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2024 Edition

Premarital (Antenuptial) and Postnuptial Agreements in Connecticut

A Guide to Resources in the Law Library

Table of Contents

Introduction	3
Section 1: Current Premarital Agreement Law.....	4
Table 1: Connecticut Premarital Agreement Act: House Debate	22
Section 2: Postnuptial Agreement Law	24
Section 3: Prior Premarital Agreement Law.....	36
Table 2: Three Prong Test.....	41
Section 4: Premarital Agreement Form and Content	42
Section 5: Enforcement and Defenses.....	50
Table 3: Surveys of State Premarital Agreement Laws	63
Section 6: Modification or Revocation	64
Section 7: Federal Tax Aspect.....	69
Section 8: State Tax Aspect.....	73
Appendix: Legislative Histories in the Connecticut Courts	74

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References to online legal research databases refer to in-library use of these databases. Remote access is not available.

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Introduction

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- “‘Prenuptial agreement’ means an agreement between prospective spouses made in contemplation of marriage.” Conn. Gen. Stat. § [46b-36b](#)(1) (2023).
- “An antenuptial agreement is a type of contract and must, therefore, comply with ordinary principles of contract law.” [McHugh v. McHugh](#), 181 Conn. 482, 486, 436 A.2d 8 (1980).
- “The validity of prenuptial contracts in Connecticut is governed, since October 1, 1995, by the Connecticut Prenuptial Agreement Act (act). General Statutes § 46b-36a et seq. Prior to the act, our Supreme Court had set forth the standards for determining the validity of a prenuptial agreement in [McHugh v. McHugh](#), 181 Conn. 482, 436 A.2d 8 (1980)” [Dornemann v. Dornemann](#), 48 Conn. Sup. 502, 510, 850 A.2d 273 (2004).
- Antenuptial agreements are also known as premarital agreements.
- “The right of a child to support may not be adversely affected by a premarital agreement. Any provision relating to the care, custody and visitation or other provisions affecting a child shall be subject to judicial review and modification.” Conn. Gen. Stat. § [46b-36d](#)(c) (2023).
- “Today we are presented for the first time with the issue of whether a postnuptial agreement is valid and enforceable in Connecticut. . . We conclude that postnuptial agreements are valid and enforceable and generally must comply with contract principles. We also conclude, however, that the terms of such agreements must be both fair and equitable at the time of execution and not unconscionable at the time of dissolution.” [Bedrick v. Bedrick](#), 300 Conn. 691, 693, 17 A.3d 17 (2011).
- Enforcement or avoidance of premarital or postnuptial agreement must be specifically pled:
 - “(a) If a party seeks enforcement of a premarital agreement or postnuptial agreement, he or she shall specifically demand the enforcement of that agreement, including its date, within the party’s claim for relief. The defendant shall file said claim for relief within sixty days of the return date unless otherwise permitted by the court.
 - (b) If a party seeks to avoid the premarital agreement or postnuptial agreement claimed by the other party, he or she shall, within sixty days of the claim seeking enforcement of the agreement, unless otherwise permitted by the court, file a reply specifically demanding avoidance of the agreement and stating the grounds thereof.” Connecticut Practice Book § [25-2A](#) (2024).

Section 1: Current Premarital Agreement Law

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to the validity of premarital agreements in Connecticut following passage of the Connecticut Premarital Agreement Act.

DEFINITIONS:

- **Connecticut Premarital Agreement Act:** "This act shall take effect October 1, 1995, and shall apply to any premarital agreement executed on or after that date." [1995 Conn. Acts 170](#) § 11 Reg. Sess.
- **Premarital Agreement:** "means an agreement between prospective spouses made in contemplation of marriage." Conn. Gen. Stat. § [46b-36b](#)(1) (2023).
- **Property:** "means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, tangible or intangible, including income and debt." Conn. Gen. Stat. § [46b-36b](#)(2) (2023).
- **Purpose:** "The legislative history confirms that the purpose of the act is to recognize the legitimacy of premarital contracts in Connecticut, not to constrain such contracts to a rigid format so as to limit their applicability." [Dornemann v. Dornemann](#), 48 Conn. Sup. 502, 519-520, 850 A.2d 273 (2004).
- **Fair and Reasonable Disclosure of Financial Circumstances:** "refers to the nature, extent and accuracy of the information to be disclosed, and not to extraneous factors such as the timing of the disclosure." [Friezo v. Friezo](#), 281 Conn. 166, 183, 914 A.2d 533 (2007).
- **Independent Counsel:** "a 'reasonable opportunity to consult with independent counsel' means simply that the party against whom enforcement is sought must have had sufficient time before the marriage to consult with an attorney other than the attorney representing the party's future spouse." [Friezo v. Friezo](#), 281 Conn. 166, 204, 914 A.2d 533 (2007).
- **Reasonable Opportunity:** "With respect to whether the plaintiff had a 'reasonable opportunity' to consult with legal counsel, there is no requirement that a party actually seek or obtain the advice of counsel, only that he or she be afforded a *reasonable opportunity* to do so." [Friezo v. Friezo](#), 281 Conn. 166, 204, 914 A.2d 533 (2007).

STATUTES:

Conn. Gen. Stat. (2023).

§ [46b-1](#). Family relations matters defined.

Connecticut Premarital Agreement Act

§ [46b-36a](#). Short title: Connecticut Premarital Agreement Act.

§ [46b-36b](#). Definitions.

§ [46b-36c](#). Form of premarital agreement.

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website up-to-date statutes.

- § [46b-36d](#). Content of premarital agreement.
- § [46b-36e](#). Effect of marriage on premarital agreement.
- § [46b-36f](#). Amendment or revocation of premarital agreement after marriage.
- § [46b-36g](#). Enforcement of premarital agreement.
- § [46b-36h](#). Enforcement of premarital agreement when marriage void.
- § [46b-36i](#). Statute of limitation re claims under premarital agreement.
- § [46b-36j](#). Premarital agreements made prior to October 1, 1995, not affected.

LEGISLATIVE HISTORY:

Legislative History (official compilation) at CT State Library's website

https://ctatatelibrarydata.org/wp-content/uploads/lh-bills/1995_PA170_HB6932.pdf

Legislative History (unofficial compilation)

[Connecticut Premarital Agreement Act, Public Act 95-170](#)

OLR REPORTS:

[Office of Legislative Research](#) reports summarize and analyze the law in effect on the date of each report's publication. Current law may be different from what is discussed in the reports.

- Susan Price, Principal Legislative Analyst, *Prenuptial Agreements: Declaratory Judgment Actions*, Connecticut General Assembly, Office of Legislative Research, Report No. [2005-R-0834](#) (November 15, 2005).

"You asked if Connecticut or other states have a mechanism for determining whether a prenuptial agreement is valid before going forward with a divorce action. You also asked if any state uniformly requires divorcing couples to pay their own attorney's fees."

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

Connecticut Practice Book (2024)

- § [25-2A](#). Premarital and Postnuptial Agreements
“(a) If a party seeks enforcement of a premarital agreement or postnuptial agreement, he or she shall specifically demand the enforcement of that agreement, including its date, within the party's claim for relief. The defendant shall file said claim for relief within sixty days of the return date unless otherwise permitted by the court.

(b) If a party seeks to avoid the premarital agreement or postnuptial agreement claimed by the other party, he or she shall, within sixty days of the claim seeking enforcement of the agreement, unless otherwise permitted by the court, file a reply specifically demanding avoidance of the agreement and stating the grounds thereof.”

FORMS:

- *Library of Connecticut Family Law Forms*, 2nd ed., by Amy Calvo MacNamara, et al., eds., 2014, ALM.
Chapter 18. Premarital Agreements
Form #18-001 Letter to Client Re: Draft Premarital Agreement
Form #18-002 Premarital Agreement

- *A Practical Guide to Estate Planning in Connecticut*, 2d ed., by B. Dane Dudley, et al., eds., MCLE, 2021.
Chapter 12. Marital Agreements
Checklist 12.2. Prenuptial Agreement Checklist
- *2 Lindey and Parley on Separation Agreements and Antenuptial Contracts*, 2nd ed., by Alexander Lindey and Louis Parley eds., Matthew Bender, 1999, with 2024 supplement (Also available on Lexis).
Division III. Cohabitation, Antenuptial, and Postnuptial Agreements
Subdivision A. Cohabitation Agreements
Chapter 100. Cohabitation Agreements
Subdivision B. Antenuptial Agreements
Chapter 110. Antenuptial (Premarital) Agreements
Part B. Forms
- 8A Connecticut Practice Series, *Family Law and Practice with Forms*, by Arnold H. Rutkin et al., 2010, with 2022-2023 supplement, Thomson West (Also available on Westlaw).
Part 12. Agreements and Contracts
Chapter 50 Sample Forms
§50:57 Sample Prenuptial Agreement
- 9B *Am Jur Legal Forms*, 2d ed., Thomson West, 2020, with 2024 supplement (Also available on Westlaw).
Chap. 139 Husband and Wife
II. Antenuptial Agreements
A. In General
B. Basic Agreements
C. Optional Provisions

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Tilsen v. Benson](#), 347 Conn. 758, 299 A.3d 1096 (2023).
“We begin with the plaintiff’s establishment clause claims. He argues that enforcement of the ketubah would not violate the establishment clause of the first amendment because it contains nothing more than a choice of law provision that is enforceable under the ‘neutral principles of law’ analysis articulated by the United States Supreme Court in [Jones v. Wolf](#), supra, 443 U.S. at 602-604, 99 S.Ct. 3020. Relying on, for example, [In re Marriage of Goldman](#), 196 Ill. App. 3d 785, 143 Ill. Dec. 944, 554 N.E.2d 1016, appeal denied, 132 Ill. 2d 544, 144 Ill. Dec. 257, 555 N.E.2d 376 (1990) (Goldman), [Minkin v. Minkin](#), 180 N.J. Super. 260, 434 A.2d 665 (Ch. Div. 1981), and [Avitzur v. Avitzur](#), supra, 58 N.Y.2d 108, 459 N.Y.S.2d 572, 446 N.E.2d 136, the plaintiff contends that Jewish law governing marriage is secular in nature, thus permitting a court to apply it without having to review or interpret religious doctrine in a way that would violate the first amendment. Citing [Light v. Light](#), supra, 55 Conn. L. Rptr. 145, the plaintiff observes that our Superior Court has applied Jewish law in conjunction with dissolution judgments by enforcing a ketubah provision imposing a monetary penalty on a husband until he granted the wife a

'get,' or a Jewish religious divorce. See *id.*, at 146, 149 and n.1.

In response, the defendant argues that the trial court correctly determined that enforcing the ketubah, as desired by the plaintiff, would violate the establishment clause by entangling the trial court in religious matters. The defendant contends that the ketubah cannot be enforced under the neutral principles of law doctrine because, given the 'vastly conflicting' interpretations of Torah law governing marriage and divorce proffered by the parties, issuing the financial orders 'would require the court to apply religious doctrine and practices and [to] inquire into religious matters....' Relying on, for example, [Victor v. Victor](#), 177 Ariz. 231, 866 P.2d 899 (App. 1993), review denied, Arizona Supreme Court (February 1, 1994), and [Aflalo v. Aflalo](#), 295 N.J. Super. 527, 685 A.2d 523 (Ch. Div. 1996), the defendant emphasizes that '[d]istinguishing between Torah law that is religious and Torah law that is secular is inherently a question of religious law that civil courts cannot decide without running afoul of the establishment clause' because, '[i]n order to ... make such a determination, a civil court would be required to analyze Jewish law and potentially to decide between differing interpretations of Jewish law....' The defendant further contends that the cases on which the plaintiff relies, in which the husband was ordered to perform a specific act, such as appearing before a 'Beth Din' (a Jewish tribunal) or issuing a get; see [In re Marriage of Goldman](#), supra, 196 Ill. App. 3d at 787, 791, 143 Ill. Dec. 944, 554 N.E.2d 1016; [Minkin v. Minkin](#), supra, 180 N.J. Super. at 261, 434 A.2d 665; [Avitzur v. Avitzur](#), supra, 58 N.Y.2d at 112-13, 459 N.Y.S.2d 572, 446 N.E.2d 136; are distinguishable because the parties' obligations under Jewish law were facially clear from the ketubah or otherwise were not disputed. We agree with the defendant and conclude that the trial court correctly determined that enforcement of the ketubah in this case would violate the establishment clause of the first amendment."

- [Solon v. Slater](#), 345 Conn. 794, 798, 287 A.3d 574 (2023). "This appeal requires us to decide the scope of the preclusive effect, in a subsequent tort action in the Superior Court, of an unappealed Probate Court decree admitting a will to probate. The plaintiff, Linda Yoffe Solon, filed the present lawsuit against the defendants, Joseph M. Slater and Joshua Solon, alleging that they tortiously interfered with her contractual relations and right of inheritance by exercising undue influence over her husband, Michael Solon (decedent), with respect to two different legal instruments, a proposed amendment to an antenuptial agreement and a testamentary will. The trial court rendered summary judgment in favor of the defendants, concluding in pertinent part that both of the plaintiff's tortious interference claims were barred by the doctrine of collateral estoppel because the Probate Court previously had

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admitted the decedent's will to probate after rejecting the plaintiff's claim that the decedent executed the will as a result of the defendants' undue influence. The Appellate Court affirmed the judgment of the trial court. See [Solon v. Slater](#), 204 Conn. App. 647, 253 A.3d 503 (2021).

The issue before us is whether both of the plaintiff's tortious interference claims in her civil tort action are barred by either the doctrine of collateral estoppel, as the courts below concluded, or the doctrine of res judicata, which the defendants have raised as an alternative ground for affirmance. We conclude that neither preclusion doctrine bars the plaintiff from litigating her tortious interference with contractual relations claim, which relates to the proposed amended antenuptial agreement, because the Probate Court did not actually or necessarily determine whether the defendants tortiously interfered with that contract and the plaintiff lacked an opportunity to litigate her claim in the Probate Court....Accordingly, we reverse the judgment of the Appellate Court in part and remand the case for further proceedings on the plaintiff's tortious interference with contractual relations claim."

- [Seder v. Errato](#), 211 Conn. App. 167, 170, 272 A. 3d 252 (2022). "The defendant first claims that the trial court improperly refused to enforce the parties' prenuptial agreement and argues that undisputed testimony and documents established the terms of that agreement. The plaintiff, on the other hand, takes exception to the characterization of the defendant's claim. She argues that although the defendant suggests that the trial court erred in refusing to enforce the alleged prenuptial agreement, the court never reached enforcement because the court properly concluded that there were no terms of an agreement or any associated financial disclosures that it could construe, much less enforce. We agree with the plaintiff."
- [Grabe v. Hokin](#), 341 Conn. 360, 362, 267 A.3d 145 (2021). The issue before us in this appeal is whether the trial court correctly determined that the enforcement of a prenuptial agreement executed by the plaintiff, Laura Grabe, and the defendant, Justin Hokin, was not unconscionable at the time of the dissolution of their marriage. Shortly before the parties' marriage in 2010, they executed a prenuptial agreement in which each party agreed, in the event of a dissolution action, to waive any claim to the other's separate property, as defined in the agreement, or to any form of support from the other, including alimony. The agreement also provided that a party who unsuccessfully challenged the enforceability of the agreement would pay the attorney's fees of the other party. In 2016, the plaintiff brought this action seeking dissolution of the marriage and enforcement of the prenuptial agreement. The defendant filed a cross complaint in which he claimed, inter alia, that

the agreement was unenforceable because it was unconscionable at the time of the dissolution under General Statutes § 46b-36g(a)(2). After a trial to the court, the court concluded that, with the exception of the attorney's fees provision, enforcement of the terms of the prenuptial agreement that the parties entered into was not unconscionable, even in light of certain events that had occurred during the marriage. Accordingly, the trial court rendered judgment dissolving the marriage and enforcing the terms of the prenuptial agreement, with the exception of the provision requiring the party who unsuccessfully challenged the enforceability of the agreement to pay the attorney's fees of the other party. On appeal, the defendant contends that the trial court incorrectly determined that the occurrence of the unforeseen events found by the trial court did not render the enforcement of the entire agreement unconscionable at the time of the dissolution. We affirm the judgment of the trial court."

- [Blondeau v. Baltierra](#), 337 Conn. 127, 252 A.3d 317, (2020). "To determine how the equity in the home should be distributed under these circumstances, the arbitrator explained that '[t]he answer turns on (1) whether the home is separate or joint property and, if joint property, (2) whether Connecticut law or French law determines this distribution. The [premarital] agreement answers the first question, and well established choice of law principles answer the second. The [premarital] agreement provides that the parties' home is joint property.'" (p. 151)

"Though the [premarital] agreement provides that the marital home is joint property, it does not dictate how such joint property is to be divided—a point on which the parties now disagree..." (p. 151)

"Having concluded that the parties had not designated a particular rule of law to govern the distribution of the equity in the home, the arbitrator applied the most significant relationship approach and determined that Connecticut law should govern the division of the equity in the home." (p. 152)

"[...] any error that may have been made by the arbitrator in distributing the equity in the marital home did not amount to an 'egregious or patently irrational misperformance of duty'; (internal quotation marks omitted) [Saturn Construction Co. v. Premier Roofing Co.](#), supra, 238 Conn. at 308, 680 A.2d 1274; that would permit a court to vacate the arbitration award." (pp. 168-169)

- [Moyher v. Moyher](#), 198 Conn. App. 334, 341, 232 A.3d 1212 (2020). "In his brief, the defendant states that he sought to introduce evidence at trial that a prenuptial agreement signed by both parties existed and 'that its disappearance under the circumstances presented strongly supported the inference that [the] plaintiff had likely played

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some role in its disappearance.’ The defendant further states that in chambers the morning of trial, the court stated that it would not allow evidence of a prenuptial agreement to be presented because the defendant was unable to provide evidence of a signed agreement....Thus, the defendant failed to properly preserve the claim of the existence of a signed prenuptial agreement for our review. Accordingly, we decline to review the plaintiff's claim.”

- Tilsen v. Benson, Superior Court, Judicial District of New Haven at New Haven, No. FA-18-6084187-S (Nov. 7, 2019) (69 Conn. L. Rptr. 241) (2019 WL 4898971) (2019 Conn. Super. LEXIS 2475). “The plaintiff seeks to enforce a Jewish marriage contract, known as a ‘Ketubah,’ contending that it is a valid prenuptial agreement. In relevant part, the Ketubah states that the parties ‘agreed to divorce (or, separate from) one another according to custom all the days of their life (i.e., as a continuing obligation) *according to Torah law as in the manner of Jewish people.*’ (Emphasis added.) The plaintiff argues that ‘Torah law’ mandates a 50/50 division of property and relieves him of any obligation to pay alimony to his wife of nearly thirty years.” (p. 241)

“The court concludes that it cannot interpret the ‘Torah law’ provision of the parties’ Ketubah using strictly neutral, secular legal principles. To the contrary, granting the plaintiff the specific relief he seeks based on his preferred interpretation of the Ketubah and Jewish law would excessively entangle the court in a religious dispute and, therefore, would violate the first amendment.” (p. 244)

- Clarke v. Clarke, Superior Court, Judicial District of Stamford/Norwalk at Stamford, No. FA-17-6031321 (October 10, 2017) (65 Conn. L. Rptr. 327) (2017 WL 5516256) (2017 Conn. Super. LEXIS 4671). “Paragraph (1) on page 18 of the restatement states: ‘Each party shall be responsible for his or her attorneys fees and expenses in connection with a Dissolution of Marriage, the interpretation or enforcement of this Restatement, and any post-decree modification of any court order for Dissolution of Marriage.’ This provision does not by its terms prohibit an award of temporary counsel and expert fees. It does, however, provide that each party shall be *responsible* for his or her fees. Thus, in the event that the defendant is successful in obtaining a pendente lite award of counsel and/or expert fees, she will still be ultimately *responsible* for those fees and the full amount of any fees awarded will necessarily have to be credited against any other financial payments to which the defendant is entitled under the terms of the premarital agreement/restatement.” (p. 328)

“Specifically, section 46b-36e of the general statutes provides that a premarital agreement becomes effective upon marriage unless otherwise provided in the agreement. Section 46b-36f provides that an amendment to the premarital agreement shall also be enforceable without

consideration. Section 46b-36g provides that a premarital agreement and amendment shall not be enforceable if the party against whom enforcement is sought establishes one or more of a number of defenses. Significantly, in this case neither party will be seeking to establish any one of the statutory defenses because they each seek enforcement. Thus, the agreement is effective and enforceable until proven otherwise.” (p. 328)

- [Chang v. Chang](#), 170 Conn. App. 822, 825, 155 A.3d 1272, cert. denied, 325 Conn. 910, 158 A.3d 321 (2017). “The [trial] court finds that the definition of separate property in the premarital agreement does not include accounts solely in the defendant’s name which were not listed on schedule A of the premarital agreement unless received by bequest, devise, descent, or distribution by other instrument upon death or by gift or were property acquired in exchange for the property listed on schedule A. Accordingly, the orders in this decision would be the same even if it found the premarital agreement to be valid.” (Emphasis added.)”

