

# Love and money: Why more people seek pre-nups

The latest gossip out of Tinseltown is that Jennifer Lopez and Ben Affleck have postponed their fairy-tale wedding and that their relationship is on the rocks. Headlines across the country scream that “Bennifer” — the kitschy acronym for the couple — is no more.

Before the couple's break-up, it was widely reported that J.Lo had requested that her soon-to-be third husband sign a pre-marital agreement that stipulated that they would get to keep their individual assets — including cars, houses, securities, cash, jewelry, etc. — if the marriage didn't work out.

It was rumored that there was an additional “no cheating” clause inserted into the agreement, indicating that if Ben cheated on J.Lo during the marriage the pre-nup would become void, and J.Lo would be entitled to all of her assets, plus one-half of Ben's stash. Ben dutifully signed the agreement at the request of his starlet fiancé. However, the current Camelot couple has yet to tie the knot and, as a result, the agreement never may be put to the test.

Another Hollywood glam couple may have come and gone, but pre-nuptial

agreements are here to stay. While originally utilized by merely the rich and famous, pre-nups are becoming more of a “given” among the not-so-well-heeled as well as working-class professionals. Today more people, especially women, are putting their careers first, holding off on getting hitched and having kids until they are financially secure. That being the case, today's yuppies are more financially independent, want to lay all of their cards out on the table, and want a written contract detailing their financial rights and obligations so that no questions remain when the honeymoon is over.

Until the Married Women's Property Act was passed in 1848, women had zero property rights, with everything a woman owned becoming the property of her husband upon their marriage. If a woman managed a business, the husband had the right to take it over upon saying “I do,” and if she inherited assets during the union, he could claim those, too.

Women soon began to wise-up. Even in the early 19th Century, if a man appeared to be out for just a woman's money, the smart lady-in-waiting would recognize a wolf beneath sheep's clothing and had the scoundrel sign a pre-nup before the couple appeared at the altar ready to pledge eternal bliss. Therefore, as history would dictate, considering a pre-marital agreement before marriage is a clever move.

Today, Texas is one of 26 states that have adopted the Uniform Premarital Agreement Act. The Act defines a pre-marital agreement as “an agreement between prospective spouses made in contemplation of marriage and to be effective on marriage.” It allows couples

to freely contract with regard to any real or personal property interest they have or may acquire in the future, including salaries and earnings. Additionally, it grants couples the right to contract with regard to “any other matter including their personal rights and obligations,” unless the terms violate a criminal statute, impact the support of a child or are contrary to public policy.

Experienced matrimonial lawyers realize that pre-marital agreements are rapidly growing in popularity and becoming accepted as the norm in the 21st Century. A growing number of young professionals, especially women, are accumulating substantial assets before meeting “The One.” For their financial protection, they are savvy in considering, delineating and segregating what they have acquired before walking down the aisle.

While not necessarily a romantic or sexy topic of discussion when a hot date with the spouse-to-be is in the works, with the right approach, a pre-marital agreement affords numerous benefits that should seriously be considered.

Typically, in a community property state such as Texas, property acquired before marriage, as well as property acquired by gift, devise or decent during marriage, is considered a person's separate property. However, all other property acquired during marriage, including a person's salary and earnings, along with income and royalties received from separate property, is considered to be community property and is subject to an equitable division upon dissolution of the marriage by death or divorce.

By entering into a pre-marital agreement, however, a party can specify that

all property acquired before marriage, including any interest or income resulting from such property, shall remain that party's separate property during marriage. In addition, parties may specify that all property acquired during the marriage, such as individual salaries and earnings, shall be the separate property of the party who earned the property rather than being treated as community property as per the laws of the state.

Simply put, pre-nuptial agreements are an excellent tool for young working professionals who want to preserve their accumulated property and earnings acquired before marriage as well as what they earn and acquire during marriage. These agreements help ensure that a party, as well as children from a previous marriage, are financially protected if Pleasantville ends and Splitsville begins.

Unfortunately, as with J.Lo and Ben, good things have a way of coming to an end. If you are a working professional engaged to be married or know someone who is preparing to wed, consider recommending a pre-nup in order to hammer out the financial aspects of the marriage. A pre-marital agreement, when drafted by an experienced Family Law attorney, can clarify who gets what upon divorce and can give added peace of mind if the going ever gets rough.

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