Prenups May Not Be Romantic But They Are Necessary (Just Ask Kobe Bryant What He Thinks....)

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As many of you already know, Los Angeles Lakers Superstar, Kobe Bryant, is getting divorced. Kobe's wife, Vanessa, filed a Complaint for Divorce in California just a few weeks ago. While I am not surprised by the fact that Vanessa filed for divorce, I was shocked to learn (as I am sure many of you were as well) that Kobe and Vanessa did not enter into a prenuptial agreement prior to their marriage.

A prenuptial agreement is a contract, entered into by parties prior to their marriage that addresses a variety of issues. Specifically, a prenuptial agreement tends to address issues concerning equitable distribution (of business, real estate, personal property, etc.), alimony and other issues that may arise if the couple were to get divorce. Although a prenuptial agreement may not be right for every couple, it is logical for those individuals with substantial assets, special talents, a business, and/or family wealth to contemplate the protections that a prenuptial agreement can provide.

In Kobe's case, the fact that he and his wife did not enter into a prenuptial agreement prior to their marriage could end up being a multimillion dollar mistake. Kobe Bryant's current net worth is approximately $200 Million Dollars[1]. Kobe currently approximately earns $24.8 Million dollars per year from the Los Angeles Lakers (he recently signed a contract extension), and receives additional compensation for apparel sales, advertising, and special appearances[2]. As you can see, Kobe has substantial assets and a significant income which, without the protection of a prenuptial agreement, will be front and center in his divorce proceeding.

Being unfamiliar with California Law, I cannot predict the outcome of Kobe's case. Nevertheless, it is safe to say that Kobe's exposure with regard to the issues of alimony and equitable distribution is exponentially higher given the fact that he did not enter into a prenuptial agreement. Indeed, there is no reason to doubt that Kobe's wife will seek every penny that she is entitled to under California Law. If, however, Kobe had the foresight to enter into a premarital agreement, however, Kobe's wife would most likely challenge the enforceability of that agreement.

If this were a New Jersey Case, the Bryant's "fictional prenuptial agreement" would governed by N.J.S.A. 37:2-31 to 37:2-41, which codifies the Uniform Premarital Agreement Act. In New Jersey, a premarital agreement may be found unenforceable for a number of reasons. Most commonly, a premarital agreement will not be enforceable if the party seeking to set aside the agreement proves that (a) the agreement was entered into involuntarily or (b) the agreement, at the time of enforcement, was unconscionable. Moreover, a party may be able to have the terms of a premarital agreement set aside if that party can demonstrate that the other party did not provide a full disclosure of their assets, including, but not limited to, their income and earnings, property, investments, etc. There is no doubt that Vanessa's attorneys would argue the latter two reasons if not all three if a prenuptial agreement existed in their case. Of course, there are a number of additional reasons why a premarital agreement may be unenforceable. That is why every premarital agreement must be reviewed on a case by case basis.

Prenuptial agreements may not seem romantic, but there is no doubt that a prenuptial agreement can save a party significant time and money in the unfortunate event that their marriage fails. While it is certainly not easy to plan for the demise of your marriage before you are even married, given the lesson that we have learned from Kobe Bryant's case, it is the only practical way to ensure that your interests are protected if your marriage does ultimately fail. Given the complexity of prenuptial agreements and the various issues that a prenuptial agreement can cover, I would urge anyone who is contemplating marriage or who is planning a wedding to contact Einhorn, Barbarito, Frost & Botwinick, PC to discuss whether a prenuptial agreement is appropriate for you.

[1] http://www.celebritynetworth.com/richest-athletes/nba/kobe-bryant-net-worth/

[2] http://www.celebritynetworth.com/richest-athletes/nba/kobe-bryant-net-worth/