

To Our Antenuptial Agreement Clients

Financial Disclosure

Attached is a general memorandum explaining Antenuptial Agreements together with a comprehensive Financial Questionnaire. You will need to complete the entire Questionnaire before the Agreement can be drafted. The nature and extent of the financial disclosure required is extensive.

All financial information provided should be totally accurate and consistent with current financial documents such as tax returns, brokerage statements, loan applications, accounts, inventories, etc. and should include expectancies and inheritances, whether vested or contingent. The financial disclosure in summary form must be included as a schedule to the Antenuptial Agreement.

Full and fair financial disclosure is the cornerstone of a valid and enforceable Antenuptial Agreement. In Massachusetts, the burden is not on either party to inquire as to the other's financial circumstances, but on each to inform. It is only by requiring full disclosure of the amount, character, and value of the parties' respective assets that the courts can insure the intelligent waiver of the statutory rights involved. If there is less than full disclosure, the Agreement may not be enforced.

Antenuptial Agreements - In General

In Massachusetts, Antenuptial Agreements must be fair and reasonable when made and at least with respect to divorce, not unconscionable at the time of enforcement. These standards are tested by comparing the provisions made in the Agreement with the parties' entitlements under law, and taking into account the nature, character and value of the parties' assets and interests both at the time it was made and at the time of enforcement. Because a court can consider the reasonableness of the Agreement at a later date, there can be no guarantee that an Antenuptial Agreement will be later enforced. We do not sanction any Agreement which limits or proscribes the rights of your children. Nor do we guarantee the enforceability of the Agreement.

Notwithstanding these general principles, where parties are each represented by counsel and there has been full financial disclosure, the trend is to enforce the Agreement unless the terms are unconscionable. Therefore, you should remember during the course of the negotiations that you should not agree to the terms of an Agreement which are not satisfactory to you.

Services Provided

Generally, our responsibilities in an Antenuptial Agreement matter include providing advice on the substantive laws of divorce, descent and distribution, and related income, gift and estate tax advice as well as negotiating and drafting all of the agreement.

It is difficult to predict how long it will take to finalize the Agreement, or how much it will ultimately cost. The length of the process depends upon a combination of factors, including the complexity of your finances and those of your future spouse, the complexity of the legal issues raised and whether or not the negotiation proceeds amicably and promptly. The attitude and behavior of the parties and the parties' counsel can also play a significant role in the length and difficulty of the proceedings. Once we begin negotiating with "opposing" counsel we will have a better idea of the extent of our fees.

Billing

Our charge for legal services is primarily based upon our respective hourly rates and the actual time we spend on your case. Generally, our work on these Agreements are in the range of \$10,000 or more.

The Process

Negotiating an Antenuptial Agreement can often take an emotional toll. You should be prepared for the possibility of some bumpy times in your relationship during the negotiation process.

