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What are my options if my fiance refuses to sign a prenuptial agreement?



Debra Frank of The Law Firm of Debra S. Frank in Los Angeles responds ...

A prenuptial agreement is made in contemplation of marriage and in the spirit of mutual cooperation. This contract can facilitate estate planning (e.g., protecting property for the children of an earlier marriage), preserve separate property, confirm separate versus community property, handle premarital and marital finances such as education expenses, determine the law that will be applied at dissolution, designate spousal support payment terms and limit expensive and adversarial divorce litigation.

If your intended spouse is unwilling to sign, there are options. Keeping detailed records is a must in order to establish that certain assets are your separate property. Inventory those items prior to the marriage, including dates of purchase, and have them appraised

and documented for ownership. This includes businesses, financial accounts, retirement accounts, royalty interests, intellectual property, etc. Both parties should acknowledge the inventory's accuracy. Once married, maintain separate property accounts titled in your name or that of a trust because there is a presumption that all property acquired during marriage is shared equally.

A 2007 study by Harvard Law School dispels the myth that prenuptial agreements harm marriage; instead, the very process of creating the agreement serves as a form of premarital counseling. Remind your spouse that talking about these issues now may be easier than later if the relationship is tested. Take steps to improve your prenuptial agreement, allow adequate time and work to include benefits for your fiance.