

# Husband in bid to stop \$3.2m prenup

A wealthy Sydney businessman forced to give his ex-wife, a former pole dancer, \$3.2 million is asking the High Court to overturn a decision to uphold their prenuptial agreement in a case that may affect thousands of relationship contracts.

The couple, given the court pseudonyms Mr Wallace and Ms Stelzer, met in 1998 at the adult entertainment venue where she worked soon after he split from his first wife.

He was 51 years old, had three children and a successful business while she was 38 years old, divorced and had no assets.

Days before they married in October 2005, they signed a prenuptial agreement that he would pay her \$3.2 million if the marriage failed within four years. They separated less than two years later.

Mr Wallace unsuccessfully tried to have their financial agreement thrown out in the Family Court on a number of grounds, including that Ms Stelzer used sex and the promise of children to fraudulently or unconscionably lure him into signing it.

The trial judge did not accept Mr Wallace's claim that he was "infatuated by the wife and emotionally and pathologically dependant on her".

He found Mr Wallace had wanted the prenuptial agreement because he had experienced a protracted property settlement with his first wife, which resulted in him handing over more than \$6 million.

Mr Wallace also tried to argue the prenuptial agreement was not binding because of amendments to the Family Law Act in 2009 that changed the requirements

couples must follow for an agreement to be enforceable. This included the need for each party to obtain adequate independent legal advice about the effect of the contract on their rights should the relationship fail.

The amendments affected all agreements signed between January 2004 and January 2010 and Mr Wallace argued their retrospective application contravened the constitution and the separation of powers doctrine. The trial judge disagreed and the full bench of the Family Court upheld that decision when the matter went to appeal.

The case became known in family law circles as "the pole dancer case" and has had the close attention of the federal Attorney-General's office due to its potential implications for prenuptial agreements.

Mr Wallace is now seeking special leave to appeal to the High Court on the single ground that some of the 2009 amendments - introduced to overcome a full bench judgment that there be strict compliance with the requirements for prenuptial agreements to be valid - are mutually inconsistent and uncertain.

His junior counsel, Bill Washington, said the changes were made to ensure people could not get out of agreements on a technicality but instead it had resulted in complex court battles, which the prenuptials were designed to prevent.

"Sadly, in trying to solve the problem in the pre-nup section of the Family Law Act, the federal government has made an appalling mess of it," he said.

Ms Stezler's solicitor, Deborah Searle, said that if the appeal was successful the case would be remitted to the Family Court and it was possible Mr Wallace would have to pay Ms Stelzer a larger proportion of his \$16.5 million fortune.