

# Court upholds \$3.25m prenup

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A WEALTHY businessman will be forced to hand more than \$3.2 million to his ex-wife, a former pole dancer, after a full bench of the Family Court this week upheld their prenuptial agreement.

The couple, known by the court as Mr Wallace and Ms Stelzer, met in 1998 at the Sydney club where Ms Stelzer worked soon after Mr Wallace split from his first wife. At the time, he was 51 and she was 38.

They married seven years later and entered into a prenuptial agreement that Mr Wallace would pay Ms Stelzer \$3.25m if the relationship failed within four years. It failed within two.

Mr Wallace tried to renege on their agreement, arguing that the relevant legislation was unconstitutional because it was retrospective. He also argued his ex-wife had fraudulently induced him into their agreement with false claims of love and a desire for children.

In a decision that has been closely watched by family lawyers, the Family Court ruled on Wednesday that the prenuptial agreement was binding. In doing so, it upheld the decision of the trial judge.

Ms Stelzer's solicitor, Deborah Searle, told *The Australian* her client was "thrilled" with the result. She said Mr Wallace would now be forced to pay his ex-wife more than \$3m plus the costs of the original litigation, the appeal, six interlocutory matters and interest.

Family lawyers have urged the government for several years to bring certainty to the area of financial agreements.

In 2009, a Family Court decision cast doubt on the validity of tens of thousands of agreements.

The government passed retrospective legislation to ensure the agreements would not be set aside because of minor technical errors, but subsequent Family Court cases caused further doubt about their validity.

The decision on Wednesday found there was no doubt the 2009 amendments were "ambiguous and mutually inconsistent". In a unanimous decision, the judges upheld Mr Wallace and Ms Stelzer's agreement and ruled that the amendments could have a "retrospective operation which is constitutionally valid".

Ms Searle said the decision brought certainty in relation to the 2009 amendments, but the government needed to deliver further legal changes to ensure that clients could rely on prenuptial agreements with confidence.

Mr Wallace's solicitor, Trevor Hall, said he found it extraordinary that the court had been prepared to look behind clear drafting errors in the 2009 amendments. "The legislation is a complete mess and should be revisited," he said.