What's a Prenuptial Agreement?

Under the Uniform Premarital Agreement Act (UPAA) a prenuptial (or premarital) agreement is “an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage”. Under the act, "Property" which may be the subject of a premarital agreement includes any “interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings”.

A Prenuptial agreement may deal with a wide variety of issues between prospective spouses including:

1. The rights and obligations of each of the parties in any of the property of either or both of them acquired before the marriage.
2. The rights and obligations of each of the parties in any of the property of either or both of them acquired after the marriage.
3. The disposition of property upon separation, divorce, or death.
4. The making of a will, trust, or other arrangement to carry out the provisions of the agreement.
5. The ownership rights in and disposition of the death benefit from a life insurance policy.
6. The choice of law governing the construction of the agreement.
7. Any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.

Why Sign a premarital agreement?

Nobody wants to think at the beginning of a marriage that it will ever end in divorce. However the statistics on divorce in the United States cannot be ignored. Here are some examples:

- In 2003 2.3 millions couples married and 1.3 million couples divorced.
- In 2003 the Bureau of the Census projected that 4 of 10 first marriages will end in divorce.
- People between the ages of 25 to 39 make up 60% of all divorces.
- Over one million children are affected by divorce each year.
- Approximately 1/3 of divorced parents remain bitter and hostile several years after the divorce.
- 75% of women and 80% of men remarry within 5 years after divorce.

- Second marriages are at greater risk of ending in divorce that first marriages.
- More people are part of second marriages today than first marriages.

The sad fact is that, in more than half of the cases, marriages have a beginning, a middle, and an end. And anyone who has been through a divorce will tell you that, without a prenuptial agreement, the end of a marriage can be a litigation nightmare for the parties, for their children, and for other family members.

A properly drawn and executed premarital agreement provides the parties with a measure of certainty as to how property and debts will be divided at the end of an unsuccessful marriage and may greatly reduce or even eliminate the issues which must be expensively litigated. The trouble and expense of drafting and executing a prenuptial agreement generally does not begin to compare with the trouble and expense of the legal battle resulting from the absence of a prenuptial agreement.

California Prenuptial Agreement Procedure:

California has developed strict requirements for the drafting and execution of premarital agreements. It is essential that these be strictly followed. Our office will guide you through these procedures including:

1. Drafting the agreement in consultation with the client
2. Drafting advisements and waivers which must be formally delivered to both parties before the agreement can be signed.
3. Proper execution and notarization of the agreement.
4. Proper care and storage of the agreement.