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OPINION

Today's Business: Postnuptial agreements help navigate marriage challenges

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Oct 26, 2024



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Contributed photo

When it comes to family law, few legal tools are as misunderstood as postnuptial agreements. While prenuptial agreements often are familiar, postnuptial agreements — contracts between spouses created after marriage — are lesser known but just as vital.

In Connecticut, these agreements offer a powerful way for couples to protect assets and clarify their financial futures, especially when faced with significant life changes or marital challenges.

Postnuptial agreements are particularly valuable in addressing a range of common scenarios: unexpected marital difficulties, such as infidelity, or a financial windfall, such as an inheritance, sale of a family business or successful private equity exit. By outlining how assets and responsibilities will be managed, these agreements provide stability and help couples navigate both the best and worst times in marriage.

One common misconception is that postnuptial agreements are only for couples on the brink of divorce. In reality, these agreements can strengthen a marriage by fostering transparency and providing clarity on issues that could otherwise become contentious. By addressing financial and operational concerns proactively, couples can avoid misunderstandings and focus on building a strong, lasting partnership.

Marriage is constantly evolving, and unforeseen challenges can test even the strongest partnerships. Infidelity, substance abuse, or changes in personal values can create tension and uncertainty in a marriage. In such circumstances, a postnuptial agreement can provide a constructive framework within which to address specific issues.

These agreements allow couples to redefine their financial arrangements while addressing the emotional strain. Setting clear terms for asset division, property rights, and other financial matters, can reduce uncertainty. A postnuptial agreement also can foster trust, helping both parties feel secure as they work through personal issues, and if reconciliation fails, the agreement protects each spouse's interests, reducing the likelihood of prolonged legal battles.

A major financial change, such as an inheritance or the sale of a business can significantly affect a marriage. A postnuptial agreement helps ensure assets remain protected. In Connecticut, assets acquired during the marriage are divided in a divorce based on concept called "equitable distribution," which means fairly, but not necessarily equally.

A postnuptial agreement allows couples to keep inherited or gifted assets as "separate property" versus "marital property," safeguarding these gains in the event of divorce. This helps protect both parties' financial interests and encourages transparency in how assets are handled, strengthening the foundation of the marriage.

In Connecticut, equitable distribution does not guarantee an equal 50/50 split of assets. Instead, the court decides what is fair based on multiple factors and family judges have broad discretion in making orders. A postnuptial agreement allows couples to decide in advance how their assets — such as homes, retirement accounts, and investments — will be divided if they divorce as opposed to a family judge deciding in a litigation. This eliminates uncertainty and can streamline divorce if it becomes necessary.

Postnuptial agreements can also allocate debt, such as mortgages or loans, ensuring that both parties are clear on their financial responsibilities. By pre-determining these outcomes, couples can avoid drawn-out court proceedings and reduce the emotional toll of divorce.

For couples living in different states or who relocate frequently, a postnuptial agreement can specify which state's law will apply if the couple divorces. This is especially useful for those with complex financial arrangements, as different states may treat certain assets or legal matters differently.

Divorce can be a costly process, with legal fees quickly accumulating. A postnuptial agreement can include provisions on who will cover attorney's fees in the event of divorce, reducing disputes over costs. This approach can encourage a more amicable settlement by alleviating financial concerns. Beyond financial concerns, postnuptial agreements can also address governance aspects of the marriage. This might include decisions about household finances, the division of labor, or major life events such as property purchases or relocation. Including these terms in a postnuptial agreement fosters open communication and provides a structured way to handle key decisions, reducing misunderstandings and potential conflict.

For Connecticut couples facing marital challenges or significant financial changes, a postnuptial agreement offers a practical path forward. Whether addressing an unexpected crisis or a windfall, this legal tool provides security and peace of mind. Ultimately, a postnuptial agreement is an empowering step that can protect both parties' interests and provide a solid foundation for the future.

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