TRIANGLE SMART DIVORCE®

Getting Married?

Take the Stress Out of Your Premarital Agreement

HAVE YOU CONSIDERED WHAT WILL HAPPEN WITHOUT A PREMARITAL AGREEMENT?

Premarital Agreements *are not* just for the rich.

The truth is, you have an agreement whether you put it in writing or not. If you and your significant other do not create and tailor your own agreement to your specific situation, then you have an agreement that the laws of North Carolina will decide your division of assets upon death and divorce. Those same laws will determine how much, if any, alimony you pay or receive.

40%

What's better: leaving the issues up to the government, or deciding for yourselves how you will handle the issues upon death or divorce? **A dose of reality...**We will all die. We don't know when. We don't know how. But we know we will. Another dose of reality...a first marriage has a 40% likelihood of ending in divorce within 15 years according to the National Center for Health Statistics. The percentages go up as the number of marriages increase. There are the cold, hard facts.

In our observations, we are seeing an increase in people getting premarital agreements mainly due to people getting married later, accumulating more assets/debts before marriage, and with many millennials being children of divorce, they are predisposed to protect their interests.

WHO ARE YOU TO TELL ME I NEED A PREMARITAL AGREEMENT?

I own a small, boutique law firm who cater to smart people who do not want to screw up their divorces. These same folks also do not want to screw up their next marriage. For over 20 years, out Team has been advising our clients to have a premarital agreement when they remarry so they never again have to experience the financial devastation, headaches and time vampires of a lengthy and protracted litigated divorce. **We want to help** smart people plan for the realities I mentioned above - death and divorce - rather than to leave the decisions to the state and the courts.

MY FIANCÉ WILL THINK I'M A JERK!!

One of the first objections we hear is, **"I cannot talk to her about a prenup. That makes it seem like I am expecting we won't last"**

Sounds like a legitimate objection, doesn't it? But it neglect reality. **Death is 100% and divorce is 40%**. No one thinks twice about packing an umbrella if there's a 100% chance of rain. Most people take a raincoat if there's a 40% chance of rain. But so many people fail to have protections before getting married. Why? **False beliefs and stigma**, in my humble opinion. Stigma surrounding premarital agreements. False beliefs that they are only for the rich, only for someone who doesn't think the marriage will work, or only for someone who doesn't trust the other's financial decisions. "B.S.", I say.

IF YOU NEED A REASON

Here are a few logical reasons you need a premarital agreement:

1. **Clarify finances.** Couples with or without children, wealthy or not, may simply want to clarify their finances - each other's responsibilities. In our experience as divorce lawyers, we see so many smart people go through a divorce due to financial issues, including poor communication about finances.

2. **Protection from Debts.** Agreements can be used to protect spouses from each other's debts; both premarital and ones created during the marriage.

3. **Avoid arguments in case of divorce.** By determining in advance how assets should be divided and whether or not alimony will be paid, lots of the typical arguments in a divorce can be avoided.

4. **Preserve separate property for children from prior marriages.** If you have children from a prior marriage, a premarital agreement can be used to preserve that separate property for the children, while still providing other property for the new spouse, if desired. Without a premarital agreement, a surviving spouse has the right to claim a large portion of the other spouse's property, leaving much less for the kids from the previous marriage.

5. **Selecting your method of resolution.** If two divorcing spouses cannot agree on a resolution, the court will decide for them. With a premarital agreement you can select your method of resolution such as mediation or arbitration, keeping the matter private and out of the court.

IF YOU DON'T CARE ABOUT ANY OF THE PREVIOUS REASONS, A PREMARITAL AGREEMENT MAY NOT BE FOR YOU

But before you stop reading, consider what happens if you die or divorce without a premarital agreement:

Marital assets will be divided, typically 50/50, at the time of divorce. Growth on premarital assets - like a business (including a family business), house, investment accounts, and so on - may be considered separate property. Upon death, your spouse's claim to assets is not limited to marital assets, but to the entire estate. Both of these situations can cause separate property to be treated differently than you may have wished or thought.

Debt incurred during the marriage is typically marital debt, no matter whose name it is in, at the time of divorce. At time of death, the probate court will require the debt to be paid if there are sufficient assets in the estate. Both of these situations reduce the value of the estate.

If you don't want either of the above situations, then a premarital agreement may be for you.

WE ARE TOO YOUNG TO NEED A PREMARITAL AGREEMENT!

Many of our clients have advised their children to have a premarital agreement, ad they report that the kids don't think they need one because they are young and don't have any assets to speak of. **This might be true for now.** But remember how I said that one of the leading causes we see for divorce is finances and lack of communication *about* finances? Things don't go wrong, they start wrong. **A premarital agreement can help provide clarity on how the young couple, just starting out, wants to handle finances.** Finding out well into the marriage that your ideas about money are quite different can be a HUGE problem. Maybe you want to pool your income and share all expenses, or maybe you want to maintain separate bank accounts and pay some expenses jointly, but others individually. There is no right or wrong answer. Not having the conversation is the issue.

61%

According to an article published by the American Psychological Association, 61.1% of divorced couples claimed that marrying young was the reason for their divorce.

