

September 2020
MPT-2 File

Eastwood v. Eastwood

West & Martin LLP
Attorneys at Law
300 McCormack Place
Franklin City, Franklin 33703

MEMORANDUM

To: Examinee
From: Christina Ruiz
Date: September 9, 2020
Re: Eastwood v. Eastwood

Louisa Eastwood and her husband, William Eastwood, are getting a divorce after 14 years of marriage. Louisa has asked for our help, and we have agreed to represent her. William has indicated that he intends to enforce the terms of the premarital agreement that they signed before they married.

Louisa is extremely concerned about the premarital agreement and believes that it is very one-sided in William's favor. In particular, she is concerned about whether she has any right to the marital home and whether she is entitled to receive spousal support. If she cannot get spousal support, she will receive only child support for their two minor children pursuant to the Franklin Child Support Guidelines, which will not be adequate to sustain their current lifestyle. Our law firm will need to assess all issues relating to the Eastwood divorce, but I would like you to focus only on the validity of the premarital agreement.

Please draft an opinion letter to Louisa analyzing the enforceability of the premarital agreement and advising her of the likelihood of successfully challenging the premarital agreement under Franklin law. Your letter should follow the attached firm guidelines for opinion letters.

West & Martin LLP
Attorneys at Law

OFFICE MEMORANDUM

To: All attorneys
From: Christina Ruiz
Date: June 8, 2017
Re: Opinion letters to clients

An “opinion letter” provides advice to a client concerning a matter and is written in a letter format.

The firm follows these guidelines in preparing opinion letters to clients:

- Do not include a separate statement of facts.
- Address each legal question independently.
- Analyze the issues raised by each question and provide the client with your conclusion regarding each legal issue presented.
- Be sure to cite applicable legal authority.
- Explain how the relevant authorities combined with the facts lead to your conclusions.
- Bear in mind that, in most cases, the client is not a lawyer. Use language that is understandable to a nonlawyer. Structure your discussion in a way that allows the client to follow your reasoning and the logic of your conclusions.

West & Martin LLP
Attorneys at Law

MEMORANDUM TO FILE

From: Christina Ruiz
Date: September 7, 2020
Re: Eastwood v. Eastwood; meeting with Louisa Eastwood

Today, I met with Louisa Eastwood (formerly Louisa Ricci), a 46-year-old woman, to discuss her situation. She and William Eastwood (age 48) have been married for 14 years and have two children, Max (age 12) and Hazel (age 10). Since Hazel's birth, Louisa has not worked outside the home and has been primarily taking care of the family. William works full-time and supports the family financially.

Louisa was recently diagnosed with rheumatoid arthritis (RA). Rheumatoid arthritis is an autoimmune disorder that attacks a person's joints and non-joint structures like skin, eyes, lungs, and the heart. In Louisa's case, RA has affected her ability to walk, read, lift, and move without pain. RA is a chronic and progressive disease that may affect Louisa's ability to work.

Louisa and William have been having marital problems for some time. Two weeks ago, Louisa told William that she thought it was time to end their marriage. The next day, William saw his lawyer and initiated divorce proceedings. He then sent Louisa an email demanding that she move out of the family home if she plans to go forward with a divorce. William also stated that he intends to fully enforce the terms of their premarital agreement.

Louisa is very worried about the premarital agreement because it gives her no rights in the marital home and also precludes her from getting any spousal support. Louisa is concerned that she will not be able to support herself and the children because her RA might affect her ability to work. Without the agreement, Louisa would have a claim to the home under the 50-50 presumption in Franklin's equitable distribution statute. She would also have a good case for an award of spousal support.

Signing of the Premarital Agreement in 2006

Louisa is highly educated and has a PhD in computer science. Louisa met William when he taught a business class as an adjunct professor at Franklin State University while running his family's business. At the time, Louisa was a full-time professor there. She is not from a wealthy

family and had a substantial amount of student loan debt but was earning a decent salary. She owned a car and lived in a rented apartment.

William, also highly educated with a BA and an MBA, is from a wealthy family that owns a real estate development business, which William runs. He was previously married but has no children with his ex-wife. When he and his ex-wife divorced after just two years, his ex-wife was awarded a large amount of spousal support for a period of three years. William always felt that the award was unfair and was determined to get a premarital agreement if he ever remarried.

After dating for a few months, William and Louisa began to discuss marriage. William told Louisa that if they decided to marry, he wanted a premarital agreement. He explained that having a premarital agreement would reassure him that Louisa was not marrying him for his money as he believed his first wife had. He also said that the premarital agreement would protect Louisa from any business debts that he might have or incur in the future.

Four months before they married, William asked Louisa for a comprehensive list of her assets and debts, with a current value for each. A few days later, Louisa gave William her list, which was short and simple: she owned a car, had small checking and savings accounts, and owed student loan debt. In turn, William gave Louisa a six-page list of his assets, which included several real estate holdings and investment accounts, and also a list of business debts such as existing mortgages on his properties.

