

# Documents That Can Disrupt an Estate Plan

## ***Key Contractual Conflicts Advisors Should Watch For***

Clients often assume their estate plan controls everything. In reality, several other legal documents—often signed years earlier and long forgotten—can override the terms of a will or trust. For advisors, identifying these documents early is essential to prevent conflicts, delays, and unintended distributions.

### **BUY-SELL AGREEMENTS: THE OVERLOOKED BUSINESS CONTRACT**

For clients who own a business, a buy-sell agreement can significantly impact how their ownership interest transfers at death.

**These contracts typically specify:**

- Who may purchase the deceased owner's shares
- How the purchase price is determined
- Whether the transfer is mandatory or optional

When buy-sell provisions conflict with an estate plan, for example, if the trust directs shares to a child or spouse, but the buy-sell does not, the buy-sell controls.

**Common risks include:**

- Executors unknowingly transferring shares to beneficiaries, undermining the buy-sell
- Family members expecting ownership that legally must be sold
- Confusion and conflict between the estate and surviving business partners

Advisors working with business owners should request and review buy-sell agreements regularly to ensure alignment with the estate plan.

### **PRENUPTIAL AND POSTNUPTIAL AGREEMENTS: HIDDEN ESTATE TERMS**

While most clients view prenuptial agreements as divorce-related documents, many contain post-death provisions dictating:

- What a surviving spouse is entitled to inherit
- Limitations on estate claims
- Required distributions or minimum support amounts

These agreements are enforceable contracts and, like other contracts, supersede the estate plan if there is a conflict.

### Challenges arise because:

- Clients often forget what their prenup contains
- Agreements signed decades earlier may no longer reflect their current life
- Estate planners may not realize restrictions exist unless the client discloses the document

Advisors should ask proactively whether clients have a prenup or postnup.

### OTHER LEGAL AGREEMENTS THAT CAN IMPACT ESTATES

In addition to buy-sell and prenuptial agreements, certain court orders and other contractual agreements also influence how assets transfer at death. These may include:

- Divorce decrees requiring ongoing life insurance obligations or specific beneficiary designations
- Longstanding contractual obligations from prior relationships such as a cohabitation agreement

Each of these documents can restrict how assets flow regardless of what the estate plan intends, and advisors should discuss the existence of these arrangements with their clients.

### THE BOTTOM LINE

Estate plans do not exist in a vacuum. Contractual obligations, whether business or personal, can override or reshape a client's wishes. Advisors who help clients surface, understand, and reconcile these documents provide significant protection against disputes and costly administrative mistakes.

### Make it standard practice to ask clients about:

- Buy-sell agreements
- Prenups and postnups
- Divorce decrees with ongoing requirements
- Other contractual obligations that may impact estate plans

Collect and review these documents alongside the estate plan. Coordinating all governing documents ensures your client's wishes, and not an outdated contract, determine what happens at their death.

To learn more about this topic, please watch our [Office Hours video](#) or reach out to your investment consultant.

The opinions referenced are as of the date of publication and are subject to change without notice. Material presented herein has been derived from sources considered to be reliable, but the accuracy and completeness cannot be guaranteed. This material is for informational use only and should not be considered investment advice. Clark Capital does not provide tax, legal, or accounting advice. Individuals should consult with their personal tax, legal, and accounting professionals regarding the legal or tax implications of a

particular suggestion, strategy or investment, including any estate planning strategies.

Clark Capital is an investment adviser registered with the U.S. Securities and Exchange Commission. Registration does not imply a certain level of skill or training. More information about Clark Capital's advisory services can be found in its Form ADV and/or Form CRS, which are available upon request.