

"It's always interesting when I ask clients 'do you want me to write in this contract that should you break up you would be treated as if you were married in a mediation or arbitration situation?' Obviously, we can't force the courts to do that. 'Do you want to agree to just arbitrate any dispute, and direct the arbitrator to divide the property as if you were married, applying the laws of marital distribution?' Depending on who that is an advantage or disadvantage to, you get different reactions," Thompson offers. "They may be out there politically working for gay marriage, but when it comes right down to their own situations, sometimes they take a second look at it."

Thompson wants couples in the LGBT community "to have integrity in their relationships." She says she's now starting to see same-sex parents splitting up and fighting over custody. If it's a case where they did not take the time and trouble to protect the second parent's rights, then the parent with rights is tempted to take advantage of the other parent. The same thing is true with property.

"I think parents are a little more motivated to do paperwork, for the children's sake," she says. "But people do not do property agreements at all. So when they split up, if the property was all in one person's name, and all along they said, 'Oh, don't worry dear, it's 50-50,' and 'Honey, of course you own it 50-50 even though you've given up your job and you're staying home to be a house mom or a house dad,' but then when they break up it's 'Sorry, the deed's in my name.' And without agreements, you're

absolutely out of luck. Without agreements, you may have no rights whatsoever."

Couples who've been together 20 years or more, Thompson says, are certain to lose rights that married people have — such as entitlement to each other's retirement — without this kind of paperwork. If couples want to share property that way, it can be provided for. They can do an agreement that each promises to name the other as beneficiary of his or her retirement account, and then if they don't do it, it's possible to sue for breach of contract.

"The other thing that I always find fascinating, but not surprising, is that when I ask 'well, did you ever talk about how you're going to own this property and what — given that you're contributing in different ways — if you ever broke up, what might happen?' And nearly everybody — 95 percent — says 'oh well, we never really talked about it.'"

"Even if you think money's not an issue," she says, "talk about it and at least put it in writing yourself. Maybe it's not an enforceable contract because you did it yourself but it would be evidence of what your intent was. It would show that in December 2005 you told me and we wrote up this agreement that this car that you bought is my car. Things like that."

The LGBT community has to a lot of legwork to get even a portion of the rights and protections that marriage grants heterosexual couples automatically, she says. But it's very important that couples do it.

"You have to take on the burden of educating yourself so you can be sure that your lawyer or any other professional is representing you well," Thompson says. "But I do feel in

this day and age — versus when I started out — there's a lot of information out there, on various websites.

"You do have to educate yourself about these issues," she emphasizes. ▀

For more information:

• "A Legal Guide For Lesbian & Gay Couples" (25th Anniversary Ed)

by Hayden Curry, Denis Clifford, & Frederick Hertz
Nolo Press, \$34.99

• "Estate Planning for Same-Sex Couples"

by Joan M. Burda

American Bar Association, \$59.00

On the web:

• The American Civil Liberties Union has some useful information on their website:

Protect Your Relationship

www.aclu.org/getequal/rela/protect.html

• Lambda Legal Defense, a national organization, has a number of useful articles on their website, including:

Relationship Recognition and Benefits

www.lambdalegal.org/cgi-bin/iowa/documents/record2.html?record=1497

Protecting Families: Standards for Child Custody in Same-sex Relationships

www.lambdalegal.org/cgi-bin/iowa/news/publications.html?record=404

• National Center for Lesbian Rights, according to Thompson, is the best source for information on gay parenting issues:

www.nclrights.org

• North Carolina Gay and Lesbian Attorneys, a statewide organization, has useful material in their "Legal Guide" section:

www.ncgala.org

• North Carolina Religious Coalition for Marriage Equality

www.ncrc4me.org

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