
FOR THE EXCLUSIVE USE OF KROSSELLO@KLEHR.COM

From the Philadelphia Business Journal:

<https://www.bizjournals.com/philadelphia/news/2018/02/09/valentines-day-is-next-week-and-nothing-says-i.html>

Valentine's Day: Nothing says I love you like a pre-nup

Feb 9, 2018, 11:09am EST



istock

As Valentine's Day 2018 is rapidly approaching, love is in the air with many singles thinking about popping the big question. There is far more to marriage proposals today than ever before.

In addition to the centuries-old tradition of kneeling on one's knee and proposing with a diamond ring encased in a velvet box, many of today's future spouses are thinking about what social media outlets their engagement will be featured on, who will shoot their engagement photos and which planner will help orchestrate their special day. Along with hiring florists, bands and looking for the perfect venue, we believe that meeting with an attorney and planning for your pre-nuptial

agreement should be on your agenda well in advance of your wedding day.

With the ever-present knowledge of a high national divorce rate, more and more couples are opting to discuss, negotiate, and execute some form of a prenuptial agreement. Anyone who has chosen to follow the traditional marriage route and is honest about it knows that staying married and in a connected relationship with another person along with his or her extended family over a long period of time is no easy task. Nonetheless, the allure and romantic views of married life still prevail, supporting an ever-expanding \$51 billion marriage industry. According to the National Vital Statistics System, approximately 2.1 million marriages occur each year. Of those couples, approximately 40-50 percent end up divorcing. The divorce rates for second and third marriages are even higher—a startling 60-67 percent and 70-73 percent respectively.

As one who is a relationship guru and the other a leading matrimonial attorney, the authors of this article agree that the reality of getting both parties on a level playing field through the negotiation and final execution process of prenuptials is no easy feat. For many, this process requires lots of counsel and hand-holding. Even in the best of circumstances, where people begin discussing and negotiating these marriage contracts many months in advance of their weddings, the majority of people seem to end up finalizing their terms and executing their agreements within just a few weeks, days, and—even worse—*hours* before they walk down the aisle.

As a matrimonial lawyer with over 29 years of family law experience, David has drafted hundreds of prenuptial agreements over the years. There is no doubt that helping clients get through the process of negotiating a contract that can affect them and their families for the rest of their lives can be an extremely challenging process. In spite of the difficulties, he believes that today's prenuptial agreements are far less draconian and one-sided than they once were in the not-so-distant past. With rare exception, David has been able to assist his clients in getting through the process financially and emotionally intact without seeing the relationship fall apart before making it to the altar.

As a relationship counselor and matchmaker, Monica has assisted couples for over 10 years managing their relationship and financial expectations around pre-nuptial agreements. The reality is, people get married when they are madly in love and get divorced just plain mad. If there are no children, a split is much cleaner. When children are

involved, the level of complexity and friction is ten fold as the two parties now need to think about seeing each other at dance recitals, soccer games and school functions along with family milestones for the rest of their lives. Couple this with child support along with equitable distribution, and for sure there is an imminent War of the Roses on the horizon. Wouldn't it be so much easier to have enough confidence in your relationship to discuss the possibility of divorce prior to walking down the aisle? Mature people know the statistics of marriage and naturally want to be the success story, but frankly speaking, almost half the couples getting married will end up in divorce. Why not protect yourself and your family right out of the gate?

There is no doubt that prenuptial contracts were once reserved for the rich and famous. As more young people opt to pursue careers in which there can be many years of work and effort leading up to the start of their lucrative professional practice, there is an increasing awareness and desire to protect what they have worked hard to build on their own. For others, the thought of having a state representative determining their financial fate and future is completely unacceptable, and they feel the need to make private contractual agreements for what will happen if their marriage fails. In many instances, it is the family of great wealth that insists on having the less or non-moneyed spouse sign a prenuptial agreement. On the other hand, many couples may deem it unnecessary if the financial stakes are low for both parties.

When parents divorce, the first words out of their mouths are usually, "We are going to be amicable for the sake of the children". This should translate to 50/50 custody not share at your discretion! The truth is, in the majority of the cases, the kids are put in the middle and these well intentioned sentiments inevitably have a near term expiration date. Monica advises individuals entering into a first marriage or those thinking of having more children with a new spouse to put custody in the prenuptial. By agreeing to a 50/50 shared physical custodial arrangement, both parties are making it clear to each other that they want to be fair and reasonable should things end. This even handed approach to child rearing demonstrates rational and well thought-out positions regarding future offspring, and what is truly best for them, namely to spend quality time with both mom and dad.

Although custody provisions in a prenuptial agreement are not enforceable due to the fact it is against public policy to contract away the rights of unborn children and custody provisions are always subject to modification in the "best interests" of the child, by including general

custody provisions parties can indicate their intent at a time when they are amicable and this will serve as a roadmap.

Prenuptial agreements are even more important for subsequent marriages or those occurring between older people who have already established themselves financially. 63% of members of the American Academy of Matrimonial Lawyers (AAML) have seen an increase in the number of prenuptial agreements. Many possible factors contributing to this rise have been suggested, but perhaps the most influential is that as of 2013, 40% of new marriages in the U.S. included at least one partner who had been previously married. With the knowledge from a previous divorce (or divorces), one would only want to make the next time around as simple as possible. It is especially vital considering the high rate of divorce for marriages after the first, which only rises with each subsequent marriage.

Statistics also show that the number one subject that couples fight about is money. Thirty percent of couples that fight about money end up in divorce. Whether wealth is inherited or earned, it is something that people should protect. Agreeing on a fair economic settlement in advance takes away a lot of the stress in a marriage as it demonstrates that neither party is in it just for the lifestyle. It is one thing to agree on a 50/50 split of money made during the union, but what people enter into the marriage with, or inherit prior to or after the union should remain in single name unless an individual feels so compelled down the road to put it in joint names. Signing a monetary prenuptial agreement shows confidence that the future relationship will go the distance and creates an opportunity for each member of the relationship to demonstrate they are willing to do right by the other.

Postnuptial agreements are on the rise as well, with 51% of divorce attorneys claiming to have seen an increase during the period between 2009 and 2012. For a couple who opted out of a prenuptial agreement due to lack of need, a postnuptial contract is a good idea if, for example, there is a significant change in the financial standing of one or both parties, or if children become involved. Changed circumstances like the aforementioned may also warrant revisiting the terms of a prenuptial agreement.

Marriages may not be everlasting, but peace of mind is priceless.

Dr. Monica Mandell is a relationship expert and founder of Love Matters LLC. David J. Steerman is a partner at Klehr Harrison Harvey Branzburg LLP.

PHILADELPHIA **BUSINESS JOURNAL**

[User Agreement](#) | [Privacy Policy](#) | [Ad Choices](#) |  [Your Privacy Choices](#)

© 2023 American City Business Journals. All rights reserved. Use of and/or registration on any portion of this site constitutes acceptance of our [User Agreement](#) (updated April 18, 2023) and [Privacy Policy](#) (updated June 27, 2023). The material on this site may not be reproduced, distributed, transmitted, cached or otherwise used, except with the prior written permission of American City Business Journals.