“Because the premarital agreement does not expressly provide that alimony may be awarded in their dissolution action, the defendant argues that those provisions in paragraph 5 must be interpreted to mean that it is prohibited. In other words, although the parties have not incorporated the simple phrase ‘the parties waive alimony’ into the premarital agreement, the other provisions in the agreement, when read in combination, evidence the fact that they have abandoned all claims to alimony. The plaintiff responds that the defendant is attempting to have ‘an alimony waiver read into the agreement.’ She argues that such a waiver should not be inferred when the agreement ‘is silent as to an affirmative statutory right.’ We agree with the plaintiff.” (p. 829)

“We conclude that the court properly construed the premarital agreement as not precluding the award of alimony to the plaintiff. There is no provision in the agreement that even tangentially governs the parties’ rights to alimony upon the dissolution of the marriage. In order for the plaintiff to assent to the waiver of such a right, she would have to be aware that, by signing the premarital agreement, she was relinquishing all claims to alimony in the event of a dissolution of the marriage. ‘[A] waiver is ordinarily an intentional relinquishment or abandonment of a known right or privilege. An effective waiver presupposes full knowledge of the right or privilege allegedly [being] waived and some act done designedly or knowingly to relinquish it.... Moreover, the waiver must be accomplished with sufficient awareness of the relevant circumstances and likely consequences.’ (Internal quotation marks omitted.) [Perricone v. Perricone](#), 292 Conn. 187, 207, 972 A.2d 666 (2009).

In the absence of a clear and unequivocal waiver of alimony in the premarital agreement, we decline to infer a

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knowing and voluntary waiver on the basis of the language contained in . . . that agreement.”

- [Lodmell v. LaFrance](#), 322 Conn. 828, 833, 144 A.3d 373 (2016). “The defendant first claims that the trial court improperly applied § 46b-66 (c) to the agreement to arbitrate contained within the prenuptial agreement. Specifically, the defendant asserts that § 46b-66 (c) applies only to an agreement to arbitrate that has been entered into after an action for dissolution has been filed. The defendant further claims that, even if § 46b-66 (c) applies to agreements to arbitrate contained in prenuptial agreements, the trial court improperly contravened the terms of the prenuptial agreement in the present case by limiting the scope of the arbitration. In response, the plaintiff asserts that the trial court properly applied § 46b-66 (c) to the agreement to arbitrate in the prenuptial agreement. The plaintiff further asserts that the trial court properly found, pursuant to § 46b-66 (c), that it would not be ‘fair and equitable under the circumstances’ to require the parties to arbitrate claims for damages that were not allowed by the prenuptial agreement. We agree with the plaintiff.”

“The defendant next claims that, even if § 46b-66 (c) applies to agreements to arbitrate contained within prenuptial agreements, the trial court improperly applied that statute in the present case. Specifically, the defendant claims that § 46b-66 (c) requires the trial court to determine only whether the parties entered into an agreement to arbitrate voluntarily and without coercion and whether that agreement, as a whole, is fair and equitable under the circumstances. The defendant asserts that, in the present case, the trial court improperly applied § 46b-66 (c) so as to limit the scope of the issues that were submitted to arbitration pursuant to the prenuptial agreement.[6] In response, the plaintiff claims that the trial court properly applied § 46b-66 (c) in the present case. Specifically, the plaintiff claims that the trial court properly determined the scope of the parties’ agreement to arbitrate and properly determined that it would be fair and equitable to arbitrate only those issues that were within the scope of the parties’ agreement. We agree with the plaintiff.” (p. 842)

“The defendant next claims that the trial court improperly confirmed the partial award of the arbitrator and improperly confirmed in part and modified in part the final award of the arbitrator.[8] Specifically, the defendant asserts that the arbitrator exceeded her authority and the scope of the submission by issuing orders in contravention of the express terms of the prenuptial agreement.[9] In response, the plaintiff asserts that the trial court properly confirmed the partial award of the arbitrator and properly confirmed in part and vacated in part the final award of the arbitrator because the arbitrator did not exceed the scope of her authority under this unrestricted submission. We agree with the plaintiff.” (p. 849)

- Litt v. Litt, Judicial District of Stamford/Norwalk at Stamford, No. FST-FA-12-4023894-S (January 26, 2016), (2016 WL 720202) (2016 Conn. Super. LEXIS 234). “A prenuptial agreement is subject to the same principles of contract interpretation as other contracts.’ Montoya v. Montoya, 91 Conn. App. 407, 415, 881 A.2d 319 (2005) [reversed in part on other grounds]. ‘A contract must be construed to effectuate the intent of the parties, which is determined from the language used interpreted in the light of the situation of the parties and the circumstances connected with the transaction . . . the language used must be accorded its common, natural, and ordinary meaning and usage . . .’ Creatura v. Creatura, 122 Conn. App. 47, 51-52, 998 A.2d 798 (2010).”
- Lodmell v. LaFrance, 154 Conn. App. 329, 330-331, 107 A.3d 975 (2014). “...the parties entered into a prenuptial agreement (agreement)... Neither party contests the enforceability of the agreement. On March 15, 2010, the defendant commenced an action for dissolution of marriage. Section 16.20 of the agreement provides: ‘In the event of any dispute hereunder, such dispute shall be resolved by first submitting the matter to mediation. If mediation fails, then the matter shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association.’ In the dissolution action, the court ...ordered the parties to proceed to arbitration on the matter of ‘the sale of the joint asset, a residential piece of real estate, and what procedures are to be followed, and what proceeds each party is entitled to from a sale. . . . Wilkerson [the arbitrator] issued a partial award...and a final award..., which are both the subject of this appeal.” [Affirmed at 322 Conn. 828 (2016).]
- Friezo v. Friezo, 281 Conn. 166, 204, 914 A.2d 533 (2007). “General Statutes § 46b-36g (a) (4) specifically provides that the party against whom enforcement of the prenuptial agreement is sought must prove that ‘[s]uch party was not afforded a reasonable opportunity to consult with independent counsel.’ The operative terms for the purpose of this analysis are ‘reasonable opportunity’ and ‘independent counsel.’ Although this court has not yet had occasion to construe § 46b-36g (a) (4), appellate courts that have interpreted identical statutory language invariably have held, consistent with the plain statutory wording, that a ‘reasonable opportunity to consult with independent counsel’ means simply that the party against whom enforcement is sought must have had sufficient time before the marriage to consult with an attorney other than the attorney representing the party's future spouse.”
- Dornemann v. Dornemann, 48 Conn. Sup. 502, 521, 850 A.2d 273 (2004). “The plaintiff's claim that enforcement of the premarital agreement would be unconscionable has been reserved and will be addressed at the trial of the present case. The plaintiff executed a prenuptial agreement, after adequate financial disclosures, willingly

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and voluntarily. There was no coercion or undue influence. The defendant's failure to sign the contract prior to the marriage did not invalidate the contract. He assented to the bargain by marrying the plaintiff on April 13, 1997."

- [Linger v. Sadowski](#), Superior Court, Judicial District of Hartford at Hartford, No. FA01-0728258 (May 31, 2002) (2002 WL 1492257) (2002 Conn. Super. LEXIS 1944). "The defendant's arguments are persuasive. Section 46b-36g(3) does not require total accuracy in the disclosure of assets. It merely requires 'fair and reasonable disclosure.' This will vary from case to case depending upon various factors including the size of the total estate in comparison to the extent of the failure to disclose. In this case, the failure to disclose the real estate interest is neither unfair nor is it unreasonable in light of the size and character of the decedent's estate. The total value of the estate is actually greater than the value disclosed by the decedent although the character of the assets is slightly different. This is not unfair to the plaintiff."
- [Pierce v. Pierce](#), Superior Court, Judicial District of Hartford at Hartford, No. FA-00-0725342-S (Jul. 16, 2001) (2001 WL 950208) (2001 Conn. Super. LEXIS 1985). "The plaintiff claims that the agreement of the parties should control whereas the defendant argues against its enforcement. It should be noted that the defendant had entered into a pre-nuptial agreement in her previous marriage whereas the plaintiff had not. It is clear from the defendant's own testimony that all of the statutory criteria set forth in Connecticut General Statute Sec. 46b-36g(c). The defendant, however, claimed the plaintiff failed to mention he had a timeshare and had been married more times than he had told the defendant and she would not have married him otherwise. The timeshare omitted by the plaintiff in his premarital disclosure was worthless and was sold at a loss. Further, the court finds that the defendant would have married the plaintiff notwithstanding the number of his previous marriages. The defendant saw her marriage to the plaintiff as a way out of financial difficulty for her and her daughter."
- [Wilkes v. Wilkes](#), 55 Conn. App. 313, 319-320, 738 A.2d 758 (1999). "The plaintiff claims that this 'mid-nuptial' agreement should be considered the same as premarital agreements that are protected by General Statutes § 46b-36g with respect to disclosure. Section 46b-36g (a) (3), which is applicable to premarital agreements executed on or after October 1, 1995, the effective date of Public Acts 1995, No. 95-170, precludes enforcement of a premarital agreement where, prior to execution, a party is 'not provided a fair and reasonable disclosure of the amount, character and value of property, financial obligations and income of the other party....' The plaintiff asserts that, even if § 46b-36g does not apply, the agreement was not fair and equitable as required by General Statutes § 46b-66. There is no merit to this claim because § 46b-36g (a) (3)

requires 'fair and reasonable disclosure,' as opposed to more formal financial affidavits, and the trial court had the benefit of formal financial affidavits at the time it decided that the agreement was fair and equitable."

WEST KEY NUMBERS:

- *Marriage and Cohabitation*
 - II. Agreements concerning marriage
 - (C) Premarital Agreements #s 161-200

DIGESTS:

- *West's Connecticut Digest: Marriage and Cohabitation*
 - II. Agreements Concerning Marriage
 - (C) Premarital Agreements
 - § 162. Requisites and formation
 - § 167. Validity and enforceability
 - § 178. Terms of agreement; rights and obligations
 - § 183. Modification
 - § 184. Revocation or extinguishment
 - § 185. Actions and proceedings

- *ALR Digest: Husband and Wife*
 - II. Marriage Settlements
 - § 29. Antenuptial settlements

- *ALR Digest: Marriage and Cohabitation*
 - II. Agreements Concerning Marriage
 - (c) Antenuptial settlements

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

Online databases are available for in-library use. Remote access is not available.

- 41 *Am Jur 2d Husband and Wife*, Thomson West, 2015 (Also available on Westlaw).
 - IV. Governing Law
 - C. Contracts
 - § 49. Prenuptial Contracts
 - VI. Transactions Between Spouses
 - B. Particular Transactions
 - 3. Property Settlements and Agreements
 - A. Prenuptial Settlements and Agreements
 - (1) in General; Public Policy
 - § 81. Prenuptial settlements and agreements, Generally
 - § 82. Public policy
 - § 83. —Contemplation of dissolution or divorce
 - § 84. Enforceability of certain provisions
 - § 85. —Support, maintenance, or alimony upon divorce
 - (2) Enactment of Statutes
 - § 86. Enactment of statutes Governing Premarital Agreements
 - § 87. Agreements under Uniform Premarital Agreement Act
 - § 88. Retroactive application of statute
 - (3) Status as Contracts
 - § 89. Status of Premarital Agreements as contract, generally
 - § 90. Formal requirements
 - § 91. Consideration
 - (4) Fairness Standards
 - (a) in General
 - § 92. Fairness standards for Premarital Agreements, Generally

- (b) Determination of Fairness and Unconscionability
 - § 93. Determination of fairness and unconscionability of premarital agreements, generally
 - § 94. Under the Uniform Premarital Agreement Act
 - § 95. Change in circumstances; infidelity; abandonment
 - (c) Confidentiality, Disclosure, Voluntariness
 - § 96. Confidential relationship
 - § 97. Duty of disclosure
 - § 98. —Extent of duty
 - § 99. Fraud; misrepresentation
 - § 100. Voluntariness
 - § 101. —Conditioning marriage upon execution of agreement
 - § 102. Independent legal advice
 - (5) Construction
 - § 103. General rules; liberal construction of premarital agreements
 - § 104. Intent of parties
 - § 105. Introductory recitals; other rules
 - (6) Discharge; Release; Alteration by Parties
 - § 106. Discharge, release or alteration of premarital agreements by parties, generally
- 41 *C.J.S. Husband and Wife*, Thomson West, 2014 (Also available on Westlaw).
 - III. Marital Agreements, Settlements, and Stipulations
 - E. Considerations Regarding Particular Types of Marital Agreements
 - 1. Prenuptial, Premarital, or Antenuptial Agreements or Settlements
 - A. In general
 - § 122. Generally
 - § 123. Proper subject matter of agreement
 - B. Validity
 - (1) In General
 - § 124. Generally
 - § 125. Existence and effect of confidential or fiduciary relationship between the parties
 - § 126. Necessity of independent legal counsel
 - § 127. Financial disclosure and independent knowledge
 - § 128. —Actual or constructive knowledge
 - § 129. —Inclusion of financial statement
 - (2) Consideration
 - § 130. Generally
 - § 131. Marriage
 - § 132. —For or against whom consideration operative
 - (3) Formal Requisites of Antenuptial Agreements
 - § 133. Form of antenuptial settlement, generally
 - § 134. Execution and acknowledgment
 - § 135. Delivery
 - § 136. Registration
 - C. Construction
 - § 137. Generally
 - § 138. Determination of rights
 - D. Termination
 - § 139. Generally
 - § 140. Consideration

- § 141. Effect of separation or divorce
- § 142. Timing of commencement of action
- E. Enforcement
 - § 143. Generally
 - § 144. Evidence
 - § 145. —Presumptions

- *ALR Index: Antenuptial Agreements.*
- *33 ALR 7th Art. 2, Construction and Application of Uniform Premarital Agreement Act of 1983*, by Deborah F. Buckman, J.D., Thomson West, 2017 (Also available on Westlaw).
- *3 ALR 5th 394, Failure to disclose extent or value of property owned as ground for avoiding premarital contract* by James O. Pearson, Jr., Thomson West, 1992 (Also available on Westlaw).
- *14 POF2d 755, Transfer of Assets in Fraud of Spouse's Antenuptial Contractual Rights* by Fred Luhman, Thomson West, 1977 (Also available on Westlaw).
- *7 POF2d 443, Waiver of Spousal Rights in Estate of Deceased Spouse* by Stephen R. Pitcher, Thomson West, 1975 (Also available on Westlaw).

**TEXTS &
TREATISES:**

Each of our law libraries own the Connecticut treatises cited. You can [contact us](#) or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2024.
 - Chapter 5. Premarital and Postmarital Agreements
 - § 5.01. Premarital or Prenuptial Agreements
- *A Practical Guide to Divorce in Connecticut*, 1st ed., by Barry Armata and Campbell Barrett, eds., 2013, with 2018 supplement, MCLE.
 - Chapter 18. Premarital Agreements
 - § 18.1. Introduction
 - § 18.2. Definition and Purpose
 - § 18.3. Validity and Enforcement of Premarital Agreements
 - § 18.4. Client Interview and Information
 - § 18.5. Drafting Considerations
 - § 18.6. Considerations in Representing a Responsive Party
 - § 18.7. Conclusion
- *A Practical Guide to Probate in Connecticut*, 2d ed., by Jennifer A. Basciano and Peter T. Mott, eds., MCLE, 2023.
 - Chapter 6. Postmortem Planning
 - § 6.3 Options Available to the Surviving Spouse
 - § 6.3.6 Marital Agreements
- *2 A Practical Guide to Estate Planning in Connecticut*, 2d ed., by B. Dane Dudley and Steven M. Fast, eds., MCLE, 2021.
 - Chapter 12. Marital Agreements
 - § 12.1. Introduction
 - § 12.2. Use of Marital Agreements

- § 12.2.1. Prenuptial Agreements
 - (a) Definition
 - (b) Purposes
 - (c) Impact on Estate Planning
- § 12.3 Enforceability
 - § 12.3.1 Premarital Agreements
- § 12.4. Marital Agreements and Estate Planners
- Checklist 12.2—Prenuptial Agreement Checklist
- *LexisNexis Practice Guide: Connecticut Estate Planning*, 2023 edition, by Victoria Spellman, Matthew Bender, 2023. Chapter 5. Wills – The foundation of the estate plan
 - § 5.24 Prenuptial Agreements; Buy-Sell Agreements, Etc.
- 8 Connecticut Practice Series, *Family Law and Practice with Forms*, by Arnold H. Rutkin et al., 2010, with 2022-2023 supplement, Thomson West (Also available on Westlaw). Part 8. Alimony
 - Chapter 32. Temporary Alimony
 - § 32:11 Effect of prenuptial or other agreements relating to alimony
- 8A Connecticut Practice Series, *Family Law and Practice with Forms*, by Arnold H. Rutkin et al., 2010, with 2022-2023 supplement, Thomson West (Also available on Westlaw). Part 12. Agreements and Contracts
 - Chapter 48. Premarital and Postnuptial Agreements
 - § 48:1. In general
 - § 48:2. Written or oral agreements
 - § 48:3. Effect of noncompliance with statute of frauds
 - § 48:4. Requisites for preparation and execution
 - § 48:5. Disclosure requirements
 - § 48:6. Legal representation in connection with agreement
 - § 48:7. Allowable purposes—Generally
 - § 48:8. Particular clauses—Generally
 - § 48:9. —Separate property
 - § 48:10. —Joint purchases and contracts
 - § 48:11. —Waiver of pension or retirement rights
 - § 48:11.50 —Waiver of alimony (supplement only)
 - § 48:12. Enforcement of agreements—Generally
 - § 48:13. General defenses to enforcement of agreements—Agreements governed by statute
 - § 48:14. General defenses to enforcement of agreements—Agreements governed by common law
 - § 48:15. Enforcement of agreements—Specific considerations
 - § 48:15.50 Enforcement of Agreements—Severability (supplement only)
 - § 48:16. Amendment or revocation of agreements
- *LexisNexis Practice Guide: Connecticut Family Law*, by Louise Truax, Ed., 2024 edition, Matthew Bender. Chapter 12. Agreements
 - Part II: Determining the Validity of Nuptial Agreements

§ 12.03. Checklist: Determining the Validity of Nuptial Agreements
§ 12.04. Defining Nuptial Agreements
§ 12.05. Understanding Pleading Requirements for Nuptial Agreements
§ 12.06. Assessing the Validity of Prenuptial Agreements Prior to the Statute—In General
§ 12.07. Demonstrating that the Prenuptial Agreement was Validly Entered into as a Contract
§ 12.08. Determining Public Policy Considerations
§ 12.09. Determining What Circumstances are Beyond the Contemplation of the Parties
§ 12.10. Seeking Temporary Support when there is a Prenuptial Agreement

Part III: Determining the Validity of a Premarital Agreement under the Premarital Agreement Act

§ 12.11. Checklist: Determining the Validity of a Premarital Agreement under the Premarital Agreement Act
§ 12.12. Understanding the Statutory Purpose of the Premarital Agreement Act
§ 12.13. Assessing the Voluntary Execution of the Agreement
§ 12.14. Assessing Unconscionability
§ 12.15. Determining Fair and Reasonable Disclosure
§ 12.16. Assessing the Reasonable Opportunity to Consult with Independent Counsel
§ 12.17. Determining the Standard Applicable to Amendments to a Prenuptial Agreement

- American Law Institute, *Principles of the Law of Family Dissolution*, 2002, with 2024 supplement (Also available on Westlaw).

