs or pensions
 - For Wills – you will need to bolster but it's a problem as there will be a family provisions claim – three years +++ and 20% of the estate at minimum





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