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## New York Divorce and Family Law Blog

### [Pre-Nuptial Agreements: Why To Consider One](#)

Posted on July 6, 2010 by [Daniel Clement](#)

The [Wall Street Journal](#) in an article written by [Mary Pilon](#) detailed some of the reasons couples enter into prenuptial agreements.

In the article, I was quoted for having noticed a trend in my practice. In conversations with many of my younger clients, I observed that often they did not want a pre-nuptial agreement to protect assets they had already acquired-often they had yet to acquire anything of value, but instead, to protect their prospective inheritance. In many cases they were being dictated to by their parents and told that they had to obtain a pre-nuptial agreement.

In its most basic form, a pre-nuptial agreements identifies what is marital property, which would be subject to equitable distribution if the parties later divorce, and what is separate property, which would be immune from their spouse's claims.

Property inherited or acquired by gift is separate property. However, money is fungible and memories of the source of the funds are conveniently fleeting.

As pointed out in the [Divorce Analysis Blog](#):

A prenuptial agreement is useful in establishing the parties individual pre-marital wealth levels. While this may seem mundane ( I mean, who doesn't know their net worth when they say "I do"?), you would be how surprised how time colors the memory of wealth. Like the old "fishing story" beliefs about net worth can change dramatically with time.

One of the most useful aspects of the prenuptial agreement is that it clearly defines what is separate property, where appropriate, values the separate property and delineates the circumstances where separate property can be converted to marital property.

Parents leaving sizeable estates to their children may require the children to obtain pre-nups to ensure that however their children use their estates, the funds will for all purposes remain a separate asset and otherwise immune from a spouse's claim in the event the marriage ends in divorce.