

CHAPTER 6

How to Preserve the Love and also get What you want from your Prenup

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Susan Scherman is a personal strategy consultant and attorney in family law, business, and mediation. She has been practicing mediation since the field was in its formative stages, and she created a system for people to work out their issues between one another in a non-adversarial, cost-effective way. Her wealth of experience includes a lot of wisdom regarding how couples can navigate the prenup process lovingly without compromising their needs.

I have been practicing law for 25+ years, and in that time have seen many relationship dynamics. From those couples who enter prenuptial agreements respectfully to

those who fight tooth and nail and end up postponing their wedding, I have seen it all. What have I gleaned from all of those years seeing how couples interact? Keep reading...

Three smitten couples deliriously in love are all considering a prenup. They silently ponder “How can I explain to my fiancé what I need and want without hurting their feelings, making them feel insulted, or worse, casting myself in an unfavorable light? I fear we may have disparate goals. How can I assert my non-negotiables plus hold on to the divine spirit of intoxicating bliss?” Let’s take a look at their predicaments.

Trust Fund

Even though her fiancé had agreed to the prenup, a trust fund daughter pressured by her wealthy family has tremendous angst about asking her betrothed to quitclaim any or all interest he may acquire through the laws of the state in her appreciating real estate, growing stock portfolio, dividends, and other distributions. She does not want to hurt his feelings, appear unfair, or negate their couplehood. Yet, family loyalty requires that she avoid bringing risk to the private family trust. How should she even broach this subject?

Previously Divorced

Having made one mistake in his past which resulted in a substantial transfer of assets to a previous spouse, Mr. Fiancé wants his prenup to spell out that what’s his is his and what’s hers is hers. Ms. Fiancé has enjoyed the winning and dining, travel, and gifts that made her feel loved during their courtship. She sees tremendous potential

in his career prospects, which point towards a lifestyle in which she is eager to take part as his supporter and teammate. In fact, his present success and bright future are part of what has drawn her to him. She too is an accomplished professional with an assortment of awards and accolades, and she wants them each to share their success with one another. However, the separateness in his proposed financial division (inspired by his previous divorce) feels alienating and unloving, as if he is not fully committed to their long and happy life together. Why should she be penalized for his earlier misstep?

Mature Romance

Robert and Samantha, widow and widower, set up by his daughter and her son, fell instantly in love. Despite their previous sorrows, Robert and Samantha are now high on the euphoria of love the second time around. Looking forward to spending this late in life chapter together along with supportive children and grandchildren, they have decided to take the plunge into marriage and a prenup. While relishing their newly-blended family, both sets of children and grandchildren are secretly worried that their parents/grandparents will be so overtaken by the unexpected love buzz that they will give away their inheritance. Do the kids dare say anything? Is there a way they can intervene without appearing intrusive or selfish?

All of the players in these situations are doing what they believe is best, and there is a huge amount of love involved. As you can see, however, negotiating finances can be a sticky situation regardless. Here are some guiding principles that can help engaged couples navigate the prenup process gracefully, achieve an outcome that satisfies all parties, and bring them closer together.

Focus On The Business of the Marriage

Start a new spreadsheet. This one is separate and apart from the spreadsheet that contains flower arrangements, menus, honeymoon possibilities, wedding venues, dresses, anticipated wedding gifts, and playlists. As you open the discussion and begin to share what you each would like included in your prenup, make an agreement to note down the important ideas plus each partner's viewpoint on them. The benefits of this system are: 1.) By putting each item down in writing, you are better able to keep track of and organize the process and 2.) documenting your positions factually in a spreadsheet can help to make the conversation feel more structured, which in turn can remove some of the emotion from an interaction that can sometimes feel charged.

Here is a couple for whom it worked:

Mia and Zack happily and blithely lived together for 3 1/2 years without commotion or discussion regarding finances. Typically each party stopped for groceries on the way home from work whenever in the mood; both were loving and giving toward one another without thinking about accounting. Because Zack's job paid more than Mia's, he told her not to worry about the rent, so she didn't. Gifts were generously shared throughout their loving relationship, with neither counting who picked up the bill at a restaurant or concert. Finances were casual and comfortable. Just months away from their impending marriage, Zack gingerly raised the topic of prenup. He knew that meant full disclosure, and was a bit worried about how Mia might react to new information regarding his relatively impressive stock options and investments. Mia had always felt grateful for Zack's generosity while she continued to diligently fund her retirement account

along with other investments. She too was worried about full exposure, and how Zack might feel about having carried the rent thus far notwithstanding their earnings differential.

Since Zack was the initiator of the prenup suggestion, his best strategy for keeping emotions at bay was to immediately and transparently disclose his assets and liabilities in a spreadsheet, his disclosure underscored by a deep sense of love and trust. Viewing the data on a spreadsheet became a vehicle for separating finances from Mia and Zack's breezy love relationship. Mia followed suit and added her full disclosure to their document in progress, and the couple communicated healthily and transparently. They successfully negotiated their prenup, and are happily married today!