Chapter 7. Agreements

Topic 1. Introductory Provisions

Topic 2. Requirements for an Enforceable Agreement

Topic 3. Rules Concerning Particular Terms

- 2 *Lindey and Parley on Separation Agreements and Antenuptial Contracts*, 2nd ed., by Alexander Lindey and Louis Parley eds., Matthew Bender, 1999, with 2024 supplement (Also available on Lexis).

Division III. Cohabitation, Antenuptial, and Postnuptial Agreements

Subdivision B. Antenuptial Agreements

Chapter 110. Antenuptial (Premarital) Agreements

Part C. The Law

§ 110.60. Definitions

§ 110.61. Recognition

§ 110.63. Marriage

§ 110.64. Formal requirements

§ 110.65. Fraud, Duress, Undue Influence

§ 110.66. Reasonableness; Unconscionability

§ 110.67. Disclosure; Knowledge

§ 110.69. Public Policy

- 12 *Current Legal Forms*, by Jacob Rabkin and Mark H. Johnson, 1948, Matthew Bender, with 2024 supplement.
Part II. The Practice Background
 - § 10.30. Premarital Agreements
 - [1] Premarital Agreement Defined
 - [2] Governing Law

- 5 *Family Law and Practice*, by Arnold H. Rutkin et al., Matthew Bender, 1985, with 2024 supplement (Also available on Lexis).
Chapter 59. Antenuptial Agreements
 - § 59.01. History and Public Policy
 - § 59.02. Purpose
 - § 59.03. Negotiation; Setting the Stage
 - § 59.04. Execution and Validity of Agreements
 - § 59.05. Topics Included in Agreements
 - § 59.06. Rules of Enforcement, Modification or Avoidance
 - § 59.07. Effect of Divorce or Separation Decree
 - § 59.08. Declaratory Judgment; Arbitration and Mediation

- 9C *Uniform Laws Annotated* 35, Thomson West, 2001, with 2024 supplement (Also available on Westlaw).
Uniform Premarital Agreement Act (1983)

- *Marital Property Law*, Rev. 2d., by John Tingley et al., 2024, Thomson West, (Also available on Westlaw).
Part III. Antenuptial and Postnuptial Agreements
 - Chapter 24. Waiver of Rights to Widow's Allowance
 - I. Antenuptial Agreements
 - Chapter 25. Antenuptial Agreement Affecting Property Rights on Separation or Divorce
 - Chapter 28. Declaratory Judgment as to Construction of Antenuptial Agreement

- *Attacking and Defending Marital Agreements*, 2d ed., by Brett R. Turner and Laura W. Morgan, 2012, American Bar Association.
 - Chapter 8. Antenuptial Agreements: An Overview
 - Chapter 9. Public Policy
 - § 9.02. The Religious Antenuptial Agreement
 - Chapter 10: Procedural Fairness: Voluntariness of Execution
 - Chapter 11: Procedural Fairness: Knowledge of Rights
 - Chapter 12: Substantive Fairness
 - Chapter 13: Breach or Waiver
 - Chapter 14: Construction
 - Chapter 15: Procedure
 - Appendix C: Discovery for Premarital Agreements

- *Divorce Tools and Techniques*, 1st ed., by Rory T. Weiler, 2012, James Publishing.
 - Chapter 4. Nothing Says Love Like a Prenuptial Agreement

- *Premarital Agreements: Drafting and Negotiation*, 2d ed., by Linda J. Radvin, 2017, American Bar Association.
Part I The Law of Premarital Agreements
1. Introduction

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

- Jennifer Riemer and Jessica C. Krouner, *What is a Prenuptial Agreement?*, 45 Family Advocate, issue 4, pp. 6-8 (Spring 2023).
- Linda J. Radvin, *Pondering a Prenup*, 42 Family Advocate no. 1, p. 31 (Summer 2019).
- Elizabeth R. Carter, *Are Premarital Agreements Really Unfair?: An Empirical Study*, 48 Hofstra Law Review 387 (2019).
- J. Thomas Oldham, [Would Enactment of the Uniform Premarital and Marital Agreements Act in All Fifty States Change U.S. Law Regarding Premarital Agreements?](#), 46 Family Law Quarterly 367 (2012).
- Jerome H. Poliacoff, [What Does Love Have to Do With It? A Premarital Agreement Should Not Kill the Romance, But Should Quell Your Clients' Fears About Marriage and Divorce](#), 33 Family Advocate 12, issue 3 (2011).
- Paul S. Leinoff and Natalie S. Lemos, *The Perils of a Prenup: First Do No Harm-to Your Client or Yourself*, 33 Family Advocate 8 (2011).
- Amberlynn Curry, [The Uniform Premarital Agreement Act and its Variations Throughout the States](#), 23 Journal of the American Academy of Matrimonial Lawyers 355 (2010).
- Jonathan E. Fields, [Forbidden Provisions in Prenuptial Agreements: Legal and Practical Considerations for the Matrimonial Lawyer](#), 21 Journal of the American Academy of Matrimonial Lawyers 413 (2008).
- P. André Katz and Amanda Clayman, [When Your Elderly Clients Marry: Prenuptial Agreements and Other Considerations](#), 16 Journal of the American Academy of Matrimonial Lawyers 445 (2000).
- Deborah J. Lindstrom, *The Connecticut Premarital Agreement Act – The Changes and Impact*, 15 Connecticut Family Law Journal 1 (January 1996).

Table 1: Connecticut Premarital Agreement Act: House Debate

| 38 H. R. Proc., Pt.9, 1995 Sess. | |
|---|-------------------------|
| Rep. Scalettar: "This bill establishes standards and guidelines for premarital agreements. It includes what agreements may have in them, what they can include, and also under what conditions the agreements will be unenforceable." | p. 3210 |
| Rep. Scalettar: "The bill specifically provides that a premarital agreement may not have any provisions which adversely affect a child of the marriage and has other details with respect to premarital agreements." | p. 3210 |
| Rep. Belden: ". . . with the enactment of this legislation, if somebody had signed some other agreement or it didn't comply with this statute, would it have the legal effect of a contract anyway?" [Response by Rep. Scalettar: p. 3212] | p. 3212 |
| Rep. Belden: ". . . how about a separate agreement made after the effective date that did not entirely comply with the legislation before us?" [Response by Rep. Scalettar: pp. 3212-3213] | p. 3212 |
| Rep. Belden: ". . . What I'm attempting to get into the record here is whether this is a mandate that the only way you can have a premarital agreement in the state of Connecticut is by following this statute or whether or not two consenting adults following a standard contract type format could, in fact, enter into any type of agreement they care to and still be valid." [Response by Rep. Scalettar: p. 3214] | p. 3213 |
| Rep. Radcliffe: ". . . If a particular clause did not fall within any of the categories in Number 3, would the parties be precluded from contracting freely and openly with regard to that subject matter?" [Response by Rep. Scalettar: p. 3217] | p. 3217 |
| Rep. Radcliffe: "In Section 5 it provides that an agreement can be modified without consideration, can be modified in writing after the marriage. So, in essence, it's like a will. It's an executory contract, I guess, that can be modified at any time by the parties without consideration.

. . . Is a premarital agreement during the course of the marriage similar to a will in that it can be mutually modified in this way?" [Response by Rep. Scalettar: pp. 3218-3219] | p. 3217 |
| Rep. Radcliffe: "Are there any standards contained in this bill which are not contained in the standards that we currently use for unconscionability? I mean would a court have to look to this bill or would the court look to existing law on unconscionability?" [Response by Rep. Scalettar: p. 3219-3220] | p. 3219 |
| Rep. Radcliffe: "The only issue that would be removed from the consideration of a jury in terms of this contract would be the issue of unconscionability. All of these other issues, including whether there was fair and reasonable disclosure, whether there was a voluntary waiver, whether certain things had been complied with in section 6 would all be questions of fact to be determined by the trier of facts and not exclusively by the court. Is that correct? [Response by Rep. Scalettar: p. 3221] | p. 3221 |

| | |
|---|--------------------------------|
| <p>Rep. Radcliffe: "An agreement that is in effect now, if an individual has an agreement that is in effect currently and modifies that agreement, which law would apply, the law at the time that the agreement was entered into or the law at the time that the agreement was modified?
[Response by Rep. Scalettar: pp. 3222-3223]</p> | <p>p. 3222</p> |
|---|--------------------------------|

Section 2: Postnuptial Agreement Law

A Guide to Resources in the Law Library

SCOPE

- Bibliographic resources relating to the validity of postnuptial agreements in Connecticut.

DEFINITIONS:

- **Adequate Consideration:** "...A release by one spouse of his or her interest in the estate of the other spouse, in exchange for a similar release by the other spouse, may constitute adequate consideration." [Bedrick v. Bedrick](#), 300 Conn. 691, 704 [fn5], 17 A.3d 17 (2011).
- **Consistent With Public Policy:** "[B]oth the realities of our society and policy reasons favor judicial recognition of prenuptial agreements. Rather than inducing divorce, such agreements simply acknowledge its ordinariness. With divorce as likely an outcome of marriage as permanence, we see no logical or compelling reason why public policy should not allow two mature adults to handle their own financial affairs.... The reasoning that once found them contrary to public policy has no place in today's matrimonial law' (Internal quotation marks omitted.) [Brooks v. Brooks](#), 733 P.2d 1044, 1050-51 (Alaska 1987). **Postnuptial agreements** are no different than prenuptial agreements in this regard." [Bedrick v. Bedrick](#), 300 Conn. 691, 699, 17 A.3d 17 (2011). (Emphasis added)
- **Fair And Equitable At The Time Of Execution:** "...if the agreement is made voluntarily, and without any undue influence, fraud, coercion, duress or similar defect. Moreover, each spouse must be given full, fair and reasonable disclosure of the amount, character and value of property, both jointly and separately held, and all of the financial obligations and income of the other spouse. This mandatory disclosure requirement is a result of the deeply personal marital relationship." [Bedrick v. Bedrick](#), 300 Conn. 691, 704, 17 A.3d 17 (2011).

"...a court should consider the totality of the circumstances surrounding execution. A court may consider various factors, including 'the nature and complexity of the agreement's terms, the extent of and disparity in assets brought to the marriage by each spouse, the parties' respective age, sophistication, education, employment, experience, prior marriages, or other traits potentially affecting the ability to read and understand an agreement's provisions, and the amount of time available to each spouse to reflect upon the agreement after first seeing its specific terms...[and] access to independent counsel prior to consenting to the contract terms.' Annot., 53 A.L.R.4th 92-93, §2 [a] (1987)." [Bedrick v. Bedrick](#), 300 Conn. 691, 705, 17 A.3d 17 (2011).

Postnuptial Agreement: "is an 'agreement entered into during marriage to define each spouse's property rights in the event of death or divorce. The term commonly refers to an agreement between spouses during the marriage at a

time when separation or divorce is not imminent.’ Black’s Law Dictionary (9th Ed.2009); see also [Bedrick v. Bedrick](#), supra, 300 Conn. at 702, 17 A.3d 17 (observing that postnuptial agreements are entered into between spouses who share relationship of mutual confidence and trust).” [Antonucci v. Antonucci](#), 164 Conn. App. 95, 113, 138 A.3d 297 (2016).

- **‘Special’ Scrutiny:** “In applying special scrutiny, a court may enforce a postnuptial agreement only if it complies with applicable contract principles, and the terms of the agreement are both fair and equitable at the time of execution and not unconscionable at the time of dissolution.” [Bedrick v. Bedrick](#), 300 Conn. 691, 703, 17 A.3d 17 (2011).”
- **Standards:** “Because of the nature of the marital relationship, the spouses to a postnuptial agreement may not be as cautious in contracting with one another as they would be with prospective spouses, and they are certainly less cautious than they would be with an ordinary contracting party. With lessened caution comes greater potential for one spouse to take advantage of the other. This leads us to conclude that postnuptial agreements require stricter scrutiny than prenuptial agreements. In applying special scrutiny, a court may enforce a postnuptial agreement only if it complies with applicable contract principles, and the terms of the agreement are both fair and equitable at the time of execution and not unconscionable at the time of dissolution.” [Bedrick v. Bedrick](#), 300 Conn. 691, 703, 17 A.3d 17 (2011).
- **Unconscionable at the Time of Dissolution:** “With regard to the determination of whether a postnuptial agreement is unconscionable at the time of dissolution, ‘[i]t is well established that [t]he question of unconscionability is a matter of law to be decided by the court based on all the facts and circumstances of the case.’ (Internal quotation marks omitted.) [Crews v. Crews](#), supra, 295 Conn. 163. “The determination of unconscionability is to be made on a case-by-case basis, taking into account all of the relevant facts and circumstances.” [Cheshire Mortgage Service, Inc. v. Montes](#), 223 Conn. 80, 89, 612 A.2d 1130 (1992).

Unfairness or inequality alone does not render a postnuptial agreement unconscionable; spouses may agree on an unequal distribution of assets at dissolution...Instead, the question of whether enforcement of an agreement would be unconscionable is analogous to determining whether enforcement of an agreement would work an injustice. [Crews v. Crews](#), supra, 295 Conn. 163. Marriage, by its nature, is subject to unforeseeable developments, and no agreement can possibly anticipate all future events. Unforeseen changes in the relationship, such as having a child, loss of employment or moving to another state, may render enforcement of the agreement unconscionable.” [Bedrick v. Bedrick](#), 300 Conn. 691, 705, 17 A.3d 17 (2011).

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

Connecticut Practice Book (2024)

- § [25-2A](#). Premarital and Postnuptial Agreements
“(a) If a party seeks enforcement of a premarital agreement or postnuptial agreement, he or she shall specifically demand the enforcement of that agreement, including its date, within the party’s claim for relief. The defendant shall file said claim for relief within sixty days of the return date unless otherwise permitted by the court.

(b) If a party seeks to avoid the premarital agreement or postnuptial agreement claimed by the other party, he or she shall, within sixty days of the claim seeking enforcement of the agreement, unless otherwise permitted by the court, file a reply specifically demanding avoidance of the agreement and stating the grounds thereof.”

FORMS:

- *2 A Practical Guide to Estate Planning in Connecticut*, 2d ed., by B. Dane Dudley and Steven M. Fast, eds., MCLE, 2021.
Chapter 12. Marital Agreements
Checklist 12.3. Postnuptial Agreement Checklist
- *2 Lindey and Parley on Separation Agreements and Antenuptial Contracts*, 2nd ed., by Alexander Lindey and Louis Parley, eds., Matthew Bender, 1999, with 2024 supplement (Also available on Lexis).
Chapter 120. Postnuptial Agreements
Part A. Introduction
§ 120.02 Drafting Considerations
Part B. Forms
- *1 Family Law and Practice*, by Arnold H. Rutkin et al., Matthew Bender, 1985, with 2024 supplement (Also available on Lexis).
Chapter 9. Postnuptial Agreements
§ 9.16.[2] Checklist: Provisions to be Included in a Property Settlement Agreement in an Ongoing Marriage
§ 9.17.[1] Form: Property Settlement Agreement Without Intention to Separate
- *12 Current Legal Forms with Tax Analysis*, by Rabkin & Johnson, Matthew Bender, 1948, with 2024 supplement.
Part II. The Practice Background
§ 10.31 Postnuptial Agreements
Part III. Drafting Guidelines
§ 10.42 Analysis of Postnuptial Agreement
§ 10.45 Checklist of Provisions for Premarital or Postnuptial Agreement
- *9B Am Jur Legal Forms 2d*, 2020, Thomson West, with 2024 supplement (Also available on Westlaw).
Chapter 139. Husband and Wife
- *5, Part 2 Nichols Cyclopedia of Legal Forms Annotated*, Thomson West, 2017, with 2024 supplement (Also available on Westlaw).

Chapter 100. Husband and Wife; Domestic Partners; Civil Unions.

IV. Forms

C. Postnuptial Settlements

- 156 *Am. Jur. Trials* 87, *Litigation of Postnuptial/Postmarital Agreements and Contracts*, by Elizabeth O'Connor Tomlinson, Thomson West, 2018, with 2024 supplement (Also available on Westlaw).

IV. Checklists for Case Intake and Trial

V. Pleadings and Discovery

VI. Trial

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- *Nania v. Jeremic*, Superior Court, Judicial District of Litchfield at Torrington, No. LLI-FA23-6032405-S (Oct. 2, 2023) (2023 WL 7402694) (2023 Conn. Super. LEXIS 2768). "To avoid the filing of what the plaintiff deemed as any frivolous civil lawsuit, attempting to encourage a relationship between the plaintiff's extended family and the defendant, and in an effort to save a failing marriage, the plaintiff 'signed on October 6, 2022, in the town of New Canaan, Connecticut, a 'Settlement and Financial Independence. Agreement' (SFIA). Although the document was typed by the plaintiff, the financial terms incorporated therein were those requested by the defendant. Following the signing of the SFIA, the defendant in fact withdrew her civil action on October 6, 2022.

By signing the SFIA, the defendant argues the plaintiff acquiesced to the defendant's request to provide the defendant and/or the defendant's son between \$100,000 and \$200,000. However, this court cannot find that the SFIA was a valid document when given the scrutiny required by *O.A v. J.A.* and *Bedrick v Bedrick*, 300 Conn 691, 17 A.3d 17 (2011). The plaintiff did not sign the SFIA document voluntarily, as it only occurred closely after the defendant's threat of filing the civil lawsuit within the next twenty four hours. Therefore, this court cannot find that there was no undue influence, coercion or duress put on the plaintiff by the defendant. Additionally, there was no full, fair and reasonable disclosure regarding the amount, value, and character of property, or any other financial obligations, filed by either party with the SFIA. Following the presentation of the defendant's execution documentation she presented as her 'offer to settle' (Exhibit B), not only was no independent attorney involved on the signing of the SFIA, said document did not have the two required witness signatures as demanded by the defendant. In fact, pursuant to the coercive statements noted in Exhibit B, the defendant responsively followed through with her threat and filed her civil lawsuit within the next 24 hours unbeknownst to the plaintiff.

WHEREFORE, as this court cannot find the SFIA fair and equitable at the time of its execution, and as it was signed

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under duress and coercion, this court finds the SFIA document invalid.”

- [Solon v. Slater](#), 345 Conn. 794, 798, 287 A.3d 574 (2023). “This appeal requires us to decide the scope of the preclusive effect, in a subsequent tort action in the Superior Court, of an unappealed Probate Court decree admitting a will to probate. The plaintiff, Linda Yoffe Solon, filed the present lawsuit against the defendants, Joseph M. Slater and Joshua Solon, alleging that they tortiously interfered with her contractual relations and right of inheritance by exercising undue influence over her husband, Michael Solon (decedent), with respect to two different legal instruments, a proposed amendment to an antenuptial agreement and a testamentary will. The trial court rendered summary judgment in favor of the defendants, concluding in pertinent part that both of the plaintiff’s tortious interference claims were barred by the doctrine of collateral estoppel because the Probate Court previously had admitted the decedent’s will to probate after rejecting the plaintiff’s claim that the decedent executed the will as a result of the defendants’ undue influence. The Appellate Court affirmed the judgment of the trial court. See [Solon v. Slater](#), 204 Conn. App. 647, 253 A.3d 503 (2021).

