



## Quiz

### Prenuptial Agreements

1. Which of the following is true regarding a certificate of independent legal advice?
  - a. It is strongly encouraged but not a legal requirement of a Binding Financial Agreement;
  - b. It invariably upholds the validity Binding Financial Agreements;
  - c. It rules out the possibility of a person later claiming that there was duress, undue influence or unconscionable conduct by the other party at the time of signing a Binding Financial Agreement;
  - d. It will not always disadvantage someone who later seeks to set the agreement aside.
2. Upon what ground was the High Court unanimous in setting aside the agreement?
  - a. Unconscionable conduct;
  - b. Undue influence;
  - c. Unfairness;
  - d. Duress.
3. What is known as the 'trial judge's advantage?'
  - a. Appeal Courts are only concerned with questions of law, not fact and therefore the trial judge's findings of fact will be difficult to disturb on Appeal;

- b. As the trial judge sees and hears witness testimony, any finding of fact they make with respect to the credibility of a witness will be difficult to disturb on Appeal.
  - c. Any errors made by the trial Judge in his/her judgment have the benefit of being reconsidered and corrected on Appeal;
  - d. All of the above.
  
- 4. Which of the following is an example of unconscionable conduct?
  - a. An instance where somebody's will is overborne by another which results in them not having the capacity to exercise a free and independent will;
  - b. An instance where somebody uses threatened or actual coercion to do something against their will or better judgment;
  - c. An instance where someone takes advantage of someone else who is in a position of special disadvantage;
  - d. An instance where a person is not permitted to obtain independent legal advice prior to signing a Binding Financial Agreement.
  
- 5. What was a factual distinction in *Saintclair v Saintclair* which led the Binding Financial Agreement being upheld in that case?
  - a. Upon the evidence, the parties in *Saintclair v Saintclair* had equality in bargaining power at the time the agreement was entered into;
  - b. The 'advantaged' party in *Saintclair v Saintclair* was able to provide evidence from psychologists that the 'disadvantaged' party had free agency;
  - c. Independent legal advice together with a Certificate of independent legal advice had been provided;
  - d. There was no perceived or actual threat or coercion by either party to the agreement.

Answers:

1. D 2. A 3. B 4. C 5. A