The same study states that 55.6% of couples claimed that financial issues were the cause of their divorce.

55%

WHEN DO I HAVE THIS CONVERSATION?

Our advice is: **before** you pick the location, select the caterer or tell all your friends, have a conversation about premarital agreements. We have found that many of our clients delay because they feel uncomfortable bringing up the topic.

We get that. We really do.

But it had to be much more uncomfortable for our clients who had to reschedule the wedding the night before because the premarital agreement was still being negotiated. Or even more uncomfortable for the client who had to tell her friends and family that she was not getting married anymore because her debt-ridden soon-to-be spouse wanted her to be on the hook for his thousands of dollars of premarital debt.

People underestimate the amount of time it takes to negotiate and prepare a premarital agreement, **and the longer they delay, the more difficult and stressful it becomes**. Who wants to be negotiating an agreement in the midst of making wedding plans, having engagement parties, and picking out *the dress*? NO ONE**. Doing this can create feelings of unfairness for the other party.**

If there's one thing I'm sure of after 20+ years as a divorce lawyer and mediator, it's that **a perception of unfairness leads to unhappiness, which leads to resentment.** None of that is a good way to start a marriage.

HOW AM I SUPPOSED TO HAVE THIS CONVERSATION?

Just start. Let your significant other know that you would like to consider having a premarital agreement. Have the reasons for a premarital agreement ready before you start this conversation. This conversation is a **practical conversation about the future**, not a judgmental conversation about financial choices or decisions. And the sooner you start, the better.

Don't wait until days before walking down the aisle to broach the subject. Once you agree that you would both prefer to control how your finances are dealt with upon death or divorce, then transition into more detailed conversations like sharing income, assets, and debt. **Identify** important issues. **Determine** what your goals are. **Be up front and honest** in your discussions. **Listen**. Listen some more. After the conversation, have a list of your assets, debts, income and other financial matter put together. Ask your significant other to do the same.

Work together to prepare a bullet point list of what you would like to accomplish with a premarital agreement. If you do not know what your options are, make an appointment with a lawyer to learn about options. Many lawyers, like us, have a worksheet to help guide you through some of the decisions.

BUT THEY WILL SAY, "YOU DON'T TRUST ME!"

Your soon-to-be spouse may say you want a premarital agreement because you don't trust them. That is an objection we hear often. And we, too, feel that spouses should implicitly trust each other. However, **you are not questioning trustworthiness.**

What they may not be aware of is that they are actually asking you to take a big amount of risk by *not signing* a premarital agreement. You are being asked to demonstrate trust by not signing a prenup, but they could simply demonstrate trust by signing it. **These measures of trust are equal**, BUT, these **are not** equal measures of risk. If understand that, explain you are actually demonstrating trust by committing to a premarital agreement because you are putting in writing that neither of you will burden the other with the debt, go after assets you each brought into the marriage, be overreaching with support requests and so on.

Without a premarital agreement, you are trusting the court system to be fair to each of you, which frankly, we haven't seen too often.

BUT I HEARD PRENUPS ARE SUPER EASY TO GET OUT OF

This is an urban legend. So long as both people have informed the other of their assets (often called "disclosure") and both people are voluntarily (meaning not drunk, out of their mind, or being held up at gun point) then the premarital agreement will stand provided it is drafted properly. What this means is that you can plan how your finances will be dealt with at your death or divorce and not worry that a court can override the decisions you and your significant other made.

AREN'T PRENUPS EXPENSIVE?

The **upfront costs** of a premarital agreement **are significantly less** than the costs of a litigated divorce, an estate dispute or even most amicable divorces. Additionally, debt, alimony, and assets divided up beforehand can **save a lot of stress** in case of divorce. A premarital agreement can also help you go into marriage with a little less stress on your shoulders. **Stress has a cost, too!** Again, a premarital agreement makes sure your financial matters are handled according to **your wishes** rather than what the state says. And it is very expensive to undo what the state does.

HOW WILL YOU FEEL IF SOMEONE ELSE DECIDES YOUR FATE?

Marriage is more than a commitment to your love. It is also a financial and legal relationship. A premarital agreement is a contract which allows both of you to predetermine what happens upon divorce and death. **Would you enter into any other financial relationship without a contract and allow the state and/or the courts to decide your fate?**

We specialize in helping people make smart decision that lead to better results for all involved, whether you are starting a relationship, ending a relationship, or already divorced.

5 GREAT REASONS TO CHOOSE TRIANGLE SMART DIVORCE

1 Straight Shooters

You have made an important decision in your life. We respect you for that. You deserve to hear the good, the bad and the ugly from us with no B.S.

2 Efficient

Wasted time is wasted money. We will have strategy meetings with you throughout your case to determine the best path to take while being mindful of your budget.

3 Listeners

You know your life better than anyone. We listen before we advise. There are no one-size-fits-all solutions.

4 Empathetic

You have your own motivations, needs, and emotions. We work to understand them so we can help shape a better result for you

5 Compassionate

We take your well being as seriously as our own.

CALL OR E-MAIL US WITH YOUR QUESTIONS TODAY!

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