

Planning for Your Financial Future

It has been estimated that approximately 42% of all marriages will end in divorce. The dissolution of a marital relationship often brings with it uncertainty about life after divorce.

In many states, Pennsylvania included, there is no set formula to determine what percentage of the marital estate a spouse will receive nor the amount of alimony a financially successful spouse will pay after divorce. As a result, many couples are using a prenuptial agreement as a financial tool to plan for their future.

No one likes to go into a marriage thinking about divorce; however, if the subject is approached from the standpoint of financial planning, it can be a much easier conversation.

Going into a divorce with uncertainty about the outcome can create a huge, unexpected financial strain. Most divorces that involve higher income families and larger assets commonly drag on for two or more years, because finding an equitable balance tends to be more complicated. Not only will you need to share your assets and income, you will also have ongoing legal fees until the case is resolved. By entering into a well-crafted prenuptial agreement, you can minimize your financial stress if your marriage ends in divorce.



Maria Cognetti is one of Pennsylvania's leading family law attorneys. She founded Cognetti Law Group to provide high quality legal representation to clients with significant income and assets. Ms. Cognetti represents clients with complex financial matters related to marriage and divorce, which frequently involve multiple experts, business valuations, division of pensions and stock options, and the analysis of other complicated financial data.



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Is a Prenuptial Agreement Right for You?



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Why Should You Have a Prenuptial Agreement?

If you are the owner of a family-held business, or anticipate a future interest in one, a prenuptial agreement can help ensure that those assets remain in the family. If you expect to receive a significant inheritance during your marriage, a prenuptial agreement can protect those assets from becoming entangled in the marital estate. If you are a promising professional, who may not have significant assets at the start of your marriage, a prenuptial agreement can even protect assets you may acquire with your future earnings. And, for a couple who may be entering a marriage with children from a prior relationship, a prenuptial agreement can preserve your hard-earned assets for your children from your prior marriage. Although the above examples are not an exhaustive list, they are certainly some of the most common reasons couples decide to enter into prenuptial agreements.

Create Certainty in Your Estate Planning

In addition to divorce planning, prenuptial agreements can also be a very important estate planning tool. An effective prenuptial agreement, coupled with targeted estate planning, will allow you to provide financial security for both your spouse and your children in the event of your death. Through a prenuptial agreement, you can determine exactly what share of your assets your spouse will receive. As an estate planning tool, a prenuptial agreement can provide clarity to your heirs and minimize probate challenges made by your spouse.

Pennsylvania has an "Elective Share" statute pursuant to 20 Pa. C.S. 2203(a). This law provides that if a couple is still married (with no divorce pending) at the time of one

spouse's death, the surviving spouse can elect to receive 1/3 of the deceased spouse's estate. This law supersedes the deceased spouse's Last Will and Testament – even if it disinherits or leaves the surviving spouse a smaller amount than what is stipulated under the Elective Share statute.

However, you can use a prenuptial or postnuptial agreement to waive the rights to any Elective Share amount. Thus, a valid prenuptial agreement allows you to truly control how your estate is distributed.

You Need a Well-Drafted Prenuptial Agreement

Through a well-drafted prenuptial agreement, you can protect the assets you bring into the marriage and assets you acquire in the future. This will minimize litigation over your assets and your income and save you or your heirs the uncertainty of the outcome and the potential of substantial legal fees.

Discussing a prenuptial agreement with your future spouse may not be easy; however, neither will going through a messy divorce or a probate challenge. A prenuptial agreement can manage both parties' expectations and hopefully mitigate animosity should the marriage end, allowing both parties to move forward with the next chapter of your lives.

We do not recommend that you use a business or estate attorney to draft your prenuptial agreement because they are unfamiliar with family law and the consequences of a divorce. Having dealt with many high asset divorce cases, our family law attorneys have seen the effects that the lack of a prenup, or an inadequately crafted prenup, has on our clients. If you want a prenup that offers you financial certainty and covers all potentially unpleasant events, we are here to help you.

Top 10 Questions About Prenuptial Agreements

To draft a prenuptial agreement (prenup) that will stand the test of time, we need to gather your and your partner's financial information and understand your personal goals. Also, you probably have a lot of questions about what goes into a prenup.

Here are the top 10 questions most people ask when they are contemplating a prenuptial agreement.

1. Should I get my prenup signed well in advance of my wedding date? What are the risks involved in not doing so?
2. What does it mean when someone says they signed a prenup "under duress"?
3. Does my partner need to have legal counsel before signing the prenup?
4. What will make a prenup invalid down the road?
5. Will we need to appraise all of our assets?
6. How much financial disclosure is required from both sides?
7. Does a prenup have to be fair?
8. How limiting can my prenup be in case of a divorce? Can I limit child support or spousal support?
9. Is it true that I don't have to share all assets that are acquired during the marriage?
10. Why shouldn't I use my business or estate attorney to draft my prenup since they already know my financial situation well?

Find answers to the above questions by visiting this page on our website: www.cognettlaw.com/prenup.