The issue before us is whether both of the plaintiff’s tortious interference claims in her civil tort action are barred by either the doctrine of collateral estoppel, as the courts below concluded, or the doctrine of res judicata, which the defendants have raised as an alternative ground for affirmance. We conclude that neither preclusion doctrine bars the plaintiff from litigating her tortious interference with contractual relations claim, which relates to the proposed amended antenuptial agreement, because the Probate Court did not actually or necessarily determine whether the defendants tortiously interfered with that contract and the plaintiff lacked an opportunity to litigate her claim in the Probate Court....Accordingly, we reverse the judgment of the Appellate Court in part and remand the case for further proceedings on the plaintiff’s tortious interference with contractual relations claim.”

- [O. A. v. J. A.](#) 342 Conn. 45, 46, 268 A.3d 642 (2022). “In this interlocutory appeal, we must decide whether a spouse seeking pendente lite alimony, attorney’s fees, and expert fees during the pendency of a dissolution action must demonstrate that a postnuptial agreement that purportedly precludes such payments is invalid or otherwise unenforceable before the trial court properly may order the other spouse to make any such payments.”

“On appeal, the defendant claims that the trial court incorrectly determined that it need not consider the enforceability of the parties’ postnuptial agreement prior to awarding the plaintiff pendente lite alimony and litigation

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expenses. Specifically, the defendant argues that this court 'should... hold that a nuptial agreement is presumed to be valid and enforceable until the party challenging it successfully demonstrates otherwise' and that no pendente lite alimony or litigation expenses may be awarded until such a demonstration is made. The plaintiff responds that the trial court's decision to award pendente lite alimony and litigation expenses pending final disposition of the dissolution action comports with this court's decision in [Fitzgerald](#) and this state's public policy. We agree with the plaintiff." (p. 53)

- [Appel v. Kalnit](#), Superior Court, Judicial District of Fairfield at Bridgeport, No. FBT-CV-19-6085002-S (Jan. 24, 2020) (2020 WL 855360) (2020 Conn. Super. LEXIS 153). "The defendant is Eisendrath's daughter from a previous marriage. The plaintiff and Eisendrath entered into a postnuptial agreement on May 8, 2006." (p. 1)

"In June 2013, Eisendrath granted the defendant a power of attorney and healthcare proxy in the event that he was unable to make decisions. The power of attorney granted to the defendant included language that instructed the defendant not to diminish the plaintiff's rights under the postnuptial agreement." (p. 2)

"The defendant also sought to defeat the plaintiff's rights under the postnuptial agreement by wasting Eisendrath's assets that otherwise would have been distributed to the plaintiff upon Eisendrath's death pursuant to that agreement." (p. 2)

"This court finds that, in alleging that she was deprived of financial assets as provided in the postnuptial contract as a result of the defendant's actions, the plaintiff has alleged facts sufficient to support actual loss." (p. 7)
- [Antonucci v. Antonucci](#), 164 Conn. App. 95, 113, 138 A.3d 297 (2016). "We also conclude that in refusing on public policy grounds to enforce the agreement in its entirety, the court improperly evaluated the agreement by applying the special scrutiny standard applicable to postnuptial agreements because the agreement at issue is not a postnuptial agreement."
- [Centmehaiey v. Centmehaiey](#), Superior Court, Judicial District of New Haven, No. NNH-CV13-6039691-S (Sept. 3, 2014) (58 Conn. L. Rptr. 938, 940), (2014 WL 5097788), (2014 Conn. Super. LEXIS 2167). "The plaintiff Susan Centmehaiey (plaintiff or Susan) and her husband, Andrew L. Centmehaiey (Andrew) entered into a postnuptial agreement (Marital Agreement). Susan signed the Marital Agreement on March 9, 1990 and Andrew signed on March 23, 1990. Andrew died on June 4, 2007 and his daughter Wendy Centmehaiey (Wendy or Executrix) was appointed as Executrix of Andrew's estate by the Wallingford Probate

Court. Susan notified the Executrix of her intention to take her statutory share of the estate pursuant to Connecticut General Statutes Section 45a-436. The Executrix objected to Susan's notice alleging that she had waived her right to take a [spouse's] statutory share by the terms of the Marital Agreement."

...

"The agreement does not comply with the most basic contractual principle, adequate consideration." (p. 940)

...

"In addition to being unenforceable as against Susan because of inadequate consideration, the agreement is unenforceable because it was not fair and equitable at the time it was entered into." (p. 940)

...

"And lastly, the Supreme Court in *Bedrick* stated that in determining whether a postnuptial agreement is fair and equitable at the time of execution a court should consider the totality of the circumstances surrounding the execution of the document and suggested various factors to consider. The court finds that...all tended to affect the fairness and equitability of the agreement in Andrew's favor, and to Susan's detriment at the time of execution. The court finds that the agreement was not fair and equitable for Susan at the time of execution." (p. 940)

- *Bedrick v. Bedrick*, 300 Conn. 691, 693, 17 A.3d 17 (2011). "This appeal involves a dissolution of marriage action in which the defendant, Bruce L. Bedrick, seeks to enforce a postnuptial agreement. Today we are presented for the first time with the issue of whether a postnuptial agreement is valid and enforceable in Connecticut.

The defendant appeals from the trial court's judgment in favor of the plaintiff, Deborah Bedrick. The defendant claims that the trial court improperly relied upon principles of fairness and equity in concluding that the postnuptial agreement was unenforceable and, instead, should have applied only ordinary principles of contract law. We conclude that postnuptial agreements are valid and enforceable and generally must comply with contract principles. We also conclude, however, that the terms of such agreements must be both fair and equitable at the time of execution and not unconscionable at the time of dissolution. Because the terms of the present agreement were unconscionable at the time of dissolution, we affirm the judgment of the trial court."

**WEST KEY
NUMBERS:**

- Marriage and Cohabitation
 - II. Agreements Concerning Marriage
 - (C) Premarital Agreements
 - 167 Validity and enforceability
 - 168 —In general
 - 169 —Public policy

170 —Unconscionability
IV. Marital Rights, Duties, and Liabilities in General
(H) Transactions Between Spouses

DIGESTS:

- *West's Connecticut Digest: Marriage and Cohabitation*
IV. Marital Rights, Duties, and Liabilities in General
(H) Transactions Between Spouses
 - § 641. In general
 - § 642. Contracts and agreements in general
 - § 643. In general
 - § 644. Right or capacity to make or contract or agreement with spouse
 - § 645. Requisites and validity
 - § 646. Construction, operation, performance, and breach
- *ALR Digest: Husband and Wife*
II. Marriage Settlements
 - § 30. Postnuptial settlements
- *ALR Digest: Marriage and Cohabitation*
II. Agreements Concerning Marriage
(c) Antenuptial settlements

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

Online databases are available for in-library use of these databases. Remote access is not available.

- 41 *Am Jur 2d Husband and Wife*, Thomson West, 2015 (Also available on Westlaw).
IV. Governing Law
C. Contracts
 - § 50. Postnuptial Agreements
 - VI. Transactions Between Spouses
B. Particular Transactions
3. Property Settlements and Agreements
B. Postnuptial Settlements and Agreements
 - (1) in General
 - § 107. Postnuptial settlements and agreements, generally; validity
 - § 108. Purposes; uses
 - § 109. Applicability of standards applying to premarital agreements
 - § 110. Status as contract
 - § 111. Formal requisites
 - § 112. Consideration
 - (2) Fairness, Voluntariness, and Unconscionability; Disclosure
 - § 113. Fairness voluntariness, and unconscionability of postnuptial agreements, generally
 - § 114. Duty of disclosure
 - § 115. Representation by counsel
-
- 41 *C.J.S. Husband and Wife*, Thomson West, 2014 (Also available on Westlaw).
III. Marital Agreements, Settlements, and Stipulations
E. Considerations Regarding Particular Types of Marital Agreements
2. Postnuptial or Postmarital Settlements or Agreements
A. Overview of Postnuptial or Postmarital Settlements
 - (1) Introduction

- § 146. General Considerations Affecting Postnuptial or P
Postmarital Agreements
- § 147. Postnuptial Settlements Affecting Antenuptial
Contracts
- (2) Validity
 - (a) in General
 - § 148. Generally
 - § 149. Existence and Effect of Confidential or Fiduciary
Relationship Between the Parties
 - § 150. Necessity of Independent Legal Counsel
 - § 151. Financial Disclosure and Independent Knowledge
 - (b) Formal Requisites
 - § 152. Generally
 - § 153. Registration or Recording
 - (c) Consideration
 - § 154. Generally
 - § 155. Mutual Promises of Husband and Wife
 - § 156. Rights of Third Parties

- *ALR Index*: Postnuptial agreements.
- *79 Causes of Action 2d 107, Cause of Action to Enforce
Rights Under Postnuptial Agreement*, by James L.
Buchwalter, with 2021 supplement, Thomson West (Also
available on Westlaw). 2017
- *156 Am. Jur. Trials 87, Litigation of Postnuptial/Postmarital
Agreements and Contracts*, by Elizabeth O'Connor
Tomlinson, Thomson West, 2018 (Also available on
Westlaw).
 - I. In General
 - § 1. Introduction; scope of article
 - § 2. Model trial fact situation
 - II. Legal Background
 - A. Generally
 - § 3. Purpose of postnuptial agreements
 - § 4. Uniform Premarital and Marital
Agreements Act
 - § 5. Postnuptial agreements and contract
principles
 - § 6. Postnuptial agreements and equitable
principles
 - § 7. Postnuptial agreements and separation
agreements
 - B. Requirements of Postnuptial Agreements
 - § 8. Requirements of postnuptial agreements
– Generally
 - § 9. Formal requirements of postnuptial
agreements
 - § 10. Consideration for postnuptial
agreements
 - § 11. Representation by counsel prior to
execution
 - § 12. Financial disclosure prior to execution
 - § 13. Voluntariness of execution of postnuptial
agreements

C. Defenses

§ 14. Defenses – Generally

§ 15. Substantive defenses to enforcement

D. Analysis of Postnuptial Agreements

§ 16. Factors to be considered

§ 17. Unconscionability of postnuptial agreements

III. Evidentiary and Procedural Considerations

Regarding Postnuptial Agreements

§ 18. Presumptions and burden of proof regarding postnuptial agreements

§ 19. Evidence regarding postnuptial agreements

§ 20. Procedural issues in challenges to postnuptial agreements

- 77 ALR6th 293, *Validity of Postnuptial Agreements in Contemplation of Divorce* by Ann K. Wooster, Annotation, Thomson West, 2012 (Also available on Westlaw).
- 87 ALR6th 495, *Validity of Postnuptial Agreements in Contemplation of Spouse's Death* by Ann K. Wooster, Annotation, Thomson West, 2013 (Also available on Westlaw).

TEXTS & TREATISES:

You can [contact us](#) or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2024.
Chapter 5. Premarital and Postmarital Agreements
§ 5.02 Postmarital or Postnuptial Agreements
- *8A Connecticut Practice Series, Family Law and Practice with Forms*, by Arnold H. Rutkin et al., 2010, with 2022-2023 supplement, Thomson West (Also available on Westlaw).
Part 12. Agreements and Contracts
Chapter 48. Premarital and Postnuptial Agreements
§ 48:1. In general
§ 48:2. Written or oral agreements
§ 48:3. Effect of noncompliance with statute of frauds
§ 48:4. Requisites for preparation and execution
§ 48:5. Disclosure requirements
§ 48:6. Legal representation in connection with agreement
§ 48:7. Allowable purposes—Generally
§ 48:8. Particular clauses—Generally
§ 48:9. —Separate property
§ 48:10. —Joint purchases and contracts
§ 48:11. —Waiver of pension or retirement rights
§ 48:11.50 —Waiver of alimony (supplement only)
§ 48:12. Enforcement of agreements—Generally
§ 48:13. General defenses to enforcement of agreements—Agreements governed by statute
§ 48:14. General defenses to enforcement of agreements—Agreements governed by common law
§ 48:15. Enforcement of agreements—Specific considerations

- § 48:15.50 Enforcement of agreements—Severability (supplement only)
 - § 48:16. Amendment or revocation of agreements
 - § 48:17. Postnuptial agreements (supplement only)
- *2 A Practical Guide to Estate Planning in Connecticut*, 2d ed., by B. Dane Dudley and Steven M. Fast, eds., MCLE, 2021. (Also available on Lexis)
 - Chapter 12. Marital Agreements
 - § 12.2. Use of Marital Agreements
 - § 12.2.2. Postnuptial Agreements
 - (a) Definition
 - (b) Purposes
 - § 12.3. Enforceability
 - § 12.3.2. Postnuptial Agreements
- *LexisNexis Practice Guide: Connecticut Family Law*, by Louise Truax, Ed., 2024 edition, Matthew Bender.
 - Chapter 12. Agreements
 - Part IV: Assessing the Validity of Postnuptial Agreements
 - § 12.18. Checklist: Assessing the Validity of Postnuptial Agreements
 - § 12.19. Determining the Legal Standard for Enforceability
- *2 Lindey and Parley on Separation Agreements and Antenuptial Contracts*, 2d ed., by Alexander Lindey and Louis Parley eds., Matthew Bender, 1999, with 2024 supplement (Also available on Lexis).
 - Division III. Cohabitation, Antenuptial, and Postnuptial Agreements
 - Subdivision B. Postnuptial Agreements
 - Chapter 120. Postnuptial Agreements
 - Part A. Introduction
 - § 120.02. Drafting Considerations
 - Part C. The Law
 - § 120.50. Definitions
 - § 120.51. Recognition of Postnuptial Agreements
 - § 120.52. Confidential Relationship Standard
 - § 120.53. Formal Requirements for Agreement
 - § 120.54. Fraud and Undue Influence
 - § 120.55. Fairness and Burden of Proof
 - § 120.56. Disclosure and Knowledge
 - § 120.57. Public Policy
 - § 120.58. Choice of Law
 - *12 Current Legal Forms*, by Jacob Rabkin and Mark H. Johnson, 1948, Matthew Bender, with 2024 supplement.
 - Part II. The Practice Background
 - § 10.31. Postnuptial Agreements
 - [1] Postnuptial Agreement Defined
 - [2] Governing Law
 - [3] Formal Requirements for Postnuptial Agreement
 - [4] Disclosure
 - [5] Contents of Postnuptial Agreement
 - [6] Involuntariness and Unconscionability
 - [7] Role of Counsel

[8] Tolling of Limitations Period During Marriage

- 1 *Family Law and Practice*, by Arnold H. Rutkin et al., Matthew Bender, 1985, with 2024 supplement (Also available on Lexis).
 - Chapter 9. Postnuptial Agreements
 - § 9.02[2]. Property Settlement Agreements
 - § 9.03. Basic Nature of State Provisions
 - § 9.04. Role of the Attorney
 - § 9.05. Real Property
 - § 9.06. Personal Property
 - § 9.07. Spousal Rights in Other Property
 - § 9.08. Agreement to Make Monetary Payments
 - § 9.09. Agreement as to Life and Medical Insurance
 - § 9.11. Agreement as to Testamentary Provisions
 - § 9.13. Enforcement
 - § 9.15. Questions that Illustrate the Danger Points Affecting the Validity of the Agreement
- *Marital Property Law*, Rev. 2d., by John Tingley et al., 2024, Thomson West (Also available on Westlaw).
 - Part III. Antenuptial and Postnuptial Agreements
 - Chapter 24. Waiver of Rights to Widow's Allowance
 - II. Postnuptial Agreements
 - Chapter 26. Postnuptial and Separation Agreements
 - Chapter 27. Postnuptial Agreement Releasing Rights of Surviving Spouse
- *Attacking and Defending Marital Agreements*, 2d ed., by Brett R. Turner and Laura W. Morgan, 2012, American Bar Association.
 - Chapter 16. Postnuptial Agreements
 - § 16.01. Standard for Enforceability
 - § 16.02. Postnuptial Agreement for Gift
- *Premarital Agreements: Drafting and Negotiation*, 2nd ed., by Linda J. Ravdin, 2017, ABA.
 - Part I. The Law of Premarital Agreements
 - Chapter 3. General Validity and Criteria for an Enforceable Postmarital (or Marital) Agreement
 - Chapter 4. Creating a Valid Premarital or Postmarital Agreement
 - Chapter 8. Post-Marriage Issues
 - Appendix B (2). State Law Summary—Postmarital Agreements
- Jeffrey A. Cooper and John R. Ivimey, *2014 Developments in Connecticut Estate and Probate Law*, 89 Connecticut Bar Journal 92 (2015).
 - 3. Enforceability of Postnuptial Agreements
- Bernardo G. Cuadra, *All Good Things Might Come to an End: Postnuptial Agreements in Connecticut*, 34 Western New England Law Review 57 (2012).

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

Section 3: Prior Premarital Agreement Law

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to the validity of premarital agreements in Connecticut executed prior to October 1, 1995—the effective date of the Connecticut Premarital Agreement Act.

DEFINITIONS:

- “The court’s first inquiry, then, is to ascertain whether the agreement complies with the ordinary principles of contract law and whether its terms and the circumstances surrounding its execution are such as to demonstrate that the parties were aware of their legal rights and their respective assets and liabilities, and proceeded by the agreement to alter those rights in a fair and voluntary manner.” [McHugh v. McHugh](#), 181 Conn. 482, 488, 436 A.2d 8 (1980).
- “It is clear that antenuptial agreements will not be enforced where to do so would violate the state statutes or public policy.” [McHugh v. McHugh](#), 181 Conn. 482, 488, 436 A.2d 8 (1980).
- **Validity:** “The validity of prenuptial contracts in Connecticut is governed, since October 1, 1995, by the Connecticut Premarital Agreement Act (act). General Statutes § 46b-36a et seq. **Prior to the act**, our Supreme Court had set forth the standards for determining the validity of a prenuptial agreement in [McHugh v. McHugh](#), 181 Conn. 482, 436 A.2d 8 (1980), as follows: ‘The validity of an antenuptial contract depends upon the circumstances of the particular case. . . . Antenuptial agreements relating to the property of the parties, and more specifically, to the rights of the parties to that property upon the dissolution of the marriage, are generally enforceable where three conditions are satisfied: (1) the contract was validly entered into; (2) its terms do not violate statute or public policy; and (3) the circumstances of the parties at the time the marriage is dissolved are not so beyond the contemplation of the parties at the time the contract was entered into as to cause its enforcement to work injustice.’ (Citation omitted.) Id., 485-86. The act endorses, clarifies and codifies the [McHugh](#) standards.” [Dornemann v. Dornemann](#), 48 Conn. Sup. 502, 510-511, 850 A.2d 273 (2004). (Emphasis added.)

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2023).
 - § [45a-436](#). Succession upon death of spouse. Statutory share
 - § [52-550](#). Statute of frauds; written agreement or memorandum

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Crews v. Crews](#), 295 Conn. 153, 157, 989 A.2d 1060 (2010). "The trial court determined that the antenuptial agreement was not governed by the provisions of the Connecticut Premarital Agreement Act (act), General Statutes § 46b-36a et seq., presumably because the act applies only to antenuptial agreements entered into on or after October 1, 1995; General Statutes § 46b-36a; and the parties had entered into their agreement on June 24, 1988. The trial court concluded, instead, that the antenuptial agreement was governed by the equitable rules established in [McHugh v. McHugh](#), 181 Conn. 482, 436 A.2d 8 (1980)."

"We conclude that the Appellate Court properly ordered the trial court to enforce the provisions for which the plaintiff contracted. The circumstances of the parties at the time of dissolution accurately reflected their initial intention as expressed in the agreement, namely, two working adults with separate financial arrangements and assets, each protected from claims by the other. As the antenuptial agreement provides, both the plaintiff and the defendant "[desire] to keep all of [his or her] property, now owned or hereafter acquired, free from any claim that [the other] might otherwise acquire by reason of the marriage, [or] any dissolution thereof...." In the absence of a clear indication that the antenuptial agreement is unenforceable because it was not validly entered into, that it violated public policy, or that it would be unjust to enforce the agreement due to a significant and unanticipated change in the parties' circumstances; [McHugh v. McHugh](#), supra, 181 Conn. at 485-86, 436 A.2d 8; we are unable to rewrite the terms of the contract to which the parties themselves agreed. [Gibson v. Capano](#), 241 Conn. 725, 732, 699 A.2d 68 (1997) ("[i]t is axiomatic that courts do not rewrite contracts for the parties' [internal quotation marks omitted]).

