

PRENUPTIAL AGREEMENTS

The use of prenuptial agreements has become much more commonplace in recent years. The presence of a prenuptial agreement presents an **immediate concern** in the marriage preparation process. It is suggested that the priest or deacon ask the couple about the possible presence of a prenuptial agreement at the initial meeting along with questions about the possible presence of a prior marriage.

The couple needs to understand that a prenuptial agreement may be an obstacle to a marriage in the Catholic Church. A legal document that protects the separate assets of the prospective spouses may well undermine the community of life that is essential to a marriage and may render it invalid.

The case of a widow and widower who intend only to protect the natural right to inheritance of children of their first marriage may be an exception. This is clear if the prenuptial agreement provides for the disposition of the property in case of death rather than divorce. A prenuptial agreement that provides protection in the case of divorce may very well imply an exclusion of the permanence of marriage and, consequently, invalidate marital consent. In cases where one party has considerably more assets than the other and those assets are protected from the future spouse with no third party being benefited (such as elderly parents who spent their lives building a family business) it is hard to see how the couple is intending the community of life that is true marriage.

The priest or deacon must not presume that any prenuptial agreement is acceptable. **Before wedding plans can go forward, a copy of the prenuptial agreement needs to be sent to the Department for Canon and Civil Law Services for evaluation.** The couple must be informed that the wedding plans are on hold until a determination is made as to whether the prenuptial agreement in question would render the marriage invalid. If it is determined that the prenuptial agreement is invalidating, the couple must rescind the agreement before plans for a Catholic wedding can resume.

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