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FAMILY LAW

Just avoid London

Life is good for George. He's a partner at a US law firm, lives in a townhouse on the upper-east side of Manhattan, owns a vineyard in South Africa and is the sole beneficiary of a trust that holds substantial funds and an art collection. He has also just met the woman of his dreams, South African L'Oréal model Caroline, and they are to be married.

This was the case study used to hold together a session yesterday afternoon on big money divorces. The thrust of the discussion analysed what would happen if the couple moved to different jurisdictions and how George could protect his assets.

Unsurprisingly enough, the major conclusion was that George should try to avoid London. "One wouldn't know whether to start with the bad news or the really bad news if George had to separate from Caroline in the divorce capital of the world," said Russell Bywater of Dawson Cornwell in London. "In recent years we've moved into *Hello!*-styled jurisprudence and the focus has shifted from need to entitlement."

And even the best pre-nuptial agreement could struggle in the courts of England and Wales. "For pre-nups to even get to first base, there has to be full financial disclosure, a document signed by both parties with record of legal advice and it is advisable to sign it at least 21 days before

the wedding. More importantly, it has to be fair in the eyes of the court, and fair at the time of the divorce too," Bywater continued.

That said, Bywater admitted that although pre-nups do not have to be recognised in court, they can be useful guidelines and there is growing case law

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Daniel Thulare

to prove this. Therefore, if he had to battle in London, George would have to hope that his pre-nup was to full UK standards.

Alternatively, the court may be swayed by a clause that indicates that even if the couple is living in the UK, it would like any future divorce to be conducted in a friendlier, pre-determined jurisdiction. Another clause stating that both parties are aware that the pre-nup is not necessarily valid in the UK but that they hope it would be taken into account would be advisable too.

After all, as fellow panel member Daniel Thulare of Family Law Courts in Johannesburg said: "Love is blind, but divorce opens your eyes."