The judgment of the Appellate Court is affirmed." (p. 172)

- [Pite v. Pite](#), Superior Court, Judicial District of New Haven at New Haven, No. FA-99-0429262-S (Feb. 20, 2001) (2001 WL 238144) (2001 Conn. Super. LEXIS 522). "The existing statute in Connecticut which controls the enforceability of premarital agreements, the Connecticut Premarital Agreement Act, General Statutes § 46b-36a et seq., does not apply to any premarital agreement made prior to October 1, 1995. General Statutes § 46b-36j. Accordingly, the determination of the validity of the parties' prenuptial agreement in this case is governed by the common law."
- [In re Herbert I. Geisinger, Incapable](#), Keyes, J., Probate Court, District of New Haven (Aug. 13, 1990) 6 Connecticut Probate Law Journal 184 (1992). "The threshold issue in this matter is whether the general

terminology existing in the current antenuptial agreement...governs or bars this court from entering into an order of support, i.e. that the spouse waives 'all rights and interest, statutory or otherwise, which she might acquire. The leading case on the topic is [McHugh v. McHugh](#), 181 Conn. 482. This case sets out three reasons why an antenuptial agreement such as this would not be enforceable, i.e. (i) that the waiver of rights was not informed and voluntary; (ii) that it violated public policy; and (iii) where the agreement would work an injustice."

- [McHugh v. McHugh](#), 181 Conn. 482, 436 A.2d 8 (1980). [Three Prong Test](#) of validity of antenuptial agreements.
- [Parniawski v. Parniawski](#), 33 Conn. Supp. 44, 46, 359 A.2d 719 (1976). "This state has placed its stamp of approval on a contract entered into in contemplation of marriage in which each prospective spouse released any claim to the property owned by the other at the time of the marriage or thereafter, agreeing that on the death of either, the survivor should have no claim to his or her property."

WEST KEY NUMBERS:

- Marriage and Cohabitation
 - II. Agreements concerning marriage
 - (C) Premarital Agreements #s 161-200

DIGESTS:

- *West's Connecticut Digest: Marriage and Cohabitation*
 - II. Agreements Concerning Marriage
 - (C) Premarital Agreements
 - § 162. Requisites and formation
 - § 167. Validity and enforceability
 - § 178. Terms of agreement; rights and obligations
 - § 183. Modification
 - § 184. Revocation or extinguishment
 - § 185. Actions and proceedings
- *Digest of Decisions Connecticut*, by Donald H. Dowling, State of Connecticut, 1982, with 1990 supplement.
 - Husband and Wife
 - § 12. Antenuptial Agreements

ENCYCLOPEDIAS:

- 41 *Am Jur 2d Husband and Wife*, 2015 (Also available on Westlaw).
 - VI. Transactions Between Spouses
 - B. Particular Transactions
 - 3. Property Settlements and Agreements
 - (2) Enactment of Statutes
 - §88. Retroactive application of statute

TEXTS & TREATISES:

Each of our law libraries own the Connecticut treatises cited. You can [contact us](#) or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- 8A *Connecticut Practice Series, Family Law and Practice with Forms*, by Arnold H. Rutkin et al., 2010, with 2022-2023 supplement, Thomson West (Also available on Westlaw).

Part 12. Agreements and Contracts

Chapter 48. Premarital and Postnuptial Agreements

- § 48:1. In general
- § 48:2. Written or oral agreements
- § 48:3. Effect of noncompliance with statute of frauds
- § 48:4. Requisites for preparation and execution
- § 48:5. Disclosure Requirements
- § 48:6. Legal representation in connection with agreement
- § 48:12. Enforcement of agreements—Generally

- 5 *Family Law and Practice*, by Arnold H. Rutkin et al., Matthew Bender, 1985, with 2024 supplement (Also available on Lexis).

Chapter 59. Antenuptial Agreements

- § 59.01. History and public policy
- § 59.02. Purpose
- § 59.03. Negotiation; Setting the Stage
- § 59.04. Execution and Validity of Agreements
- § 59.05. Topics Included in Agreements
- § 59.06. Rules of Enforcement, Modification or Avoidance
- § 59.07. Effect of Divorce or Separation Decree
- § 59.08. Declaratory Judgment; Arbitration and Mediation

- 2 *Lindey and Parley on Separation Agreements and Antenuptial Contracts*, 2nd ed., by Alexander Lindey and Louis Parley eds., Matthew Bender, 1999, with 2024 supplement (Also available on Lexis).

Division III. Cohabitation, Antenuptial and Postnuptial Agreements

Subdivision B. Antenuptial Agreements

Chapter 110. Antenuptial (Premarital) Agreements

- § 110.90. Common Law and Statutory Recognition of Premarital Agreements

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

- Deborah J. Lindstrom, *The Connecticut Premarital Agreement Act – The Changes and Impact*, 15 Connecticut Family Law Journal 1 (January 1996).
- Michael A. Meyers, *The Requirements and Uses of Prenuptial and Postnuptial Agreements*, 4 Connecticut Family Law Journal 3 (November 1985).
- Lawrence P. Weisman, *The Value of Recognizing Antenuptial and Postnuptial Agreements in Pendente Lite Hearings*, 2 Connecticut Family Law Journal 34 (March 1984).
- Louis Parley, *Antenuptial Agreements In Connecticut: An Analysis Of McHugh v. McHugh*, 57 Connecticut Bar Journal 487 (December 1983).

- Arthur E. Balbirer and C. Ian McLachlan, *Survey of 1980 Developments in Connecticut Family Law*, 55 Connecticut Bar Journal 29 (February 1981).

Table 2: Three Prong Test

| |
|--|
| <u>McHugh v. McHugh</u>, 181 Conn. 482, 485, 436 A.2d 8 (1980). |
| <p>“Antenuptial agreements relating to the property of the parties, and more specifically, to the rights of the parties to that property upon the dissolution of the marriage, are generally enforceable where three conditions are satisfied:</p> <ol style="list-style-type: none">(1) the contract was validly entered into;(2) its terms do not violate statute or public policy; and(3) the circumstances of the parties at the time the marriage is dissolved are not so beyond the contemplation of the parties at the time the contract was entered into as to cause its enforcement to work injustice.” |
| <p>Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can contact your local law librarian to learn about the tools available to you to update cases.</p> |

Section 4: Premarital Agreement Form and Content

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to the form and content of prenuptial agreements in Connecticut executed after October 1, 1995—the effective date of the Connecticut Premarital Agreement Act.

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2023).
 - § [46b-36c](#). Form of premarital agreement
 - § [46b-36d](#). Content of premarital agreement
 - § [52-550\(a\)](#). Statute of frauds; written agreement or memorandum

FORMS:

- *8A Connecticut Practice Series, Family Law and Practice with Forms*, by Arnold H. Rutkin et al., 2010, with 2022-2023 supplement, Thomson West (Also available on Westlaw).
Part 12. Agreements and Contracts
Chapter 50. Sample Forms, Clauses and Provisions
§50:57 Sample prenuptial agreement
- *Drafting Wills in Connecticut*, 3d, by Laura Weintraub Beck, et al, 2022-2023 ed., Thomson Reuters (Also available on Westlaw).
§ 1:4. Prenuptial agreement
- *Library of Connecticut Family Law Forms*, 2nd ed., by Amy Calvo MacNamara, et al., eds., 2014, ALM.
Form #18-001 Letter to Client Re: Draft Premarital Agreement
Form #18-002 Premarital Agreement
- *2 A Practical Guide to Estate Planning in Connecticut*, 2d ed., by B. Dane Dudley and Steven M. Fast, eds., MCLE, 2021.
Chapter 12. Marital Agreements
Checklist 12.2. Prenuptial Agreement Checklist
- *9B Am Jur Legal Forms 2d*, 2020, with 2024 supplement, Thomson West (Also available on Westlaw).
Chapter 139. Husband and Wife
§ 139:3. Form drafting guide
§ 139:4. —Checklist—Matters to be considered in drafting antenuptial agreement
§ 139:5. Formal requirements—Execution
§ 139:6. —Acknowledgment
§§ 139:7 to 139:26. Basic agreements
§§ 139:27 to 139:95. Optional provisions
§§ 139:96 to 139:120. Transactions between husband and wife

§§ 139:121 to 139:127. Transaction with third parties by husband or wife

- *2 Lindey and Parley on Separation Agreements and Antenuptial Contracts*, 2nd ed., by Alexander Lindey and Louis Parley eds., Matthew Bender, 1999, with 2024 supplement (Also available on Lexis).
Division III. Cohabitation, Antenuptial, and Postnuptial Agreements
 - Subdivision B. Antenuptial Agreements
 - Chapter 110. Antenuptial (Premarital) Agreements
 - § 110.02. Drafting Considerations
 - §§ 110.10-110.43. Forms
 - § 110.26. Joint Assets
 - § 110.27. Voluntary Gifts to Spouse
 - § 110.28. Support During Marriage
 - § 110.40. "Sunset" Provision
 - § 110.41. Separate Property Listed
 - § 110.42. Effect of Divorce or Separation
 - § 110.60. Definitions
 - § 110.61. Recognition
 - § 110.64. Formal Requirements
- *Legal Checklists Specially Selected Forms*, by Benjamin Max Becker, et al., 1977, with 2014 supplement, Callaghan.
Chapter 14. Matrimonial Agreements
 - Form 14.3 Premarital Agreement
- *12 Current Legal Forms*, by Jacob Rabkin and Mark H. Johnson, 1948, Matthew Bender, with 2024 supplement.
Chapter 10. Domestic Relations
 - Part II. The Practice Background
 - § 10.34. Checklist of Information and Determinations for Premarital Agreement
 - Part III. Drafting Guidelines
 - § 10.41. Analysis of Premarital Agreement
 - § 10.45. Checklist of Provisions for Premarital or Postnuptial Agreement
 - Part IV. Forms
 - A. Premarital Agreements
 - Forms 10.01 to 10.12B
- *Premarital Agreements: Drafting and Negotiation*, 2nd ed., by Linda J. Ravdin, 2017, ABA.
Part II. Role of Counsel, Ethics, Negotiation, and Drafting the Agreement
 - Chapter 12. Model Title Controls Agreement with Provisions for Weaker Party
 - Chapter 13. Terms for Shared Property Agreement
 - Appendix D. Basic Title Controls Agreement
 - Appendix E. Additional and Optional Terms
- *Drafting Prenuptial Agreements*, by Gary N. Skoloff et al., 1994, with 2024 supplement, Wolters Kluwer (Also available on VitalLaw).

Part VII. Standard clauses for inclusion
 Part VIII. Sample prenuptial agreements
 Part X-A. Romantic Premarital Agreements: Drafting Without Mentioning Divorce
 [D] Specific Premarital Clauses Not in Contemplation of Divorce
 Part XII. Practice pointers

- 7 *West's Legal Forms*, 3d, Domestic Relations (2006), with 2024 supplement.
 Chapter 10. Antenuptial Agreements
 B. Forms
 1. General Agreements
 2. Model Clauses
- *Divorce Tools and Techniques*, 1st ed., by Rory T. Weiler, 2012, James Publishing.
 Chapter 4. Nothing Says Love Like a Prenuptial Agreement
 II. Defensive Drafting and Review of Premarital Agreements
 § 4:47 Form: Sample Letter to Client Critiquing Proposed Agreement
 III. Prenuptial Agreement Checklists, Form, and Clauses

WEST KEY NUMBERS:

- *Marriage and Cohabitation* #s 161-200

DIGESTS:

- *West's Connecticut Digest: Marriage and Cohabitation*
 II. Agreements Concerning Marriage
 (C) Premarital agreements
 § 162. Requisites and formation
 § 163. – In general
 § 164. – Consideration
 § 165. – Execution, acknowledgment, and delivery
 § 166. – Registration and recording
 § 178. Terms of agreement; rights and obligations
 § 183. Modification
 § 184. Revocation or extinguishment
 § 185. Actions and proceedings
- *ALR Digest: Marriage and Cohabitation*
 II. Agreements Concerning Marriage
 (c) Premarital Agreements

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

- 41 *Am Jur 2d Husband and Wife*, Thomson West, 2015 (Also available on Westlaw).
 VI. Transactions Between Spouses
 B. Particular Transactions
 3. Property Settlements and Agreements
 A. Prenuptial Settlements and Agreements
 (3) Status as contracts
 § 90. Formal requirements
 (4) Fairness Standards

- (5) Construction
 - § 103. General rules; liberal construction
 - § 104. Intent of parties
 - § 105. Introductory recitals; other rules
- 41 *C.J.S. Husband and Wife*, Thomson West, 2014 (Also available on Westlaw).
- III. Marital Agreements, Settlements, and Stipulations
 - E. Considerations Regarding Particular Types of Marital Agreements
 - 1. Prenuptial, Premarital, or Antenuptial Agreements or Settlements
 - B. Validity
 - (3) Formal Requisites of Antenuptial Settlement
 - § 133. Form of antenuptial settlement, generally
 - § 134. Execution and acknowledgment
 - § 135. Delivery
 - § 136. Registration
 - C. Construction
 - § 137. Generally
 - § 138. Determination of rights
 - D. Termination
 - § 139. Generally
 - § 140. Consideration
 - § 141. Effect of separation or divorce
 - § 142. Timing of commencement of action

TEXTS & TREATISES:

Each of our law libraries own the Connecticut treatises cited. You can [contact us](#) or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2024.
 - Chapter 5. Premarital and Postmarital Agreements
- *A Practical Guide to Divorce in Connecticut*, 1st ed., by Barry Armata and Campbell Barrett, eds., 2013, with 2018 supplement, MCLE.
 - Chapter 18. Premarital Agreements
 - § 18.5. Drafting Considerations
 - § 18.5.1. Introductory Material
 - § 18.5.2. Designation of the Property/Income/Assets to Which the Agreement Applies
 - § 18.5.3. Death Provisions and Waivers
 - § 18.5.4. Divorce Provisions and Waivers
 - § 18.5.5. Treatment of Gifts or Loans Between the Parties Upon Death or Divorce
 - § 18.5.6. Mutual Waivers
 - § 18.5.7. Provisions on Breach
 - § 18.5.8. Contemplation Clause
 - § 18.5.9. Attorney Fees
 - § 18.5.10. Addressing Modifications to the Premarital Agreement
 - § 18.5.11. Integration Clause
 - § 18.5.12. Establishing Connecticut Law as Governing and Allowing for Severability of its Terms
- *8A Connecticut Practice Series, Family Law and Practice with Forms*, by Arnold H. Rutkin et al., 2010, with 2022-

2023 supplement, Thomson West (Also available on Westlaw).

Part 12. Agreements and Contracts

Chapter 48. Premarital and Postnuptial Agreements

- § 48:1. In general
- § 48:2. Written or oral agreements
- § 48:3. Effect of noncompliance with statute of frauds
- § 48:4. Requisites for preparation and execution
- § 48:5. Disclosure requirements
- § 48:7. Allowable purposes—Generally
- § 48:8. Particular clauses—Generally
- § 48:9. – Separate property
- § 48:10. – Joint purchases and contracts
- § 48:11. – Waiver of pension or retirement rights
- § 48:11.50. – Waiver of alimony (supplement only)

- *LexisNexis Practice Guide: Connecticut Family Law*, by Louise Truax, Ed., 2024 edition, Matthew Bender.
Chapter 12. Agreements
Part V: Drafting Provisions in Prenuptial Agreements
 - § 12.20. Checklist: Drafting Provisions in Prenuptial Agreements
 - § 12.21. Drafting Provisions Regarding Counsel Fees
 - § 12.22. Drafting Provisions Resulting in a Waiver of Rights
 - § 12.23. Drafting Waivers of Pension Benefits
 - § 12.24. Providing for Choice of Law
 - § 12.25. Defining the Drafter – *Contra Proferentem*
 - § 12.26. Providing for the Terminate Date – Sunset Provisions
 - § 12.27. Providing for Alternative Dispute Resolution in a Nuptial Agreement
- *2 Lindey and Parley on Separation Agreements and Antenuptial Contracts*, 2nd ed., by Alexander Lindey and Louis Parley eds., Matthew Bender, 1999, with 2024 supplement (Also available on Lexis).
Division III. Cohabitation, Antenuptial, and Postnuptial Agreements
Subdivision B. Antenuptial Agreements
Chapter 110. Antenuptial (Premarital) Agreements
 - § 110.64. Formal Requirements
 - [1]. Introduction
 - [2]. Statute of Frauds
 - [3]. Particular Statutes
 - [4]. Execution
 - [5]. Recording
 - § 110.73. Construction
 - § 110.74. Choice of Law
 - § 110.76. Uniform Premarital Agreement Act
 - [3]. Formalities
 - [4]. Content
 - [5]. Marriage

- *5 Family Law and Practice*, by Arnold H. Rutkin et al., Matthew Bender, 1985, with 2024 supplement (Also available on Lexis).
 - Chapter 59. Antenuptial Agreements
 - § 59.04. Execution and Validity of Agreements
 - § 59.05. Topics Included in Agreements
 - [1] The Parties; Third-Party Beneficiaries
 - [2] Recitals
 - [3] Personal Property
 - [4] Real Property
 - [5] Expectancies
 - [6] Contingencies
 - [7] Intellectual Properties
 - [8] Liabilities
 - [9] Schedule of Financial Information and Relevant Documents
 - [10] Notification to Third Parties
 - [11] Valuation
 - [12] Identification of Separate Property
 - [13] Increases in Value After Signing
 - [14] Conveyances
 - [15] Waivers and Limitations
 - [16] Parental Rights and Responsibilities
 - [17] Lifestyle
 - [18] Life, Health, and Disability Insurance; Personal Injury Proceeds
 - [19] Employee Benefits
 - [20] Bankruptcy Considerations
 - [21] Applicable Law; Conflicts of Law
 - [22] Representation by Counsel
 - [23] Modification
 - [24] Waiver and Enforcement of Terms
 - [25] Other Terms
- *9C Uniform Laws Annotated 35*, Thomson West, 2001, with 2024 supplement (Also available on Westlaw).
Uniform Premarital Agreement Act (1983)
- *Drafting Prenuptial Agreements*, by Gary N. Skoloff et al., 1994, with 2024 supplement, Wolters Kluwer (Also available on VitalLaw).
 - Part I. Separate Property
 - Part II. Joint Property
 - Part III. Marital Residence
 - Part IV. Regulating The Marriage
 - Part V. Rights Upon Divorce
 - Part VI. Rights Upon Death
 - Part VII. Standard Clauses For Inclusion
 - Part VIII. Sample Prenuptial Agreements
 - Part IX. Litigation Case Law Review
 - Part X. Negotiating Prenuptial Agreements
 - Part XI. The Uniform Acts
 - Part XII. Practice Pointers
 - General Admonishments to Clients When Drafting Prenuptial Agreements
 - Red Flags When Drafting a Prenuptial Agreement
 - Part XIII. State Prenuptial Agreements Law Summaries

CT Connecticut: Premarital Agreement Law in Connecticut
 [A], Overview of Connecticut Prenuptial Agreement Law
 [B], Common Law
 [C], The Connecticut Premarital Agreement Act
 [D], Enforcement of Premarital Agreement Acts under the CPAA
 Part XIV. Estate Planning Considerations for Premarital Agreements
 Part XV. Using Prenuptial Agreements to Protect Children's Interests
 Part XVI. Prenuptial Agreements for Same-Sex Couples

- 12 *Current Legal Forms*, by Jacob Rabkin and Mark H. Johnson, 1948, Matthew Bender, with 2024 supplement.
 Part II. The Practice Background
 § 10.30. Premarital Agreements
 [1] Premarital Agreement Defined
 [2] Governing Law
 [3] Formalities for Premarital Agreement
 [4] Contents of Premarital Agreement
 [5] Consideration for Premarital Agreement
 [6] Financial Disclosure
 [7] Nonfinancial Disclosure
 [8] Involuntariness and Unconscionability
 [9] Consultation with Counsel
 [10] Public Policy
- *Premarital Agreements: Drafting and Negotiation*, 2nd ed., by Linda J. Ravdin, 2017, ABA.
 Part I. The Law of Premarital Agreements
 Chapter 2. Criteria for an Enforceable Premarital Agreement
 Chapter 4. Creating a Valid Premarital or Postmarital Agreement
 Part II. Role of Counsel, Ethics, Negotiation, and Drafting the Agreement
 Chapter 9. Ethical Issues in the Representation of Clients in Premarital and Postmarital Agreements
 Chapter 10. Information Gathering, Preparation for, and Negotiating the Terms
 Chapter 11. Drafting the Agreement: Overview

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

- Wendy S. Goffe, *Keeping Separate Property Separate: Marital Property Agreements*, 70 *Practical Lawyer* No. 3 (June 2024).
- Michelle M. Gervais and Lauryn Coleman, *Pro Tips for Negotiating, Drafting and Executing a Prenuptial Agreement*, 45 *Family Advocate*, issue 4, pp. 15-17 (Spring 2023).
- Jennifer S. Tier and Matthew W. McQuiston, *Estate Planning Pointers and Pitfalls in Prenuptial Agreements*, 45 *Family Advocate*, issue 4, pp. 18-19 (Spring 2023).

