**POINTERS ON PRENUPTIAL AGREEMENTS**

1. No lawyer can guarantee that a prenuptial agreement will be enforced, no matter what. The only sure way to shield oneself from a costly divorce is to remain single.
2. A premarital agreement cannot regulate the custody or support of any future children of the marriage.
3. A premarital agreement cannot realistically regulate daily life during the marriage, i.e., forget about spelling out who will do the cooking, grocery shopping, cleaning, etc.
4. Your prenuptial agreement will be vulnerable to attack in most states if you have not provided your future spouse with a detailed disclosure of your financial circumstances. The game show approach in which a contestant gives up an unknown prize behind a door does not work.
5. Don’t bring me the prenuptial agreement drafted by your brother’s lawyer in a different state. Although we could spend lots of time discussing why terms drafted in State A are not useful in State B where the marital property laws are very different, that does not get you any closer to an agreement that will serve your purposes in the state where you live.
6. Tell me if you have significant connections with another state or foresee establishing residence elsewhere. It may be appropriate to have any agreement reviewed by counsel in that state as well.
7. If you expect that certain accounts or other assets will remain separate property, be prepared to maintain statements or other records so that there is a paper (or electronic) trail tracing transfers.
8. A premarital agreement that calls for forfeitures or penalties against a party who commits adultery or is otherwise “at fault” is unlikely to be workable or enforceable in most states.
9. Don’t sign a prenuptial agreement you believe to be unfair based on the assumption that a future lawyer will be able to get it set aside.
10. Over the term of a marriage, laws may change, fortunes may be made or lost, and other circumstances may occur. You may need to consult with a lawyer about modifying your agreement.
11. Once an agreement is finalized, keep it in a safe place. You likely cannot enforce it if you cannot find it.