# *Fundamentals of Family Law 2nd edition Ehrlich Test Bank*

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## CHAPTER 2

Type: E
1. What was the traditional approach that courts took towards premarital agreements? What policy reasons supported this approach?
Type: E
2. When and why did courts begin to change their view towards these agreements?
Type: E
3. If, after entering into a contract, a party realizes that he or she has made a bad bargain and wishes to get out of the agreement, what is the likely result and why? What is the one notable exception to the law's general approach to bad bargains?
Type: E
4. Courts have tended to examine premarital contracts under a higher standard of review than ordinary contracts. Discuss the reasons that justify this approach.
Type: E
5. Explain the difference between procedural and substantive fairness. In discussing substantive fairness, be sure to explain the "second glance" doctrine.
Type: E
6. Why do some commentators suggest that the potential for coercion is less with regard to postmarital as compared to premarital contracts? Why do others disagree with this view?
Type: E
1. With the increased acceptance of premarital agreements, many courts have begun to approach them more like ordinary contracts, and will thus review under a less strict standard of review than premarital agreements have typically been reviewed under.

What are the arguments in favor and against this trend? If you were an appellate judge faced with making a decision about whether or not premarital agreements should be reviewed under the same standard as ordinary contracts, what would you decide and why?

1. Public policy has always favored the enforceability of premarital agreements as a way of enabling married couples to avoid the bitter struggles associated with divorce.
a. True
*b. False
2. According to the case of *Simeone v. Simeone*, premarital agreements should be reviewed more carefully than ordinary contracts in order to protect wives from overbearing husbands.
a. True
*b. False
3. In most states, premarital contracts do not come within the Statute of Fraud, and do not therefore need to be in writing.
a. True
*b. False
4. In reviewing an agreement for "procedural fairness," the court focuses on the process by which the contract was entered into rather than the actual terms of the agreement.
*a. True
b. False
5. Parties to a premarital agreement are said to stand at "arms-length" distance from one another.



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a. True
*b. False

6. An important distinction between ordinary contracts and premarital contracts is that performance of the former usually occurs within a short period of time after execution of the contract while a premarital contract may not be performed for many years after execution.
*a. True
b. False

7. The modern trend is for courts to emphasize contractual fairness over contractual freedom when evaluating premarital agreements.
a. True
*b. False

8. Under the "second-glance" doctrine, a court will review the fairness of a premarital agreement at the time of performance.
*a. True
b. False

9. The near universal rule is that courts will not enforce provisions in a premarital contract related to children.
*a. True
b. False

10. The majority of states refuse to enforce postnuptial contracts.
a. True
*b. False

1. All but which of the following served as a rationale for the non-enforceability of premarital agreements:
   A. that they encouraged divorce
   B. that women would be taken advantage of by more worldly husbands
   *C. that they were unfair to future children of the marriage
   D. that defining the obligations of spouses was a public rather than a private function

2. The greater acceptance of premarital agreements reflects all of the following trends except
   A. the emergence of no-fault divorce
   B. the changing status of women
   C. the growing acceptance of private ordering in marriage
   *D. the general growth in the popularity of contracts

3. Which of the following is not true. In order to be enforceable, most states require that a premarital contract
   *A. be witnessed by an attorney or notary.
   B. be supported by consideration.
   C. be entered into by parties with contractual capacity.
   D. be in writing



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4. According to the doctrine of "unconscionability," a contract will not be enforced if

A. it is not in writing
B. it is not signed by both parties
C. it is slightly more favorable to one side over the other
*D. none of the above

5. All but which of the following help to explain why courts typically review premarital contracts more carefully than ordinary contracts

A. the parties are in a confidential relationship
B. the parties are often in a position of unequal bargaining power
C. performance of the contractual obligations may not occur until many years after the contract is executed
*D. to protect the interests of children

6. As far as procedural fairness is concerned, which of the following is of paramount importance

*A. full and fair disclosure.
B. terms that are fair to both parties.
C. both of the above.
D. neither of the above.

7. The "second-glance" doctrine allows a court to ensure that

A. the terms of a contract are fair at the time of execution
*B. the terms of a contract are fair at the time of performance
C. both parties fully disclosed their assets before entering into the agreement
D. both parties understood what they were signing

8. Provisions in a premarital agreement related to children

A. are almost always enforceable
B. will be enforced if they are in the best interest of the children.
*C. are almost never enforceable
D. are enforceable if the children are consulted.

9. Courts may be reluctant to enforce provisions related to the waiver of spousal support because

*A. of the possibility of spousal impoverishment
B. they may interfere with a spouse's ability to make child support payments
C. they are typically unfair to husbands
D. of the potential tax implications



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10. Which statement is true about post-nuptial agreements

A. they enable a couple to make arrangements regarding child custody and support in the event of divorce.

B. they are void as against public policy.

C. they are never considered coercive in the way that premarital agreements may be.

*D. they may more accurately reflect a couple's actual circumstances than a premarital agreement



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