

Eastwood v. Eastwood

Model answer: the outline, then the written opinion letter to Louisa (annotated)

An opinion letter advising the client in plain language. Read the colors as in your marked-up File and Library: each highlight is the rule or fact in play, and the same color links a rule to the fact that turns on it.

Key: a highlighted phrase is the rule or fact; **the teal → text** after it is the shorthand takeaway (what it means for Louisa).

FPAA framework voluntariness unconscionability support waiver / 105(3) material change the cases home / 50-50 facts for William

STEP ONE The outline (what you jot before you write)

Three independent questions under FPAA § 105; two likely fail, one likely wins. Note the authority by each rule.

Question 1: voluntariness (likely fails)

- 1 § 105(1)(a) + *Richards*: five factors on the circumstances of signing. → **likely voluntary**
- For William: 3 months' notice, full disclosure, an offer of counsel (like *Brandt*). → **not coercive**
 - For Louisa: misleading 'proof of love' talk; her financial unsophistication (a *Richards* factor). But she holds a PhD. → **weaker**

Question 2: unconscionability (likely fails, closer)

- 2 § 105(1)(b) (a question of law) + *Federman/Rider*: gross disparity in bargaining power. → **likely not**
- The deal is one-sided, but both were employed professionals (unlike *Federman's* 19-year-old). → **not gross disparity**

Question 3: sever the support waiver (likely wins)

- 3 § 105(3) + *Hughes*: sever if substantial hardship from a material change after signing. → **likely severed**
- Material change: she left her career at William's urging + now has RA. → **Louisa's strongest claim**

STEP TWO The written opinion letter (plain language, question by question)

A client letter: the letter frame, then one section per question with a plain-language conclusion. Letter left, teaching notes right.

West & Martin LLP · 300 McCormack Place · Franklin City, Franklin 33703

September 9, 2020

Dear Ms. Eastwood:

Letter frame. Opinion-letter frame: firm letterhead, date, and a personal salutation. No separate statement of facts.

Thank you for meeting with us. You asked whether the premarital agreement you signed with William is enforceable and how likely you are to challenge it successfully. This letter analyzes three separate questions under the Franklin Premarital Agreement Act (FPAA). In short: it is likely that a court would enforce the agreement's property terms, including its treatment of the home, but there is a strong argument that you can still obtain spousal support despite the waiver. I explain each question below.

1. Did you sign the agreement voluntarily? (Likely yes, so this is not a strong challenge.)

The FPAA makes a premarital agreement unenforceable if the person resisting it proves that she did not sign it voluntarily. FPAA § 105(1)(a). Franklin courts weigh five factors about the circumstances of signing: the time between signing and the wedding, any surprise in how it was presented, the chance to consult your own lawyer, whether assets were fully disclosed, and your understanding of the rights you gave up. *Richards v. Richards*.

Most of these factors work against you here. You received the agreement about three months before the wedding and kept a copy that whole time, so there was no last-minute pressure. William raised the idea early and explained his reasons, so there was no surprise. He gave you a full, six-page list of his assets and debts months in advance, and he offered to pay for an independent lawyer. Your situation therefore looks like *Brandt v. Brandt*, where the court upheld an agreement because the wife had time, disclosure, and the chance to get her own counsel, rather than *Richards* or *Kosik*, where the agreements were sprung on the wife days before the wedding with hidden finances.

Some facts help you. William told you that signing would prove your love was not about his money, which was manipulative, his offer of a lawyer was made only if you “really felt that was necessary,” and you have said you did not fully understand the consequences of signing. Your understanding of the rights waived is a proper factor. But because you are highly educated and had ample time to consult a lawyer, a court would most likely find that you signed voluntarily. I do not think this is a winning challenge on its own.

2. Was the agreement unconscionable when you signed it? (Probably not, though it is a closer question.)

An agreement is also unenforceable if it was unconscionable when it was

Purpose + preview. Open with the purpose and the bottom line, so a nonlawyer client sees the answer first.

Heading. Question 1 heading, in plain client language, with the conclusion up front.

Rule (5 factors). State the rule and list the five *Richards* voluntariness factors in plain terms.

Argue: mostly voluntary. Apply the factors: most favor William. Analogize *Brandt* (valid); distinguish *Richards/Kosik* (invalid).

Counter + conclude. Give the honest counterweight, then conclude candidly: likely voluntary. Opinion letters must be frank.

Heading. Question 2 heading with a candid, hedged conclusion.

