

Family Law Question

Fifteen years ago, Husband and Wife married in State A. At the time of the marriage, Husband and Wife were both 35 years old, and each had a high school education. Wife worked as an administrative assistant for a manufacturing company, where she had been employed for six years. Husband was unemployed.

Husband was a spendthrift with a history of selling his possessions to fund unsuccessful business ventures. Aware of his personal failings, Husband asked Wife to enter into a premarital agreement under which (a) Wife would become the sole owner of all assets owned by Husband before his marriage to Wife; (b) Wife would pay all of Husband's premarital debts; (c) if Husband and Wife divorced, Wife would have exclusive rights to all assets acquired by either Husband or Wife during their marriage; and (d) if Husband and Wife divorced, both would waive all claims to alimony. Wife agreed to Husband's proposal. Husband and Wife both disclosed their assets to each other.

Attorney thereafter prepared a premarital agreement based on Husband's and Wife's understanding. Husband and Wife signed the agreement one week after a meeting at which Attorney explained the consequences of signing the agreement. The agreement contained a provision stating that both Husband and Wife had chosen to forgo individual representation by a lawyer. After signing the agreement, Husband transferred title to his assets to Wife.

Throughout the marriage, Wife has performed virtually all household chores. Wife has also worked full time at the manufacturing company; at times, she has also held a part-time job to pay for household expenses. Wife paid Husband's premarital debts with her earnings and with some of the assets Husband had transferred to her. She sold the balance of the assets Husband had transferred to her to pay for flying lessons for Husband. Husband got a commercial pilot's license after taking these lessons but never tried to find work as a pilot. Instead, Husband worked at part-time odd jobs until five years ago, when he was injured in a car accident. Thereafter, Husband claimed he was disabled and ceased working altogether. Wife currently earns \$35,000 per year.

Wife has sued Husband for divorce in State A, which terms spousal support "alimony." Husband claims that he is entitled to alimony and a share of the couple's assets. Wife claims that she is entitled to all assets titled in her name and in Husband's name. These assets are (a) the marital home, purchased by Wife during the marriage and titled in Wife's name; (b) Wife's employment pension; and (c) real estate inherited by Husband during the marriage and titled in Husband's name.

Wife has asked your law firm these questions:

1. Is the premarital agreement enforceable? Explain.
2. If the premarital agreement is unenforceable, what assets are divisible at divorce? Explain.
3. If the premarital agreement is unenforceable, is Husband entitled to alimony? Explain.