- David N. Hofstein and Ellen Goldberg Weiner, *Alimony and Maintenance Considerations in Prenuptial Agreements*, 45 Family Advocate, issue 4, pp. 35-39 (Spring 2023).
- Michael M. Mosberg and Patricia Kindregan, *Ten Practice Tips for Postnuptial Agreements: Drafting Consideration and Formalities*, 52 Family Law Quarterly No. 2 (Summer 2018).
- Peter M. Walzer and Jennifer M. Reimer, *Premarital Agreements for Seniors*, 50 Family Law Quarterly No. 95 (Spring 2016).
- J. Thomas Oldham, [*With All My Worldly Goods I Thee Endow, or Maybe Not: A Reevaluation of the Uniform Premarital Agreement Act After Three Decades*](#), 19 Duke Journal of Gender Law & Policy 83 (Fall, 2011).
- John S. Slowiaczek and Virginia A. Albers, *The Devil is in the Drafting: Sample Prenuptial Agreement Clauses to Capture Your Client's Goals and Expectations*, 33 Family Advocate 20 (2011).
- Stephanie B. Casteel, *Planning and Drafting Premarital Agreements*, 16 ALI-ABA Estate Planning Course Materials Journal 5 (April 2010).
- *Guidelines for planning and drafting effective premarital agreements*, 33 Est. Plan. 14 (2006 WL 2383890).

Section 5: Enforcement and Defenses

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to the enforcement of antenuptial agreements or prenuptial contracts in Connecticut including the Premarital Agreement Act.

DEFINITION:

- "An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law." Conn. Gen. Stat. § [46b-36g](#) (c) (2023). ["...effective October 1, 1995, and applicable to premarital agreements executed on or after that date."]

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2023).
Chapter 815e. Marriage
 - § [46b-36g](#). Enforcement of premarital agreement. [Effective October 1, 1995, and applicable to premarital agreements executed on or after that date.]
 - § [46b-36h](#). Enforcement of premarital agreement when marriage void.
 - § [46b-36i](#). Statute of limitations re claims under premarital agreement.
 - § [46b-36j](#). Premarital agreements made prior to October 1, 1995, not affected.

COURT RULES:

Amendments to the Practice Book (Court Rules) are published in the [Connecticut Law Journal](#) and posted [online](#).

- Connecticut Practice Book (2024)
 - § [25-2A](#). Premarital and Postnuptial Agreements
 - "(a) If a party seeks enforcement of a premarital agreement or postnuptial agreement, he or she shall specifically demand the enforcement of that agreement, including its date, within the party's claim for relief. The defendant shall file said claim for relief within sixty days of the return date unless otherwise permitted by the court.
 - (b) If a party seeks to avoid the premarital agreement or postnuptial agreement claimed by the other party, he or she shall, within sixty days of the claim seeking enforcement of the agreement, unless otherwise permitted by the court, file a reply specifically demanding avoidance of the agreement and stating the grounds thereof."

CASES:

Once you have identified useful cases, it is important to update them to ensure they are still good law. You can [contact your local law librarian](#) to learn about updating cases.

- [Grabe v. Hokin](#), 341 Conn. 360, 362, 267 A.3d 145 (2021). The issue before us in this appeal is whether the trial court correctly determined that the enforcement of a prenuptial agreement executed by the plaintiff, Laura Grabe, and the defendant, Justin Hokin, was not unconscionable at the time of the dissolution of their marriage. Shortly before the parties' marriage in 2010, they executed a prenuptial agreement in which each party agreed, in the event of a dissolution action, to waive any claim to the other's separate property, as defined in the agreement, or to any form of support from the other, including alimony. The agreement also provided that a party who unsuccessfully challenged the enforceability of the agreement would pay the attorney's

fees of the other party. In 2016, the plaintiff brought this action seeking dissolution of the marriage and enforcement of the prenuptial agreement. The defendant filed a cross complaint in which he claimed, inter alia, that the agreement was unenforceable because it was unconscionable at the time of the dissolution under General Statutes § 46b-36g(a)(2). After a trial to the court, the court concluded that, with the exception of the attorney's fees provision, enforcement of the terms of the prenuptial agreement that the parties entered into was not unconscionable, even in light of certain events that had occurred during the marriage. Accordingly, the trial court rendered judgment dissolving the marriage and enforcing the terms of the prenuptial agreement, with the exception of the provision requiring the party who unsuccessfully challenged the enforceability of the agreement to pay the attorney's fees of the other party. On appeal, the defendant contends that the trial court incorrectly determined that the occurrence of the unforeseen events found by the trial court did not render the enforcement of the entire agreement unconscionable at the time of the dissolution. We affirm the judgment of the trial court."

- [Bevilacqua v. Bevilacqua](#), 201 Conn. App. 261, 271, 242 A.3d 542 (2020). "The defendant first claims that the court erred by determining that the prenuptial agreement was unconscionable because he was not able to contradict the plaintiff's testimony at trial. His absence at trial, however, was a matter of his own doing. He moved for a continuance of the trial, provided nothing to the court in support of that motion, and upon receiving the court's denial, he did not explore additional options or communication with the court or even with his attorney, who, during the course of the trial, diligently sought his participation and additional financial information. This court has held that '[w]here a party's own wrongful conduct limits the financial evidence available to the court, that party cannot complain about the resulting calculation of a monetary award.' (Internal quotation marks omitted.) [Rosenfeld v. Rosenfeld](#), 115 Conn. App. 570, 581, 974 A.2d 40 (2009)."

"The standards for determining whether prenuptial or postnuptial agreements are unconscionable at enforcement are analogous: '[T]he question of whether enforcement of a *prenuptial* agreement would be unconscionable is analogous to determining whether enforcement would work an injustice.... Thus, the trial court's finding that enforcement of the *postnuptial* agreement would work an injustice was tantamount to a finding that the agreement was unconscionable at the time the defendant sought to enforce it.' (Citation omitted; emphasis added.) *Id.*, at 707-708, 17 A.3d 17. (p. 273)

In the present case, there was evidence in the record that the accident impaired the plaintiff's ability to work full-time and, as a result, she was forced to obtain part-time

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

employment at a salary far lower than the one she earned at the time the agreement was executed. Additionally, with the exception of several selectively chosen excerpts from the expert reports in evidence, the defendant cites to no evidence contradicting the plaintiff's position. In light of the plaintiff's injuries and her reduced earning capacity, we conclude, on the basis of our review of the law and record, that the court properly concluded that enforcement of the agreement would be unconscionable, and that it properly awarded the plaintiff alimony."

- [Reyes v. Reyes](#), Superior Court, Judicial District of Hartford at Hartford, No. FA-19-6115055-S (Feb. 14, 2020) (2020 WL 1656209) (2020 Conn. Super. LEXIS 345). "[...] in this case where the defendant did not have input into the drafting of the Premarital Agreement and only saw the document for the first time when she signed it, the court cannot find that she signed this agreement voluntarily." (p. 3)

"It would be unconscionable to enforce the Premarital Agreement when the plaintiff benefitted economically from the joint decision of the parties to have the defendant not be employed outside the home when the children were young." (p. 3)

"In addition, the court finds that the defendant was not provided with fair and reasonable disclosure of the amount, character, or value of property; financial obligations and income of the plaintiff, which was the plaintiff's burden to disclose [...] Based on the defendant's limited financial experience compared to the plaintiff, her limited understanding of spoken and written English, and the lack of time for her to inquire about Schedule B before the marriage took place, the court finds that the plaintiff did not meet his duty to disclose." (p. 3)

"Finally, the court finds that the lack of spousal support pursuant to the Premarital Agreement has resulted in the defendant becoming eligible for public assistance at the time of the parties' separation. The court will not enforce the Premarital Agreement for this reason based on General Statutes § 46b-36g(b)." (p. 4)

- [Zhou v. Zhang](#), 334 Conn. 601, 624-625, 223 A.3d 775 (2020). "We next address the plaintiff's claim that the trial court incorrectly determined that the parties' postnuptial agreement was enforceable because it was fair and equitable at the time of execution and not unconscionable at the time of dissolution, as required by [Bedrick](#). In support of her contention, the plaintiff maintains, contrary to the determination of the trial court, that the agreement was not fair and equitable at the time of execution, primarily because (1) she signed it under duress, after the defendant threatened to divorce her if she refused to do so, and (2) the agreement's terms are both complex and prolix. The plaintiff further contends that enforcement of the agreement would

be unconscionable because the share of the marital estate allocated to the defendant under the agreement is 'grossly disproportionate' to what the plaintiff otherwise would be awarded. We are not persuaded by these claims."

- [Kirwan v. Kirwan](#), 185 Conn. App. 713, 197 A.3d 1000 (2018). "Pursuant to the parties' arbitration agreement, which was made an order of the court, '[t]he parties agree[d] that the following issues in their action for dissolution of marriage shall be the subject of mediation and, if the parties are unable to resolve these issues via mediation, to binding arbitration' The list of issues to be resolved in arbitration included the validity and enforceability of the premarital agreement; the validity of an alleged rescission of that premarital agreement [...]" (p. 719-720)
"[A]ny findings the arbitrator made in disposing of the claims submitted had no effect on the court's duty to make an independent determination of the parties' child support obligation [...]" (p. 734)
- [Hornung v. Hornung](#), 323 Conn. 144, 153, 146 A.3d 912 (2016). "From the beginning of its decision, the trial court distinguished between the property distribution allowed under the prenuptial agreement and its broad authority to award alimony. Thereafter, the trial court explained that, 'under all the circumstances,' the purpose of the lump sum award was to provide 'continuing support' to the plaintiff — the quintessential purpose of alimony. See, e.g., [Dombrowski v. Noyes-Dombrowski](#), 273 Conn. 127, 132, 869 A.2d 164 (2005). The purpose of a property distribution, by contrast, is 'to unscramble existing marital property in order to give each spouse his or her equitable share at the time of dissolution.' (Internal quotation marks omitted.) Id. at 133; see also [Blake v. Blake](#), 211 Conn. 485, 497, 560 A.2d 396 (1989) ('[t]he difference between an assignment of a specific portion of an estate and alimony is in their purposes' [internal quotation marks omitted]). The trial court made no reference or allusion to this equitable purpose in making the lump sum alimony award, and instead divided the property in accordance with the agreement. The trial court also specifically cited § 46b-82, the alimony statute, and two judicial opinions in which lump sum alimony was properly awarded when making the lump sum alimony award. See [Maguire v. Maguire](#), 222 Conn. 32, 47, 608 A.2d 79 (1992) ('[a]ny ambiguity as to the criteria upon which the court relied for alimony was put to rest [when] the trial court indicated that it had relied upon the criteria in § 46b-82 for its award of alimony').

In light of this language, the trial court's mere mention of two factors in the property distribution statute, namely, the plaintiff's opportunity to acquire assets in the future and her contribution to the marital estate, did not render the lump sum award an improper property distribution." (p. 153-154)

"..., [W]e disagree with the defendant's contention that, because the combined alimony and child support payments exceed the plaintiff's claimed expenses, the lump sum

alimony award is functionally a property distribution. The agreement's waiver of equitable distribution of property does not change this result. Although the agreement limited the court's discretion to distribute property, it did not limit the trial court's discretion to award alimony *in any way*. The agreement simply stated that 'a court of competent jurisdiction shall address the issues of alimony and/or child support . . . in the event [of] . . . divorce. . . .'" (p. 167)

- [Litt v. Litt](#), Judicial District of Stamford/Norwalk at Stamford, No. FST-FA-12-4023894-S (January 26, 2016), (2016 WL 720202) (2016 Conn. Super. LEXIS 234). "In light of the foregoing principles, in reviewing the Agreement in question, this court has arrived at the conclusion that, read as a whole, except for the award of child support and some aspects of the award of alimony/spousal maintenance, it was the intention of the parties that New York domestic relations law would apply, and that there was no claim that the choice of law was arrived at through misrepresentation, fraud, or undue influence—quite the contrary. In fact, the parties had the benefit of counsel, as well as a mediator in arriving at the terms of their premarital agreement.

That being the case, *Article 13, §236 Dom. Rel., Part B.3.*, provides in relevant part, that an antenuptial agreement is, 'valid and enforceable in a matrimonial action if such agreement is in writing, subscribed by the parties, and acknowledged or proven in a manner required to entitle a deed to be recorded,' and that, 'provided such terms were fair and reasonable at the time of the making of the agreement and are not unconscionable at the time of the entry of the final judgment . . .' Accordingly, under all the circumstances, the court finds that the terms of the prenuptial agreement were fair and reasonable when executed and would not be unconscionable to enforce."

- [Beyor v. Beyor](#), 158 Conn. App. 752, 755, 121 A.3d 734 (2015). "In its...memorandum of decision, the court disagreed with the defendant's contention that the agreement was unconscionable and thus unenforceable under General Statutes § 46b-36g (a)(2). The court examined the agreement to determine unconscionability both at the time of its execution in 2006, and at the time enforcement was sought, in 2011. It determined that at neither point was the agreement or its enforcement unconscionable. The court noted that the plaintiff was wealthy in both 2006 and 2011, and, although the defendant had much more modest means than the plaintiff had at both times, the court found that the disparity in wealth between the parties was substantially the same in 2011 as it had been in 2006."

"The defendant next argues that the court,..., abused its discretion...and that the court...erred...because the plaintiff had not provided adequate financial disclosure at the time the agreement was signed." (p. 762)

"Financial disclosure need not be 'exact or precise,' but rather a 'fair and reasonable' disclosure must provide a

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

'general approximation' of income, assets, and liabilities. *Friezo v. Friezo*, supra, 281 Conn. 189, 191. What is 'fair and reasonable' may depend on the circumstances presented. In *Oldani*, the plaintiff did not list his income on his financial disclosure. *Oldani v. Oldani*, supra, 132 Conn. App. 620. Moreover, the parties had an issue regarding a minor child at the time of enforcement, and the prenuptial agreement provided for some alimony. Id., 611-12. Unlike the plaintiff in *Oldani*, the plaintiff in the present case disclosed the amount, character, and value of property, financial obligations and income, which allowed a fair view of the plaintiff's overall financial picture. There were no children of the marriage, and the agreement provided for no alimony." (p. 764)

- *Schoenborn v. Schoenborn*, 144 Conn. App. 846, 74 A.3d 482 (2013). "[A]ntenuptial agreements relating to the property of the parties, and more specifically, to the rights of the parties to that property upon the dissolution of the marriage, are generally enforceable . . . [if] the circumstances of the parties at the time the marriage is dissolved *are not so beyond the contemplation* of the parties at the time the contract was entered into as to cause its enforcement to work injustice.' (Emphasis in original; internal quotation marks omitted.)" (p. 854)

"...the court concluded that '[d]espite the change in net worth of the [defendant], the court does not find the enforcement of the antenuptial agreement to be unconscionable The [plaintiff] at the time of the marriage knew his fiancée was completing her dental residency and she was a dentist at the time of the marriage. The increase in her income and a resultant increase in her net worth were certainly foreseeable." (p. 855)

Brody v. Brody, 136 Conn. App. 773, 51 A.3d 1121 (2012). "The defendant argues that the court's requirement that he transfer to the plaintiff his interest in the Husted Lane property as security for the alimony award constitutes an impermissible transfer of legal title of his separate assets to the plaintiff. He asserts that the Husted Lane property is part of his premarital net worth under the parties' prenuptial agreement and that, accordingly, any order transferring his interest to the plaintiff is improper. This argument is without merit." (p. 790-791)

"Nothing in the parties' prenuptial agreement prevented the court from ordering that the Husted Lane property would serve as security for the court's alimony award under §46b-82. The prenuptial agreement, by its clear terms, is concerned with equitable distributions of property under § 46b-81, not alimony awards. The court was free to order, within its broad discretion to make alimony awards, that the defendant's interest in the Husted Lane property would serve as security for his alimony obligation." (p. 791)

- [Light v. Light](#), Superior Court, Judicial District of New Haven at New Haven, No. FA12-4051863-S (Dec. 6, 2012) (55 Conn. L. Rptr. 145) (2012 WL 6743605) (2012 Conn. Super. LEXIS 2967). "According to the plaintiff, the United States Supreme Court determined that courts have the power to resolve disputes between religious persons so long as the court can do so based on neutral principles of law." (p. 146)

"The issue presented to this court appears to be one of first impression in Connecticut." (p. 147)

"In the present case, a determination as to whether the prenuptial agreement is enforceable would not require the court to delve into religious issues. Determining whether the defendant owes the plaintiff the specified sum of money does not require the court to evaluate the proprieties of religious teachings. Rather, the relief sought by the plaintiff is simply to compel the defendant to perform a secular obligation...." (pp. 148)

- [Reizfeld v. Reizfeld](#) 125 Conn. App. 782, 791-792, 40 A.3d 320 (2011). "Thus, because the court found that the parties' agreement was enforceable, and because we conclude that the term 'liabilities' as used in paragraph 5 of the agreement includes attorney's fees, the plaintiff was precluded from seeking the payment of her attorney's fees from the defendant. By ordering the defendant to pay the trial attorney's fees of the plaintiff in the amount of \$7500 and appellate attorney's fees in the amount of \$6000, the court abused its discretion. We therefore reverse the judgment of the trial court with respect to the award of attorney's fees and remand the case with direction to amend the judgment to enter orders denying the plaintiff attorney's fees."
- [Winchester v. McCue](#), 91 Conn. App. 721, 727-728, 882 A.2d 143, 147 (2005). "'Testimony revealed... that the parties dated for several years before they were married. Neither party disputes that during their courtship, that parties shared expenses and became knowledgeable of the other's standard of living and spending habits. As noted in [McHugh](#), failure to disclose financial information in the prenuptial agreement is not fatal so long as the other party has independent knowledge of the same.' The court observed in its decision that although neither party had expressly disclosed their respective incomes on the financial statements annexed to the agreement, the agreement was nevertheless valid because the parties had 'independent knowledge,'..."
- [Friezo v. Friezo](#), 281 Conn. 166, 186, 914 A.2d 533 (2007). "In [McHugh](#), this court articulated the principle that, because the parties to a prenuptial agreement stand in a relationship of mutual confidence, '[t]he duty of each party to disclose the amount, character, and value of individually owned property, absent the other's independent knowledge of the same, is an essential prerequisite to a valid antenuptial agreement containing a waiver of property rights. . . . *The*

burden is not on either party to inquire, but on each to inform, for it is only by requiring full disclosure of the amount, character, and value of the parties' respective assets that courts can ensure intelligent waiver of the statutory rights involved.' (Citations omitted; internal quotation marks omitted.) [McHugh v. McHugh](#), supra, 181 Conn. [482,] 486-87." (Emphasis added.)

