

JUST IN CASE

How to pop the prenup question

A marriage contract makes sense in this age of divorce, but the subject can cause massive discomfort

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Thomas Steinwall had been married before and felt he didn't win the best deal when he and his wife divorced.

So when the 38-year-old Steinwall recently decided to marry again, he felt he could not go into his new marriage the way he went into the first one.

Without a prenuptial agreement, Steinwall said, "there was no deal." But the question he faced was how to get the best deal he could without taking advantage of, or unduly upsetting, his intended.

At first, he said, his fiancée "got offended and didn't think it was right."

But Steinwall, an Old Brookville police officer, sat down and explained to his fiancée — whose name he asked be withheld — what his obligations were to his first wife.

"She still lives in the house we purchased, and I've got to pay for that," said Steinwall. Much of his salary, he added, also must be paid to his ex-wife.

Explaining the need

The full explanation he offered, he pointed out, put him in a better position to get what he needed on paper.

The couple have not yet set a wedding date, Steinwall said. But he and his fiancée have agreed to split bills and she will pay part of the mortgage on a new house Steinwall has bought. The house will be left to his children in his will. His fiancée, once they marry, will be allowed to live in that house for five years after his death.

"She has her own job," Steinwall said. "She has her own 401(k). I told her I just don't want to get beat up again."

A few months ago, Frank — who asked that his last name not be used — was marrying for the second time. As a prominent physician on the North Shore, he had accumulated a sizable stock and bond portfolio as well as a big bank account.

He loved his girlfriend, but knew he wanted to protect his assets in case he found himself in divorce court again.

But what Frank did not know

was how to bring up the terribly sensitive subject of a prenuptial agreement, and how to get the best agreement possible to protect his portfolio.

When he first raised the question, the results were less than he'd hoped. "Her initial reaction was tears," Frank recalled. But after some uncomfortable give-and-take, they eventually signed a prenup.

Frank's experience is not unusual, according to matrimonial lawyers and other experts. While there is widespread agreement that marriage contracts are necessary in an era when divorce is so common and financial assets in second or third marriages can be so large, it's still difficult to propose a prenup and see that whoever does the proposing — bride or groom — gets the best arrangement possible for both sides.

The toughest talk

"You want to negotiate hard, but you also want an agreement that is fair and reasonable and you want to negotiate with complete candor," said Robert Mayer, author of a recently published book, "How to Win Any Negotiation Without Raising Your Voice, Losing Your Cool, or Coming to Blows." In his book, Mayer advises people to "brace yourself. This may be your toughest negotiation ever. It's not the terms and conditions you will be sweating. It's your intended's reaction when you pop the question, 'Will you sign a prenuptial agreement?'"

Mayer, a California lawyer, advised people proposing prenups to be very specific. "You don't want to use words like, 'I will take care of you' or 'I will support you,'" he said. "You want to use words like, 'If we get a divorce, I will pay \$1,000 a month for every year we were married.' You'll want to negotiate what happens to the items of furniture, with everything that was purchased together."

Attorney Stephen Tiger, founder of WedAlert.com, an online wedding planning directory, acknowledged that discussions of prenups often throw cold water on a hot romance.

But, he added, troubling emotional outbursts can be avoided. "The prenup should not be a surprise mentioned for the first time when the ring is presented," Tiger said in an e-mail. "It should be discussed openly before the engagement. The couple must be honest with each other as to why they want the prenuptial agreement, and what assets they want to protect and why."

Nonnegotiable items

There are some things that cannot be negotiated, including child support or custody of children, advised Sari M. Friedman, a lawyer in Garden City. And a prenup can't be "too onerous," Friedman added.

"You can't make things so one-sided that the courts take over who gets what in a divorce," Friedman explained. "A prenup that is one-sided may make it seem that one party did not clearly understand the terms or was not represented by a lawyer."

Approaches to what has been considered a taboo subject can vary, said well-known matrimonial lawyer Raoul Felder of Manhattan, who represented former New York City Mayor Rudolph Giuliani in his 2002 divorce from Donna Hanover.

Felder suggested sometimes a little white lie goes a long way.

"You can use a gentle subterfuge," Felder said. "You say, 'My father is going to leave me some money and he insists I do this prenup.' You can even call him a lowlife. It's a little bit of a con job, but this way, you take the blame away from yourself. Otherwise, you can be in an antagonist position" with the man or woman you want to marry.

Alexander Potruch, a Garden City lawyer, advised the best way to get yourself a good deal is to hire a good lawyer — don't try to draw up a prenup yourself. Second, make an extensive list of all the assets you're bringing into the marriage. Third, see that your intended is also represented by a lawyer and has a prepared list of assets.

"What I tell my clients to do is to make reference to the fact that they have accumulated all these assets through hard work over a period of time," Potruch added. "Then I tell them to say, 'Sadly, not this marriage, but some marriages, don't work out. We both want to make sure our assets are protected.'"

Frank, the Long Island physician who had trouble introducing the idea to his girlfriend, has no regrets.

"Actually, I'm very happy I did it," he said. "I think everybody should do it. It opens communications and it sets the rules and decreases the uncertainties. And, we agreed that once we signed it, since we love each other, we will never bring it up."



Floral ribbon and pearl embroidery accent this tulle gown from Platinum for Priscilla of Boston. It's \$6,700 at Priscilla of Boston Salon in Roslyn Heights, the Wedding Salon of Manhasset, Kleinfeld in Manhattan.



Rani's unusual silk satin organza St. Pucchi gown with Swarovski crystals and sheer Ricamo netting has a whimsical skirt layered with Greek motifs; \$14,850 at Bridal Reflections in Carle Place and Manhattan.

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