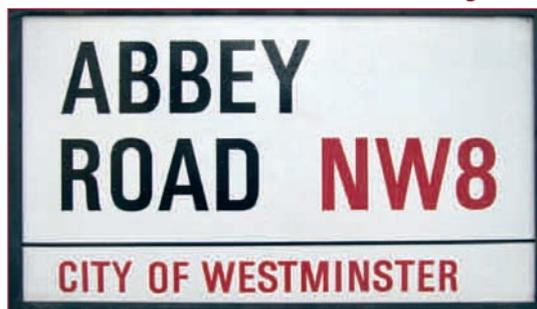


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### divorce after McCartney



The much publicised divorce of Paul McCartney and Heather Mills has led to a settlement in favour of Ms Mills of £24.3 million from Sir Paul's fortune, which is estimated to be £400 million – the figure presented by his side in the proceedings and accepted by the court. Ms Mills, who represented herself, claims that he is worth £800 million and is reported to have now appointed forensic accountants in a bid to boost her chances of obtaining a larger settlement.

What is significant about the judgment is that the award is based only on the needs of Ms Mills and the couple's daughter. The implication of this is that the judge clearly considered that Ms Mills's contribution to the family wealth during their four years of marriage was immaterial.

The decision contrasts with the July 2007 divorce settlement involving insurance magnate John Charman and his wife Beverley.

She received £48 million from Mr Charman's £130 million-plus fortune. Mrs Charman was regarded as having made a significant contribution to her husband's success.

These days, the courts are looking carefully at the relative contributions of each of the divorcing couple to the creation of wealth during the marriage and at their stated intentions (if any) on going into the marriage – which means that pre-nuptial agreements are assuming increasing importance. This does not mean that 'stay at home' spouses will necessarily receive a small settlement. If they can demonstrate that they provided the environment and support which enabled or assisted the 'go getter' to amass wealth, then there is every chance of them being awarded a significant proportion of the marital assets, particularly if the marriage has lasted several years.

The other factor the court will consider is the wealth brought into the marriage by each party. By and large, the 'non-marital assets' are divided in the proportion in which each spouse (or civil partner) introduced them.

We can help you deal with all aspects of marriage break-up and financial arrangements on divorce.

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## government abandons plans to protect cohabittees

The Government has announced that it does not, for the time being at any rate, intend to proceed with reforms to the law that would have given cohabiting partners similar rights to married couples or civil partners on the breakdown of their relationship.

The review of the law in this area was intended to create more certainty in such cases, but the Government has chosen instead to wait to evaluate the effects of planned reforms to the law in Scotland before any changes are made to the law in England and Wales.

Contrary to popular belief, in law there is no such thing as a 'common law spouse'. Couples who live together do not acquire legal rights and there are no set rules for how their assets should be divided if they split up.

If you live with someone else, your respective financial positions can be protected by having a formal written agreement, which should be made with the benefit of independent legal advice on both sides. Contact us for advice.

### in brief

#### **commitment to share must be clear**

A live-in partner of 15 years, whose partner had promised that she would be 'well provided for', failed to obtain a share of the property they had lived in after the court ruled that the words were just a general statement of a beneficial outcome, rather than a commitment to share ownership. Executing the necessary documents would have protected her position.

#### **remarriage not ground for alteration of divorce settlement**

The court has ruled that the remarriage of an ex-wife within months of a 'clean-break' payment being made under a consent order was not sufficient reason to alter the order, despite the

fact that it had been made when she was not cohabiting and was thought unlikely to remarry. The agreement did not provide for any variation if she did remarry within a particular period.

#### **willingness to improve enables father to regain custody**

A father with mental health problems who showed significant improvement in his ability to look after his son has been granted custody of him by the Court of Appeal after he agreed to participate with the local authority in a package of measures to improve his parenting skills.

His son wanted to live with him and fostering arrangements had been unsuccessful.

## victory for pre-nuptial agreements



Pre-nuptial agreements have been given a boost following a recent case involving a 'serial divorcee'.

A pre-nuptial agreement is an agreement made by a couple before they marry specifying how their assets are to be divided in the event that they divorce. They are commonly made by wealthy people, especially where the assets of the couple prior to the marriage are very unequal.

UK law does not (in theory) recognise pre-nuptial agreements. However, they are having more influence as the courts increasingly accept that they are indicative of a couple's intentions at the outset of their relationship.

The thrice-divorced ex-wife had signed a pre-nuptial agreement to the effect that in the event of divorce neither she nor her husband would make any financial claim against the other. She withdrew her claim for a share of her ex-husband's fortune after the judge issued a preliminary ruling that the pre-nuptial agreement would be of material importance to the case.

Pre-nuptial agreements are becoming an increasingly common safeguard in case a marriage or civil partnership does not last.

Please contact us for advice on this issue.