- [Dornemann v. Dornemann](#), 48 Conn Supp. 502, 850 A.2d 273 (2004). "The plaintiff asserts that the premarital agreement is unenforceable for four reasons. First, written financial disclosures were not attached to it. Second, it was executed by the plaintiff as the result of undue influence and lack of free will. Third, it was not signed by the defendant and, therefore, was not in proper form. Fourth, and finally, it was not delivered to the plaintiff after signature by the defendant." (p. 503)

"The plaintiff's claim that enforcement of the premarital agreement would be unconscionable has been reserved and will be addressed at the trial of this case. The plaintiff executed a prenuptial agreement after adequate financial disclosures, willingly and voluntarily. There was no coercion or undue influence. The defendant's failure to sign the contract prior to the marriage did not invalidate the contract. He assented to the bargain by marrying the plaintiff on April 13, 1997.

The plaintiff's motion in limine to preclude evidence of the Premarital Agreement is denied." (p. 521)

- [DeFusco v. DeFusco](#), Superior Court, Judicial District of Hartford-New Britain at Hartford, No. FA87 33 88 48 (Jan. 14, 1991) (3 Conn. L. Rptr. 145, 150) (1991 WL 27854). "2. The Plaintiff was not fully informed by Defendant of the amount, character, and value of the estate. 3...Plaintiff first saw the final draft minutes before she signed it. 4. Plaintiff was not represented by counsel at any time during the preparation and execution of the document... On all of the evidence it is found that the ante-nuptial agreement is invalid and unenforceable."
- [McHugh v. McHugh](#), 181 Conn. 482, 436 A.2d 82 (1980). [Three prong test](#) of validity of prenuptial agreements.

WEST KEY NUMBERS:

- Marriage and Cohabitation #s 167-191

DIGESTS:

- *West's Connecticut Digest: Marriage and Cohabitation*
II. Agreements Concerning Marriage
(C) Premarital Agreements
 - § 167. Validity and enforceability
 - § 168. – In general
 - § 169. – Public policy
 - § 170. – Unconscionability
 - § 171. – Knowledge and disclosure
 - § 172. – Fraud and misrepresentation

- § 173. – Duress, coercion, and undue influence
- § 174. – Legal representation or advice
- § 175. – Adequacy of provision for spouse
- § 176. – Changed circumstances
- § 177. – Effect of invalidity; severability
- § 185. Actions and proceedings
- § 186. – In general
- § 187. – Pleading or motion
- § 188. – Evidence
- § 189. – Trial or hearing
- § 190. – Judgment
- § 191. – Costs and Fees

- *ALR Digest: Husband and Wife*
 - II. Marriage Settlements
 - § 29. Antenuptial Settlements
 - § 35. Enforcement

- *ALR Digest: Marriage and Cohabitation*
 - II. Agreements Concerning Marriage
 - (c) Premarital Agreements

- § 167. Validity and enforceability
- § 168. In general
- § 169. Public policy
- § 170. Unconscionability
- § 171. Knowledge and disclosure
- § 172. Fraud and misrepresentation
- § 173. Duress, coercion, and undue influence
- § 174. Legal representation or advice
- § 175. Adequacy of provision for spouse
- § 176. Changed circumstances
- § 177. Effect of invalidity; severability

ENCYCLOPEDIAS:

Encyclopedias and ALRs are available in print at some law library locations and accessible online at all law library locations.

Online databases are available for in-library use. Remote access is not available.

- 41 *Am Jur 2d* Husband and Wife, 2015 (Also available on Westlaw).
 - VI. Transactions Between Spouses
 - B. Particular Transactions
 - 3. Property Settlements and Agreements
 - A. Prenuptial Settlements and Agreements
 - (1) in General; public policy
 - §84. Enforceability of certain provisions
 - §85. – Support, maintenance, or alimony upon divorce
 - C. Enforcement of Transactions; Remedies and Procedure
 - 1. In General
 - § 117. Enforcement of Prenuptial and Postnuptial Transactions, Generally; Performance and Breach; Remedies and Procedure
 - § 118. Specific Performance
 - § 119. Avoidance and Reformation; Rescission
 - § 120. Severability; Selective Enforcement
 - § 121. Statutes of Limitation; Laches
 - 2. Evidence
 - § 122. Evidence in Actions Involving Prenuptial and Postnuptial Agreements, Generally
 - § 123. Presumptions and Burden of Proof

§ 124. --Fraud; Undue Influence; Overreaching

- 41 *C.J.S. Husband and Wife*, Thomson West, 2014 (Also available on Westlaw).
 - III. Marital Agreements, Settlements, and Stipulations
 - E. Considerations Regarding Particular Types of Marital Agreements
 - 1. Prenuptial, Premarital, or Antenuptial Agreements or Settlements
 - E. Enforcement
 - § 143. Generally
 - § 144. Evidence
 - § 145. --Presumptions

- 156 *Am. Jur. Trials 87, Litigation of Postnuptial/Postmarital Agreements and Contracts*, by Elizabeth O'Connor Tomlinson, J.D., Thomson West, 2018 (Also available on Westlaw).

- 81 *ALR 6th 1, Application, Recognition, or Consideration of Jewish Law by Courts in the United States* by Jay M. Zitter, Annotation, Thomson West, 2013 (Also available on Westlaw).
 - III. Family Law and Related Proceedings
 - B. Wife's Monetary Rights Under Ketuba or Similar Religious Prenuptial Agreement
 - §20. Enforcing provision requiring husband's continuing payment until Get [Bill of divorcement] furnished

- 30 *COA 2d 155, Cause of Action to Void Antenuptial Agreement Because of Failure of Party to Disclose Assets*, Thomson West, 2006 (Also available on Westlaw).

- 66 *COA 2d 95, Cause of Action to Enforce Oral Antenuptial Agreements*, by Cecily Fuhr, Esq., Thomson West, 2015 (Also available on Westlaw).

- 7 *POF 3d 581, Enforceability of Premarital Agreement Based on Fairness of Terms and Circumstances of Execution*, by Katherine Mann, Thomson West, 1990 (Also available on Westlaw).

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2024.
 - Chapter 5. Premarital and Postmarital Agreements

- *A Practical Guide to Divorce in Connecticut*, 1st ed., by Barry Armata and Campbell Barrett, eds., 2013, with 2018 supplement, MCLE.
 - Chapter 18. Premarital Agreements
 - § 18.3. Validity and Enforceability of Premarital Agreements
 - § 18.3.1. The Full Disclosure Rule
 - § 18.3.2. Statutory Formalities for Premarital Agreements

TEXTS & TREATISES:

Each of our law libraries own the Connecticut treatises cited. You can [contact us](#) or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

§ 18.3.3. Scope of Premarital Agreements
§ 18.3.4. Topics Outside the Scope of Premarital Agreements
§ 18.3.5. Modification of Premarital Agreements
§ 18.3.6. Pleading Requirements
§ 18.3.7. Summary Judgment as a Mechanism to Enforce Clear Premarital Agreements
§ 18.3.8. Challenging the Enforceability of Prenuptial Agreements
§ 18.3.9. The Conscionability Standard

- *2 A Practical Guide to Estate Planning in Connecticut*, 2d ed., by B. Dane Dudley and Steven M. Fast, eds., MCLE, 2021.
Chapter 12. Marital Agreements
§ 12.3. Enforceability
§ 12.3.1. Prenuptial Agreements
- *Probate Litigation in Connecticut*, 3d, by Ralph H. Folsom and Michael P. Kaelin, Thomson West, 2024 (Also available on Westlaw).
Chapter 1. Will and Lifetime Transfer Contests
§ 1:27. Premarital agreements
- *8A Connecticut Practice Series, Family Law and Practice with Forms*, by Arnold H. Rutkin et al., 2010, with 2022-2023 supplement, Thomson West (Also available on Westlaw).
Part 12. Agreements and Contracts
Chapter 48. Premarital and Postnuptial Agreements
§ 48:5. Disclosure requirements
§ 48:6. Legal representation in connection with agreement
§ 48:7. Allowable purposes—Generally
§ 48:12. Enforcement of agreements—Generally
§ 48:13. General defenses to enforcement of agreements—Agreements governed by statute
§ 48:14. General defenses to enforcement of agreements— Agreements governed by common law
§ 48:15. Enforcement of agreements—Specific considerations
§ 48:15.50 Enforcement of Agreements—Severability (supplement only)
§ 48:17 Postnuptial agreements (supplement only)
- *Divorce in Connecticut: The Legal Process, Your Rights, and What to Expect*, Renee C. Bauer, Addicus Books, 2014.
Chapter 11. Division of Property
- *2 Lindey and Parley on Separation Agreements and Antenuptial Contracts*, 2nd ed., by Alexander Lindey and Louis Parley eds., Matthew Bender, 1999, with 2024 supplement (Also available on Lexis).
Division III. Cohabitation, Antenuptial, and Postnuptial Agreements
Subdivision B. Antenuptial Agreements
Chapter 110. Antenuptial (Premarital) Agreements

Part C. The Law

- § 110.65. Fraud, Duress, Undue influence
- § 110.66. Reasonableness; Unconscionability
- § 110.67. Disclosure; Knowledge
- § 110.68. Counsel
- § 110.69. Public Policy
- § 110.71. Burden of Proof
- § 110.75. Breach; Remedies; Defenses
- § 110.76. Uniform Premarital Agreement Act
[7]. Enforcement

- *Premarital Agreements: Drafting and Negotiation*, 2nd ed., by Linda J. Ravdin, 2017, ABA.

Part I. The Law of Premarital Agreements

- 2. Criteria for an Enforceable Premarital Agreement
- 4. Creating a Valid Premarital or Postmarital Agreement
- 8. Post-Marriage Issues

- *5 Family Law and Practice*, by Arnold H. Rutkin et al., Matthew Bender, 1985, with 2024 supplement (Also available on Lexis).

Chapter 59. Antenuptial agreements

- § 59.04. Execution and Validity of Agreements
- § 59.06. Rules of Enforcement, Modification or Avoidance
- § 59.07. Effect of Divorce or Separation Decree
- § 59.08. Declaratory Judgment; Arbitration and Mediation

- *Marital Property Law*, Rev. 2d., by John Tingley et al., 2024, Thomson West, (Also available on Westlaw).

Chapter 25. Antenuptial Agreement Affecting Property Rights on Separation or Divorce

- § 25.14. Enforceability as affected by public policy concerns stemming from prohibition against promoting or encouraging divorce
- § 25.15. Enforceability as affected by change in circumstances of parties
- § 25.16. Estoppel to challenge agreement
- § 25.17. Enforceability as affected by other policy concerns

Chapter 26. Postnuptial and Separation Agreements

Chapter 27. Postnuptial Agreement Releasing Rights of Surviving Spouse

Chapter 28. Declaratory Judgment as to Construction of Antenuptial Agreement

Chapter 29. Nondisclosure of Property Interests When Making Antenuptial Agreements

Chapter 30. Form of Execution or Acknowledgement as Affecting Validity of Antenuptial Agreement

- *Attacking and Defending Marital Agreements*, 2d ed., by Brett R. Turner and Laura W. Morgan, 2012, American Bar Association.

Chapter 15. Procedure

- § 15.01. Burden of Proof/Standard of Proof
- § 15.02. Choice of Law

§ 15.03. Limitations
§ 15.04. Statute of Frauds
§ 15.05. Estoppel and Ratification
Appendix A: A Mini-Encyclopedia of Ambiguous Marital
Agreement Provisions and Their Construction by the Courts

- *Drafting Prenuptial Agreements*, by Gary N. Skoloff et al., 1994, with 2024 supplement, Wolters Kluwer (Also available on VitalLaw).
 - Part XIII. State Prenuptial Agreements Law Summaries
 - CT Connecticut: Premarital Agreement Law in Connecticut
 - [D] Enforcement of Premarital Agreement Acts under the CPAA
- *Divorce Tools and Techniques*, 1st ed., by Rory T. Weiler, 2012, James Publishing.
 - Chapter 4. Nothing Says Love Like a Prenuptial Agreement
 - IV. Attacking the Prenuptial Agreement
 - V. Enforcing the Prenuptial Agreement
- Cheryl I. Foster, *When Prenup and Religious Principles Collide: Anticipating Faith, Marriage, and the Possibility of Divorce*, 33 Family Advocate 34 (2011).
- William H. DaSilva, *Making it Stick: The 5 Requisites of an Enforceable Agreement*, 33 Family Advocate 27 (2011).

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

Table 3: Surveys of State Premarital Agreement Laws

| Subject | Source |
|--|---|
| Adoption of Uniform Premarital Agreement Act | * Lindey § 110.92. Footnote 1 |
| Affirmative Duty to Disclose Information | * Lindey § 110.67[2]. |
| Allocation of Burden of Proof if Agreement Facially Unfair | * Lindey § 110.71[1]. |
| Public Policy Violations Relating to Child Custody, Child Support, Spousal Support, Property and Estate Interests | * Lindey § 110.69. |
| Reasonableness | * Lindey § 110.66[1]. Footnote 1 lists states which evaluate the reasonableness for wife. Footnote 3, states requiring to both husband and wife. |
| Recognition of Alimony Provisions | * Lindey § 110.70[2][d]. Footnote 20 |
| Recognition of Premarital Agreements | * Lindey § 110.61; 110.90. Footnote 1 lists states which recognize the validity of premarital agreements using common law .
§ 110.90. Footnote 2 by statute .
**Skoloff Part XIII-MA. Premarital Agreement Law in Massachusetts |
| Recognition of Property Division Provisions | * Lindey § 110.70[2][c]. |
| Requirement of Written Agreement | * Lindey § 110.91. Footnote 1 lists states where statute of frauds requires agreement to be in writing. § 110.92. Footnote 2 lists states with a particular premarital agreement statute.
**Skoloff Part XIII-NY. Premarital Agreement Law in New York |

* 2 *Lindey and Parley on Separation Agreements and Antenuptial Contracts*, 2nd ed., by Alexander Lindey and Louis Parley eds., Matthew Bender, 1999, with 2024 supplement (Also available on Lexis).

** *Drafting Prenuptial Agreements*, by Gary N. Skoloff et al., 1994, with 2024 supplement, Wolters Kluwer (Also available on VitalLaw).

Section 6: Modification or Revocation

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to the modification and revocation of prenuptial agreements or contracts in Connecticut including those executed under the Premarital Agreement Act.

DEFINITIONS:

- **Amending or revoking:** "After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement or the revocation shall be enforceable without consideration." Conn. Gen. Stat. § [46b-36f](#) (2023). [" . . . effective October 1, 1995 and applicable to premarital agreements executed on or after that date"].
- **Appellate Standard of Review:** "An appellate court will not disturb a trial court's orders in domestic relations cases unless the court has abused its discretion or it is found that it could not reasonably conclude as it did, based on the facts presented. . . .In determining whether a trial court has abused its broad discretion in domestic relations matters, we allow every reasonable presumption in favor of the correctness of its action.' (Internal quotation marks omitted.) *Aley v. Aley*, 101 Conn. App. 220, 223, 922 A.2d 184 (2007)." *Rosier v. Rosier*, 103 Conn. App. 338, 341, 928 A.2d 1228 (2007).

STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website.

- Conn. Gen. Stat. (2023).
Chapter 815e. Marriage
§ [46b-36f](#). Amendment or revocation of premarital agreement after marriage.

FORMS:

- *2 Lindey and Parley on Separation Agreements and Antenuptial Contracts*, 2nd ed., by Alexander Lindey and Louis Parley eds., Matthew Bender, 1999, with 2024 supplement (Also available on Lexis).
Division III. Cohabitation, Antenuptial, and Postnuptial Agreements
Subdivision B. Antenuptial Agreements
Chapter 110. Antenuptial (Premarital) Agreements
§ 110.32. Amendment—Form
§ 110.39. Cancellation of Antenuptial Agreement—Form
§ 110.40. "Sunset" Provision—Form
- *Drafting Prenuptial Agreements*, by Gary N. Skoloff et al., 1994, with 2024 supplement, Wolters Kluwer (Also available on VitalLaw).
Part VII. Standard Clauses for Inclusion
[P] Modifications and Waivers

Appendix 3: Amendments or Addenda to Prenuptial Agreements

Appendix 4: Revocation of Prenuptial Agreement

CASES:

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Gershon v. Back](#), 201 Conn. App. 225, 230, 242 A.3d 481 (2020). “The parties signed a stipulation that provided in part that it superseded ‘the [p]renuptial [a]greement, [which] shall be of no further force or effect upon the effective date of this [stipulation].’”

“Counsel for the plaintiff argued that the evidence demonstrated that the defendant had failed to disclose significant assets at the time the stipulation was negotiated. Counsel for the defendant argued that eight years after the plaintiff had received the benefits of the stipulation, she was precluded from relitigating the parties’ divorce on the grounds of collateral estoppel, ratification, and lack of evidence to sustain the allegation of fraud. Counsel for the defendant also argued that the *plaintiff could not challenge the stipulation by way of a motion to open the judgment; rather, she had to file a plenary action sounding in contract*; but that the statute of limitations had run on such an action. Counsel further argued that, given the validity of the prenuptial agreement, the plaintiff would have received far less under the prenuptial agreement than she received under the stipulation and, therefore, she could not argue credibly that she had sustained any damages.” (p. 236)

- [Yun Zhou v. Hao Zhang](#), 334 Conn. 601, 616, 223 A. 3d 775 (2020). “On appeal, the plaintiff claims that the trial court incorrectly concluded that the parties’ purported agreement to revoke the postnuptial agreement was unenforceable and that their postnuptial agreement was enforceable. The plaintiff also claims that the trial court incorrectly awarded the parties joint legal and physical custody of their minor children with the defendant having final decision-making authority. We reject each of these contentions, which we discuss in turn.

We first address the plaintiff’s contention that the trial court incorrectly concluded that the parties’ written agreement purporting to revoke their postnuptial agreement was unenforceable. The plaintiff asserts that the trial court’s heightened scrutiny of that agreement was unwarranted because, unlike a postnuptial agreement, which removes the issues of alimony and property division from the court’s purview, the revocation of a postnuptial agreement returns those issues to the court for adjudication, thereby placing the parties ‘on equal footing’ in any future dissolution action. The plaintiff further claims that, even if the revocation agreement was properly the subject of special scrutiny, the record does not support the trial court’s refusal to enforce it for the reasons articulated by the court, namely, because the defendant did not have access to an attorney prior to its execution and because the defendant was led to believe, and did believe, that the

revocation agreement was not binding on the parties if they were unable to reach a mediated settlement of their dispute. The plaintiff finally argues that, even if the trial court's findings are supported by the record, the court incorrectly relied on parol evidence to ascertain the import of the parties' revocation agreement. The defendant, for his part, maintains that the trial court properly applied special scrutiny to the parties' agreement but that, even without such scrutiny, the trial court's refusal to enforce the agreement is supported by ordinary contract principles. We agree with the defendant that the trial court's decision is sustainable under established contract law."

- [Peterson v. Sykes-Peterson](#), 133 Conn. App. 660, 664, 37 A.3d 173 (2012). "Article XII of the prenuptial agreement, the sunset provision, provides in its entirety: 'This Agreement shall become null and void and of no further force and effect upon the seventh (7th) anniversary of the parties' marriage.' The plaintiff argues that it was unreasonable for the court to have applied the sunset provision because the plaintiff had filed the dissolution action in March, 2007, several months prior to the parties' seventh wedding anniversary on July 14, 2007. The plaintiff suggests that if the sunset provision is read in the context of the entire agreement, it is clear that the parties intended that the agreement should expire only if the parties were still happily married and actually celebrating their seventh wedding anniversary, rather than in the midst of divorce proceedings. The defendant responds that the court properly construed the sunset provision, which sets forth in clear and unambiguous language that the prenuptial agreement would become null and void if the parties remained married on July 14, 2007. We agree with the defendant."