Rule. State the unconscionability standard (*Federman/Rider*) and note the judge

executed, a question the judge decides as a matter of law. FPAA § 105(1) (b), (2). An agreement is unconscionable when there was a gross disparity in bargaining power that led the weaker party to sign a deal no sensible person would accept; the law guards against one-sidedness that rises to the level of oppression. In re Marriage of Federman; Rider v. Rider.

The agreement is undeniably one-sided in effect: it lets William keep the home and everything titled in his name, and it waives the roughly 50-50 share of marital property you would otherwise presumptively receive.

Franklin Family Code § 14(a). William is a sophisticated businessman who had been divorced before and understood exactly what he was protecting. But unlike the pregnant nineteen-year-old college dropout in Federman, you were a mature, employed professional with a PhD when you signed. Because there was no comparable gross disparity in bargaining power, a court would more likely than not find the agreement was not unconscionable, although this is a closer call than the first question.

3. Can the spousal-support waiver be set aside? (Yes, this is your strongest argument.)

Even when a premarital agreement is otherwise valid, a court may refuse to enforce its spousal-support waiver and sever that provision if enforcing it would cause substantial hardship because of a material change in circumstances that arose after the agreement was signed. FPAA § 105(3). In Hughes v. Hughes, a court severed a support waiver after the spouse lost his job and became paralyzed; those later events were a material change causing substantial hardship.

Your circumstances fit this rule well. When you signed in 2006, you had a secure, well-paying professorship. After Hazel was born, William urged you to leave your career, promising he would always provide, and you have now been out of the workforce for about ten years. More recently you were diagnosed with rheumatoid arthritis, a chronic, progressive disease that impairs your ability to work. Enforcing the waiver would leave you with only child support, which will not sustain you and the children. Together, your lost career and your illness are a material change causing substantial hardship, so a court is likely to sever the waiver and consider awarding you spousal support, just as in Hughes.

In summary, the agreement was most likely signed voluntarily and is probably not unconscionable, so its property terms, including the home, will likely be enforced. Your strongest and most promising path is the spousal-

decides it as a matter of law.

Argue: likely not. Apply Federman: one-sided, but no gross disparity because Louisa was an educated professional. Concede it is closer.

Heading. Question 3 heading, flagged as the strongest claim.

Rule (the winner). State the § 105(3) severance rule and the Hughes example, the client's winning theory.

Argue: likely severed. Apply § 105(3): the career sacrifice + RA are a material change causing substantial hardship. Analogize Hughes.

Conclusion + next steps. Close with net advice (home likely lost, support likely won), concrete next steps, and the child-

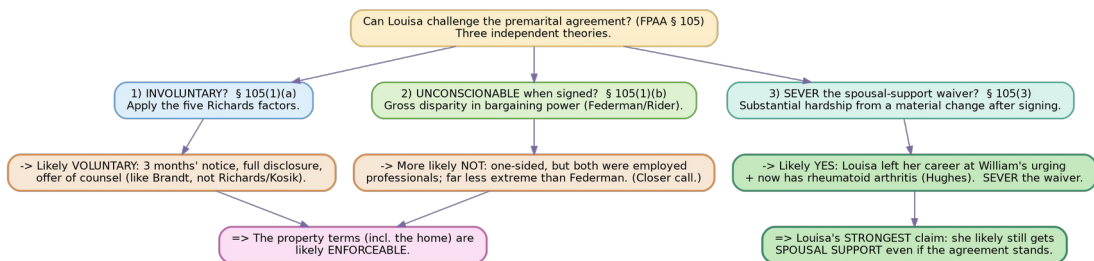
support waiver: given your years out of the workforce and your diagnosis, a court is likely to set that waiver aside and consider an award of support. I would be glad to discuss next steps, including gathering your medical records and financial information to support a request for spousal support. Please note that child support is protected regardless of the agreement. FPAA § 104(2).

Sincerely, West & Martin LLP

support reassurance.

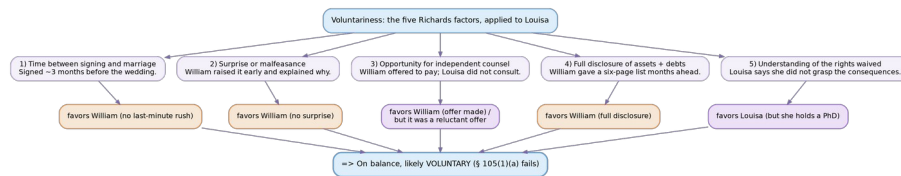
AT A GLANCE The three questions and the voluntariness factors

Three challenges, one strong answer



The property terms likely stand; the spousal-support waiver is likely severed, so Louisa likely still gets support.

The five voluntariness factors



Most factors favor William, so the agreement was likely signed voluntarily.