

THE PRENUPTIAL AGREEMENT MYTH

By Jeannie Santiago

A prenuptial agreement, often referred to as a "prenup," is a legal contract entered into by a couple before marriage that outlines how assets, debts, and other financial matters will be handled in the event of divorce or death. The purpose of a prenuptial agreement is to provide clarity, protect both parties, and prevent future disputes. While marriage is a deeply emotional and personal commitment, it is also a legal contract and approaching it with foresight can safeguard both individuals from unnecessary conflict and financial hardship.

Contrary to popular belief, prenuptial agreements are not just for the wealthy. While high-net-worth individuals may have more complex assets to protect, prenups benefit couples of all financial backgrounds. They can establish financial expectations, protect premarital assets, and even define how future earnings and responsibilities will be shared. Those who should strongly consider a prenuptial agreement include individuals with significant personal assets, business owners, parents with children from previous relationships, those with debts, and even people entering marriage with expected inheritances or career advancements.

One of the biggest myths surrounding prenuptial agreements is that they signal a lack of trust or belief in the marriage's longevity.

In reality, a well-structured prenuptial agreement is not about planning for divorce but rather about creating a framework for a fair and reasonable outcome should the marriage dissolve. Another common misconception is that prenuptial agreements are inherently unfair, favoring the wealthier spouse. In truth, courts generally do not enforce agreements that are unconscionable or overly one sided. A properly drafted prenup protects both parties by ensuring transparency and fairness.





A prenuptial agreement should include provisions addressing property division, spousal support, debt responsibility, business interests, and even specific terms regarding inheritances. Additionally, while child custody and support terms cannot be predetermined in a prenup, discussing financial expectations for children from prior relationships can be beneficial. The most effective prenuptial agreements are those that are negotiated with full financial disclosure and fairness, ensuring both partners have independent legal counsel and ample time to review the terms before signing.

One of the biggest mistakes people make when drafting prenuptial agreements is failing to seek proper legal counsel or rushing the process just before the wedding. A prenup signed under duress, without full disclosure, or lacking fairness can later be invalidated. Another mistake is creating overly rigid terms that do not account for changes in circumstances over time. Additionally, some couples make the error of not discussing their prenup openly, leading to resentment or misunderstandings later on. A prenuptial agreement should be seen as an open conversation about financial expectations, not a last-minute imposition.

Too many engaged couples avoid discussions about prenuptial agreements because they fear it will ruin the romance of their relationship. However, ignoring the possibility of divorce does not prevent it from happening. Given that nearly half of all marriages end in divorce, failing to plan for the financial and emotional ramifications can lead to unnecessary stress and drawn-out disputes. A prenuptial agreement serves as a roadmap, making divorce less adversarial and more about following predetermined, fair terms. This is particularly crucial in mediation, where a prenup can streamline negotiations and prevent unnecessary conflict. Instead of fighting over assets or financial responsibilities, a prenuptial agreement allows couples to focus on resolving other aspects of their separation, such as co-parenting arrangements.



When comparing the cost of a prenuptial agreement to a contested divorce, the difference is staggering. A well-drafted prenup can cost anywhere from a few thousand dollars to around \$10,000, depending on complexity and attorney fees. Meanwhile, a contentious divorce can cost tens of thousands—sometimes even hundreds of thousands—of dollars in legal fees, court costs, and drawn-out negotiations. Investing in a prenuptial agreement is a fraction of the financial and emotional cost of a messy divorce.

A prenuptial agreement is not a pessimistic plan for failure; rather, it is a responsible and pragmatic approach to marriage. It fosters transparency, financial security, and fairness, ensuring that both spouses enter their union with clear expectations. In the event of a divorce, a prenuptial agreement simplifies proceedings, making mediation smoother, less adversarial, and significantly more cost-effective. As a seasoned divorce mediator, I have seen firsthand how having a prenuptial agreement in place can transform an otherwise contentious separation into a respectful and efficient process. Marriage is a beautiful commitment, but being prepared for all possibilities is the hallmark of a truly strong and secure partnership.



**For more information about Civil and Divorce Mediation
Please visit www.MyMediator.JeannieSantiago.com**

Let's Stay Connected



The information provided in this article is for general informational purposes only.

While every effort has been made to ensure the accuracy and reliability of the information presented, it is not intended to be a substitute for professional legal advice. As the author is not a lawyer, the content should not be construed as legal counsel.

Readers are strongly encouraged to consult with a qualified attorney for advice tailored to their specific circumstances. Laws and regulations vary by jurisdiction, and legal interpretations may change over time. Reliance on the information in this article without seeking legal advice is at the reader's own risk.

The author and any affiliated entities assume no liability for any loss or damage incurred because of the use or interpretation of the information provided in this article. Any reliance on the content herein is solely at the discretion of the reader.