WEST KEY NUMBERS:

- *Marriage and Cohabitation*
 - II. Agreements concerning marriage
 - (C) Premarital Agreements
 - # 183. Premarital Agreements – Modification
 - # 184. Premarital Agreements - Revocation or extinguishment
 - # 185. Actions and Proceedings

DIGESTS:

- *West's Connecticut Digest: Marriage and Cohabitation*
 - II. Agreements Concerning Marriage
 - (C) Premarital Agreements
 - § 183. Premarital Agreements – Modification
 - § 184. Premarital Agreements – Revocation or extinguishment
 - § 185. Actions and Proceedings
- *ALR Digest: Husband and Wife*
 - II. Marriage Settlements
 - § 33. Revocation or Extinguishment

- *ALR Digest: Marriage and Cohabitation*
- II. Agreements Concerning Marriage
 - (c) Premarital Agreements
 - § 183. Modification
 - § 184. Revocation or Extinguishment
 - § 185. Actions and Proceedings

ENCYCLOPEDIAS:

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- 41 *Am Jur 2d Husband and Wife*, Thomson West, 2015 (Also available on Westlaw).
 - VI. Transactions Between Spouses
 - B. Particular Transactions
 - 3. Property Settlements and Agreements
 - A. Prenuptial Settlements and Agreements
 - (1) in General; Public Policy
 - §84. Enforceability of certain provisions
 - §85. – Support, maintenance, or alimony upon divorce
 - (6) Discharge; Release; Alteration by Parties
 - §106. Discharge, release, or alteration of premarital agreements by parties, generally
- 41 *C.J.S. Husband and Wife*, Thomson West, 2014 (Also available on Westlaw).
 - III. Marital Agreements, Settlements, and Stipulations
 - E. Considerations Regarding Particular Types of Marital Agreements
 - 1. Prenuptial, Premarital, or Antenuptial Agreements or Settlements
 - D . Termination
 - § 139. Generally
 - § 140. Consideration
 - § 141. Effect of Separation or Divorce
 - § 142. Timing of Commencement of Action

TEXTS & TREATISES:

Each of our law libraries own the Connecticut treatises cited. You can [contact us](#) or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- *Connecticut Family Law Citations: A Reference Guide to Connecticut Family Law Decisions*, by Monika D. Young, LexisNexis, 2024.
 - Chapter 5. Premarital and Postmarital Agreements
- *A Practical Guide to Divorce in Connecticut*, 1st ed., by Barry Armata and Campbell Barrett, eds., 2013, with 2018 supplement, MCLE.
 - Chapter 18. Premarital Agreements
 - § 18.3. Validity and Enforceability of Premarital Agreements
 - § 18.3.5. Modification of Premarital Agreements
 - § 18.5. Drafting Considerations
 - § 18.5.10. Addressing Modifications to the Premarital Agreement
- 8A *Connecticut Practice Series, Family Law and Practice with Forms*, by Arnold H. Rutkin et al., 2010, with 2022-2023 supplement, Thomson West (Also available on Westlaw).

Part 12. Agreements and Contracts

Chapter 48. Premarital and Postnuptial Agreements

§ 48:8. Particular clauses—Generally

§ 48:16. Amendment or revocation of agreements

- *2 Lindey and Parley on Separation Agreements and Antenuptial Contracts*, 2nd ed., by Alexander Lindey and Louis Parley eds., Matthew Bender, 1999, with 2024 supplement (Also available on Lexis).
Division III. Cohabitation, Antenuptial, and Postnuptial Agreements
Subdivision B.
Chapter 110. Antenuptial (Premarital) Agreements
§ 110.72. Modification; Revocation
- *5 Family Law and Practice*, by Arnold H. Rutkin et al., Matthew Bender, 1985, with 2024 supplement (Also available on Lexis).
Chapter 59. Antenuptial Agreements
§ 59.06. Rules of Enforcement, Modification or Avoidance
- *Marital Property Law*, Rev. 2d., by John Tingley et al., 2024, Thomson West, (Also available on Westlaw).
Chapter 24. Waiver of Rights to Widow's Allowance
§ 24:20. Modification of decrees based on agreements
Chapter 26. Postnuptial and Separation Agreements
§ 26.22. Modification of agreement
- *9C Uniform Laws Annotated 35*, West Group, 2001, with 2024 supplement (Also available on Westlaw).
Uniform Premarital Agreement Act (1983)
§ 5. Amendment, Revocation

Section 7: Federal Tax Aspect

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to the federal tax aspects of premarital agreements in Connecticut.

SEE ALSO:

- Section 8: Tax Consequences of Alimony in [Alimony in Connecticut](#) research guide.

DEFINITIONS:

- **Full and adequate consideration.** "In an antenuptial agreement the parties agree, through private contract, on an arrangement for the disposition of their property in the event of death or separation. Frequently, in exchange for the promises of property, one party agrees to relinquish his or her marital rights in other property. Occasionally, however, the relinquishment of marital rights is not involved. These contracts are generally enforceable under state contract law. . . . *Nonetheless, transfers pursuant to an antenuptial agreement are generally treated as gifts between parties, because under the gift tax law the exchange promises are not supported by full and adequate consideration, in money or money's worth.* [Commissioner v. Wemyss](#), 324 U.S. 303 . . . (1945); [Merrill v. Fahs](#), 324 U.S. 308 . . . (1945)." (Emphasis added). [Green v. Commissioner of Internal Revenue](#), T.C. Memo 1987-503 (9/28/1987).

STATUTES:

You can visit your local law library or [search the most recent U.S. Code](#) on the U.S. Code website to confirm that you are accessing the most up-to-date laws.

- [26 U.S.C.](#) (2024) Internal Revenue Code
 - [§ 2043\(b\)](#). Transfers for insufficient consideration
 - [§ 2053](#). Expenses, indebtedness, and taxes
 - [§ 2056](#). Bequests, etc., to surviving spouse
 - [§ 2511](#). Transfers in general

C.F.R.:

You can visit your local law library or search the most recent C.F.R. on the [e-CFR website](#) to confirm that you are accessing the most up-to-date regulations.

- [26 CFR 25.2512-8](#) (2024). Transfers for insufficient consideration

CASES:

- [Overley v. Overley](#), 209 Conn. App. 504, 516, 268 A.3d 691 (2021). "As the court noted in its decision, Congress recently passed the Tax Cuts and Jobs Act (TCJA), which included certain changes to the provisions of the federal tax code governing the tax treatment of alimony payments. See footnote 4 of this opinion. Specifically, under the TCJA, alimony payments are no longer considered taxable income

Once you have identified useful cases, it is important to update them to ensure they are still good law. You can [contact your local law librarian](#) to learn about updating cases.

of the recipient and may not be deducted from income by the payor. We agree with the plaintiff that neither the parties' prenuptial agreement nor a decree of dissolution can supersede the federal tax code.

See [Shenk v. C.I.R.](#), 140 T.C. 200, 206 (2013) ('ultimately it is the Internal Revenue Code and not [s]tate court orders that determine one's eligibility to claim a deduction for [f]ederal income tax purposes'); [Lowe v. Commissioner of Internal Revenue, T. C. Memo 2016-206](#), pp. 7-8, 112 T.C.M. (CCH) 514 (T.C. 2016) ('as we have consistently held, a taxpayer's eligibility for deductions is determined under [f]ederal law—specifically, the express terms of the Internal Revenue Code—and [s]tate courts cannot bind the Commissioner [of Internal Revenue] to any particular treatment of a taxpayer').

The claim that we have determined was preserved for our review is more narrow, however. That claim concerns whether the court should have entered orders that preserved for the defendant the ability to enjoy the benefits of the agreement to the extent permissible under the laws of the jurisdiction governing his income tax obligations. We agree with the defendant that the trial court's orders appear to preclude him from doing so.

The order at issue simply states, without reference to the parties' agreement, that 'alimony shall be nontaxable to the plaintiff and nondeductible to the defendant.' We presume, and on appeal the plaintiff contends, that the trial court entered this order to make it clear that the parties' respective tax obligations are to be governed by the recently enacted federal tax laws, not the conflicting provisions of the agreement. As written, however, the court's order would prevent the defendant from exercising his contractual right to deduct alimony payments in accordance with the agreement even if his income tax obligations are governed by the laws of a jurisdiction that would otherwise permit such deductions and even if federal tax laws are amended in the future to permit such deductions. The court provided no justification for that result, and we suspect that it did not intend to issue orders having that effect.

Accordingly, we conclude that the court improperly ordered that the defendant may not, under any circumstances, deduct alimony payments from his income for tax purposes. We, therefore, reverse the judgment of the court as to tax deductibility and remand the case with direction to enter a new order that the provision of the agreement as to deductibility shall apply so long as it does not conflict with the controlling law of any jurisdiction in which the parties file tax returns."

- [Estate of Herrmann v. Commissioner of Internal Revenue](#), 85 F.3d 1032, 1036 (2d Cir. 1996). " . . . the right that Harriet traded away in return for a life interest in her husband's apartment was not 'adequate and full

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

consideration in money or money's worth' under [IRC] § 2053(c)(1)(A)."

- [Commissioner of Internal Revenue v. Wemyss](#), 324 U.S. 303, 304, 65 S. Ct. 652, 653, 89 L. Ed. 958 (1945). "...On Mrs. More's unwillingness to suffer loss of her trust income through remarriage the parties...entered upon an agreement whereby taxpayer transferred to Mrs. More a block of shares of stock. Within a month they were married. The Commissioner ruled that the transfer of this stock...was subject to the Federal Gift Tax...."
- [Merrill v. Fahs](#), 324 U.S. 308, 309-10. 65 S.Ct. 655, 89 L. Ed. 963 (1945). "...taxpayer, the petitioner, made an antenuptial agreement with Kinta Desmare....By the arrangement entered into the day before their marriage, taxpayer agreed to set up within ninety days after marriage an irrevocable trust...to conform to Miss Desmare's wishes...On their gift tax return...both reported the creation of the trust but claimed no tax was due. The Commissioner, however, determined a deficiency ...in taxpayer's return in relation to the transfer..."

ENCYCLOPEDIAS:

- 59 ALR 3d 969, *Devise Or Bequest Pursuant To Testator's Contractual Obligation As Subject To Estate, Succession, Or Inheritance Tax* by Maurice T. Brunner, Annotation, Thomson West, 1974 (Also available on Westlaw).
§ 6. Antenuptial or postnuptial contracts

TEXTS & TREATISES:

Each of our law libraries own the Connecticut treatises cited. You can [contact us](#) or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- 2 *A Practical Guide to Estate Planning in Connecticut*, 2d ed., by B. Dane Dudley and Steven M. Fast, eds., MCLE, 2021.
Chapter 12. Marital Agreements
§ 12.6. Federal Entitlements
§ 12.6.5. Federal Income Tax Filing Status
§ 12.6.6. Federal Gift, Estate, and Generation-Skipping Transfer Taxes
(a) Premarital and Postmarital Agreements
- 2 *Lindey and Parley on Separation Agreements and Antenuptial Contracts*, 2nd ed., by Alexander Lindey and Louis Parley eds., Matthew Bender, 1999, with 2024 supplement (Also available on Lexis).
Division III. Cohabitation, Antenuptial, and Postnuptial Agreements
Subdivision B.
Chapter 110. Antenuptial (Premarital) Agreements
§ 110.77 Taxes
[1] Federal Gift Taxes
[2] Federal Estate Taxes
- 12 *Current Legal Forms*, by Jacob Rabkin and Mark H. Johnson, 1948, Matthew Bender, with 2024 supplement.
Part I. The Tax Background
§ 10.09. Premarital Agreements
[1] Establishing Spouse's Rights
[2] Gifts Under Premarital Agreements

[3] Estate Taxation

- *Premarital Agreements: Drafting and Negotiation*, 2nd ed., by Linda J. Ravdin, 2017, ABA.
Chapter 12. Model Title Controls Agreement with Provisions for Weaker Party
Taxes: Comment
Taxes: Model text
- *Drafting Prenuptial Agreements*, by Gary N. Skoloff et al., 1994, with 2024 supplement, Wolters Kluwer (Also available on VitalLaw).
Part XIV. Estate Planning Considerations for Premarital Agreements
- Rachel Kohuth and John D. Davis, *Impact of Spousal Support Tax Law Changes*, 30 No. 5 Ohio Dom. Rel. J. NL 2 (September/October 2018) (Available on Westlaw).
“If taxpayers have prenuptial agreements, they will want to take a close look at them to see if the prenuptial agreement assumes alimony will be deductible.”
- C. Andrew Lafond, Bruce Leaby and Kristin Wentzel, *The TCJA – Provisions Affecting Individuals*, Practical Tax Strategies (October 2018)
“With the new law, Congress eliminated the deduction for alimony paid and therefore makes all alimony received nontaxable. This is effective for any divorce or separation instrument executed after 12/31/18, but does not apply to previously-agreed-upon prenuptial agreements.” (p. 6)

LAW REVIEWS:

Public access to law review databases is available on-site at each of our [law libraries](#).

Section 8: State Tax Aspect

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to the state tax aspects of premarital agreements in Connecticut.

CT STATUTES:

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2023).

§ [12-341](#). Taxable transfers by persons dying on and after July 1, 1959, and prior to July 1, 1963

§ [12-341b](#). Taxable transfers by persons dying on and after July 1, 1963

“The transfers enumerated in section 12-340 shall be taxable if made: ... (e) in payment of a claim against the estate of a deceased person arising from a contract made by him and payable by its terms at or after his death, but a claim created by an antenuptial agreement made payable by will shall be considered as creating a debt against the estate and shall not constitute a taxable transfer. If any transfer specified in subdivisions (c), (d) and (e) of this section is made for a valuable consideration, so much thereof as is the equivalent in money value of the money value of the consideration received by the transferor shall not be taxable, but the remaining portion shall be taxable. If it becomes necessary or appropriate in ascertaining such value to use mortality tables, the American Men's Ultimate Mortality tables at four per cent compound interest shall be used, so far as applicable.”

ENCYCLOPEDIAS:

- 59 *ALR 3d* 969, *Devise Or Bequest Pursuant To Testator's Contractual Obligation As Subject To Estate, Succession, Or Inheritance Tax* by Maurice T. Brunner, Annotation, Thomson West, 1974 (Also available on Westlaw).
§ 6. Antenuptial or postnuptial contracts

TEXTS & TREATISES:

You can [contact us](#) or visit our [catalog](#) to determine which of our law libraries own the treatises cited.

References to online databases refer to in-library use of these databases.

- *Connecticut Estate Practice Series: Death Taxes in Connecticut*, 4th ed, by Laura Weintraub Beck, 2022, Thomson West (Also available Westlaw).
Chapter 6. The Succession Tax
§ 6:3. Types of transfers affected
§ 6:7. Transfers by antenuptial agreement or other contract

Appendix: Legislative Histories in the Connecticut Courts

[Dornemann v. Dornemann](#), 48 Conn. Sup. 502, 516-520, 850 A.2d 273 (2004).

"There is useful legislative history for the act. When the joint judiciary committee of the General Assembly held public hearings on March 17, 1995, the committee took testimony from Edith F. McClure of the family law committee of the Connecticut Bar Association. The family law committee of the Bar Association drafted the act. The statement of purpose from the family law committee of the Connecticut Bar Association began as follows: 'The purpose of the proposed Act is to achieve by legislation a statement of public policy recognizing the efficacy of agreements for the management and control of property and personal rights and obligations of spouses. . . . The purpose of the Act is to provide certainty as to the enforceability of the provisions in premarital agreements. . . .' Conn. Joint Standing Committee Hearings, Judiciary, Pt. 7, 1995 Sess., p. 2492. '[T]estimony before legislative committees may be considered in determining the particular problem or issue that the legislature sought to address by the legislation. . . . This is because legislation is a purposive act . . . and, therefore, identifying the particular problem that the legislature sought to resolve helps to identify the purpose or purposes for which the legislature used the language in question.' (Internal quotation marks omitted.) [Dowling v. Slotnik](#), 244 Conn. 781, 804, 712 A.2d 396, cert. denied sub nom. *Slotnik v. Considine*, 525 U.S. 1017, 119 S.Ct. 542, 142 L.Ed.2d 451 (1998).

'In determining whether the use of the word shall is mandatory or directory, the test is whether the prescribed mode of action is of the essence of the thing to be accomplished. . . . That test must be applied with reference to the purpose of the statute.' (Internal quotation marks omitted.) [Sears, Roebuck & Co. v. Board of Tax Review](#), 241 Conn. 749, 760, 699 A.2d 81 (1997). The signature of the party seeking enforcement of the terms of the contract is not a necessity. So long as he performs his obligations under the contract, his signature is superfluous from a practical point of view. In the present case, the defendant married the plaintiff. In so doing, he acted in reliance upon the plaintiff's signing of the premarital agreement. The certainty of enforceability purpose of the statute is achieved when the person who is disavowing the validity of the document has signed it intelligently and willingly. Having reaped the benefit of the signing, the plaintiff may not now disavow the burdens she assumed as her part of the contract. 'One enjoying rights is estopped from repudiating dependent obligations which he has assumed; parties cannot accept benefits under a contract fairly made and at the same time question its validity.' [Schwarzschild v. Martin](#), 191 Conn. 316, 321, 464 A.2d 774 (1983).

A colloquy that took place on the floor of the House of Representatives on May 23, 1995, addressed issues relating to technical noncompliance with the act as opposed to substantive noncompliance. As the proponent of the act, Representative Ellen Scalettar of the 114th assembly district responded, through Deputy Speaker Wade A. Hyslop, Jr., to questions put by Representative Richard O. Belden of the 113th assembly district:

'[Representative Belden]: Mr. Speaker, just a question, through you to the proponent please. Mr. Speaker, with the enactment of this legislation, if somebody had signed some other agreement or it didn't comply with this statute, would it have the legal effect of a contract anyway? Through you, Mr. Speaker. . . .

'[Representative Scalettar]: Through you, Mr. Speaker. Yes, it would still be a valid contract. In fact, the bill specifically provides in Section 10 that it will not be deemed to affect the validity of any premarital agreement made prior to the effective date of the Act. . . .

[Representative Belden]: Then, through you, Mr. Speaker, how about a separate agreement made after the effective date that did not entirely comply with the legislation before us? . . .

[Representative Scalettar]: Through you, Mr. Speaker. I think the non-compliance would be subject to interpretation by the courts in that circumstance. The language is very broadly written. And I can't really foresee a circumstance where this bill, if enacted, would prevent enforcement of an agreement. . . .

[Representative Belden]: Thank you, Mr. Speaker. What I'm attempting to get into the record here is whether this is a mandate that the only way you can have a premarital agreement in the state of Connecticut is by following this statute or whether or not two consenting adults following a standard contract type format could, in fact, enter into any type of agreement they care to and still be valid. And that's what I'm trying to get in the record, Mr. Speaker, through you to Representative Scalettar. If I perchance decided to, if for some reason, was single and decided to marry next year and entered into a contract that was different than the requirements of this file, would it be enforceable? Through you, Mr. Speaker. . . .

[Representative Scalettar]: Through you, Mr. Speaker. It's very difficult to answer in the abstract. I believe that most agreements would be enforceable because I can't, as I said, I can't really foresee circumstances where the conditions would be in such noncompliance as to render the agreement invalid. But, for example, if the agreement adversely affected the rights of a child, which is in violation of the statute, I do not believe that would be enforceable. It would depend on the actual terms of the agreement.' 38 H.R. Proc., Pt. 9, 1995 Sess., pp. 3212-14.

Representative Belden used the word 'mandate' to question whether the intent of the act was to supplant common law premarital contracts or merely to steer the process into a standardized form. The discussion that took place on the floor of the House suggests that the legislature intended to do the latter. Shortly after the dialogue between Representatives Belden and Scalettar, the act passed the House with no dissenting vote.

The legislative history confirms that the purpose of the act is to recognize the legitimacy of premarital contracts in Connecticut, not to constrain such contracts to a rigid format so as to limit their applicability. The legislature's use of the word 'shall' in § 46b-36c is directory rather than mandatory as to the signature of the party seeking to enforce the premarital agreement. A signature by the party seeking to enforce the contract is a matter of convenience rather than a matter of substance. It is the signature of the party seeking to invalidate the force of the contract that is of the essence in order to assure enforceability."