Louisa had no experience with premarital agreements, and despite being highly educated, she did not know much about William's business or his assets. She does not have any real interest or expertise in economics or finance. She understood that William was well off but did not have a full grasp of his financial situation.

After the lists were exchanged, William worked with his longtime lawyer to draft a premarital agreement. There were no further discussions between William and Louisa about a premarital agreement until about a month later when William presented the agreement to her and asked her to read it and sign it if she agreed to the terms.

When Louisa told William that she didn't really understand the terms of the agreement, William again told her that he wanted it primarily to be sure that she loved him, not his money, and also to protect her from his business creditors. She asked William if she should get a lawyer. William said that he would be happy to arrange for her to meet with his own lawyer, who had drafted the agreement, so that his lawyer could explain it to her. Alternatively, William said that

he would pay for an independent lawyer if Louisa really felt that was necessary. Louisa told William that she trusted him but would like some time to read the agreement more carefully.

Louisa did not consult a lawyer about the agreement. She says she really did not understand the consequences of signing the agreement, but she loved William and wanted to make him happy. She knew that he had been hurt and felt angry as a result of his divorce, and she wanted to assure William that she was not marrying him for his money. Having a lot of money was never important to Louisa.

A few days after Louisa received the agreement, William asked her if she was ready to sign it. She agreed. They went to a bank and signed the agreement before a notary public. They each kept a copy, and William gave a third copy to his lawyer. William and Louisa married three months later without any further discussion of the premarital agreement.

Events after the Marriage

After they married, Louisa continued to work full-time as a professor at Franklin State University and used her earnings to contribute to household expenses. William, however, always paid a larger share of their marital expenses, given his greater income.

Two years later, in 2008, she gave birth to their first child, Max, taking three months of parental leave before returning to work. After Hazel's birth in 2010, William urged Louisa to stop working and stay home with the children. He told her that she would never need to worry about money because he had plenty to support the family. She took what she intended to be a one-year leave of absence but then never went back to work. She was very reluctant to give up her teaching position, because the computer science field changes so quickly and one has to keep up with current developments. In addition, she gave up opportunities for promotion that she would have had if she had stayed at the university. But again, William told her not to worry—he would always take care of her and their children.

In 2014, William handled the purchase of their home on Evergreen Street. The children were six and four then. William paid cash for the home and put the title in his name alone.

After Louisa stopped working outside the home, she had no independent income; William paid all their expenses. He was always very generous with money and bought pretty much anything Louisa wanted. He also made monthly deposits in a savings account from which Louisa paid household bills. When they separated two weeks ago, the account, which is in Louisa's name only, had a balance of \$5,000.

Email from William Eastwood

TO: Louisa Eastwood <Louisa.Eastwood@cmail.com>
FROM: William Eastwood <William.Eastwood@cmail.com>
SENT: September 1, 2020, 7:00 a.m.
SUBJECT: Divorce

Louisa,

Last week, you broke my heart when you told me you wanted a divorce. I know you are serious, so I went to see my lawyer.

As I told you before we got married, our premarital agreement is ironclad. It makes crystal clear that you have no right to any property that is titled in my name. The house is titled solely to me. If you won't reconcile with me, you should be prepared to move out of my house immediately.

Moreover, our premarital agreement explicitly waives your right to receive any spousal support. I will provide child support pursuant to the Franklin Child Support Guidelines but not a penny more.

I hope you will come to your senses and reconsider. I still love you and want you back.

William

Excerpt from Premarital Agreement between William Eastwood and Louisa Ricci

* * *

1. Each party specifically acknowledges that he or she enters into marriage in reliance upon the validity of this agreement and would not have entered into the marriage in the absence of this agreement.
2. All the property and income of each party owned at the time of the marriage, and all property and income acquired in the sole name of either party after the marriage, shall remain the separate property of each of them.
3. Except as the parties may otherwise later agree in writing, a party's "separate property" shall be any and all property including, but not limited to,
 - (a) all property acquired by a party prior to the parties' marriage, including, specifically, the property set forth in William Eastwood's Schedule A List of Assets and Obligations, attached, and Louisa Ricci's Schedule B List of Assets and Obligations, attached;
 - (b) all appreciation of assets listed in Schedule A or B;
 - (c) a party's interest in a business or professional services practice regardless of when such interest was acquired, the form of organization of the business, or the source of funds for acquisition of the interest;
 - (d) all property that is titled solely in one party's name, regardless of when purchased; and
 - (e) the party's earnings, including salary and investment income.
4. Upon divorce, each party shall release or relinquish all claims to and rights in the separate property of the other.
5. Neither party shall make any claim for spousal support from the other party.
6. Each party acknowledges that he or she has had ample opportunity to consult with independent legal counsel regarding the effects of this agreement, the rights and privileges waived and granted under this agreement, and the binding effect of the present and future consequences of this agreement; and each party acknowledges his or her complete understanding of the legal effects of the agreement.

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