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First Comes Love, Then Comes the Prenup

By Charisse Dengler

With wedding season in full swing, church bells are ringing, blushing brides are beaming, and divorce attorneys are busy writing prenups. However, instead of hoarding all the business they can, most divorce attorneys urge couples to have serious conversations about whether or not they even need a prenup.



In a society where divorce statistics continue to climb at an alarming rate, the topic of prenuptial agreements is bound to come up sometime between ordering the pink tulips and deciding on the swing band.

According to the Census Bureau, 50% of first marriages for men under the age of 45 may end in divorce; and between

44% and 52% of first marriages for women in the same age group may end in divorce. As a result of more and more marriages ending in divorce, the number of people who marry for a second and third time is also rising.

In the midst of all this marrying and re-marrying, assets are lost, property is shuffled and divided, and relationships are ruined. In some cases, a prenup can be just what a couple needs to avoid these outcomes. However, how exactly does a couple know if a prenup is right for their particular situation?

Attorneys at Rosen Law Firm in North Carolina have come up with five crucial topics couples should discuss prior to exchanging nuptials—all dealing with the issue of whether or not to draft a prenup.

The firm—which has offices in Raleigh, Charlotte, and Chapel Hill—was founded in 1990 and has grown to be one of the largest divorce firms on the East Coast. The firm’s attorneys specialize in child custody, alimony, property distribution, separation agreements, and domestic violence relief. In other words, they are divorce experts.

“Prenuptial agreements can take a toll on any relationship,” said Lee Rosen, President of Rosen Law Firm and a board-certified family law specialist, in a May 16 press release. “Couples planning on getting married in the next few months really need to sit down and decide whether this is a good thing for them.”

“For a healthy marriage, couples need to integrate all their resources, including finances, or else one spouse has an unequal balance of power,” said Janet Fritts, an attorney with Rosen Law Firm, in a press release. “I rarely recommend a prenuptial agreement; but depending on the situation, in some cases, it might be appropriate.”

Because prenups aren’t for everyone, the firm suggests that its clients consider and discuss the following five areas before deciding if a prenup is right for them: substantial assets, beneficiaries, previous divorces, current disagreements over finances, and the overall need for a prenup.

When it comes to substantial assets, beneficiaries, and previous divorces, divorce attorneys find that it’s mainly older couples that have a lot to wade through. For this reason, many couples entering into their second or third marriages will have more of a need for a prenup than younger couples.

However, if a younger couple constantly disagrees over their finances and/or simply feels a strong need for a prenup, then a written agreement could be just what they need.

Another thing divorce specialists urge their clients to consider in regard to prenups is the differences in state laws concerning the agreement. Many times, agreements will not be taken to mean the same thing from state to state. For this reason, it’s important for divorce attorneys to let their clients know they may want to get advice on how to proceed from a matrimonial lawyer in the state they are planning to move to if they ever choose to relocate.

Because divorce attorneys deal with divorce on a daily basis, one might wonder about their personal opinions of prenups. When asked, Rosen said he finds them unsuccessful.

“Over the years, I’ve worked with some clients who had prenuptial agreements; but I think they are generally ineffective—they are at the most only a partial solution to



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disputes over assets during a divorce,” says Rosen. “And it’s like going into something planning for a way out from the beginning; but in some cases, a prenuptial agreement may be the only way someone will feel comfortable marrying, especially for a second time.”

For those who do decide they want to enter into a prenuptial agreement, attorneys at the Rosen firm usually suggest drawing up an agreement that involves only a few major assets and has a relatively short time limit, such as three years. This is known as a sunset clause. Many couples may choose to have a sunset clause set in after 10 years of

marriage on the assumption that if they can make it 10 years, they can make it forever.

The firm also thinks it’s a good idea for divorce attorneys to advise each person to have individual matrimonial lawyers and to begin the prenup process early. Also, clients should be made aware that unless prenups have sunset clauses, they should be updated every few years. Attorneys should explain that because these agreements are usually originally drafted with a spirit of fear and defense, couples may want to make some changes to their allocations over time.

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