Cultivate Empathy

Begin the communication process by stepping into the shoes of your betrothed; try to see the prenup through the eyes of your "soon to be." Visualize their hopes, dreams, expectations, needs, and concerns. Ask yourself what has happened previously in your fiancé's life that might drive her or his need to insist on specific items or clauses. It is recommended to actually do this exercise aloud, giving voice to your thoughts. Listening intently will deepen your understanding and set the stage to discuss the prenup process from a place of loving sensitivity for one another.

As an example, consider the previously divorced couple described above. How might earlier relationship experiences be driving each of their needs? What past events account for Mr. Fiance's fear of combining assets? Has he started a business from scratch, such that sharing seems

akin to giving away a child? What events have informed Ms. Fiance's need to share material wealth? When you really hear the answers, you will be able to empathically feel the experiences which led to your fiancé's viewpoint, not as negative but as a pathway to repair, comfort, and security for your beloved. A candid discussion which attempts to meet your partner's needs will inevitably benefit the marriage.

Nevertheless, you would be wise to mentally prepare yourself to listen to potentially incorrect assumptions and consider new or surprising information. Flexibility and curiosity are key here, and actively cultivating them during this pivotal discussion will set a loving tone for the marriage itself. Utilizing empathy and unabashed communication helped this couple overcome hurdles to planning their prenu:

Michelle was concerned about her medical school bills and knew that until she graduated she would not be able to fully participate in the couple's financial obligations. She felt guilty and reluctant to even get married until she could become an equal partner. Deep down she would have liked to postpone the wedding, but was afraid to risk upsetting her fiance and possibly losing everything. Jared, a successful entrepreneur, just loved her, and was ready, willing and able to take the next step, which for him meant negotiating the prenu. He relied on the fact that once she became a doctor, she would definitely carry her own weight and more. Jared generously told Michelle not to worry about the marital finances, and focus on her studies. Of course Michelle appreciated his offer, but having been an independent woman for as long as she could remember, felt ambivalent and worried about more debt. Jared, on the other hand, very privately anticipated a clause in the prenu that would that if the worst

happened, he would be entitled to reimbursement. How could he possibly reveal those thoughts to Michelle?

Here we had two love birds with different time clocks, both afraid to push the other away from or toward a marriage in which inequality could generate resentment or discomfort for both parties. One wanted a clause agreeing to wait, while the other wanted the security of capital return. Luckily, Jared remembered the importance of practicing empathy in this moment. With careful reflection, he came to identify with Michelle's discomfort in connection with dependency. After stepping into her shoes and considering her personal experiences which helped mold her need for independence, he actually respected her more and agreed to commit to a later date for the marriage. As their dialogue continued, Jared also assumed the risk of candidly expressing his innermost thoughts regarding reimbursement. Michelle was also able to cultivate empathy for his position, proclaiming "it's that business side of you that I adore!"

Engage in Healthy Dialogue

Healthy dialogue is the crown jewel of a loving marriage as well as the foundation upon which a prenup should be built. Open communication is paramount, as is simultaneously maintaining independence, clear boundaries, and transparency while expressing what is important to you and why. It can also help if, before you begin the discussion, you mutually commit aloud to remaining patient and open, listening deeply, and taking breaks if tensions begin to rise. Should you disagree with a point your betrothed has stated, express it with kindness. Remind yourself that the whole reason this conversation is taking

place is because you are becoming financial partners in your new life together.

For example, if you want to ensure that your family vacation home stays with you in the (unlikely!) event of a divorce, you need to say exactly that. You might also explain why. What memories do you have there? How much attention and love have you poured into maintaining the property over the years? Knowing the ‘why’ behind your inclinations for the prenup enables your partner to full-heartedly want to support your requests.

The dialogue might also include visualizing together an imaginary future lifestyle you hope to achieve, and how joyful it will be because you will share it. Ask each other “what do you imagine our life will look like in 20 years?” and consider each of your career goals, plans for any future children, the home and location in which you envision yourselves, and any other aspects of your shared dreams. With your mutual goals serving as the foundation for the discussion, you can identify what you would like your respective roles to be in this new partnership as well as how the finances can be managed to ensure the blossoming of your plans and the longevity of the relationship.

Another important key to fruitful dialogue is humor. Although a prenup is a formal arrangement, your discussion does not have to be. Allow yourself to engage in playfulness and lightness, elements which can reinforce your connection during this very meaningful conversation.

A common misconception is that showing vulnerability in an important conversation puts one at a disadvantage. In the prenup process, being vulnerable is actually an asset, not a liability. It allows your partner to see you, understand you better, and feel intimately connected to you. In order to lay the groundwork for a healthy discus-

sion, take a few moments to articulate how you will listen to one another and help each feel safe. You might agree to not interrupt, to withhold judgment on sensitive topics, and that neither person will use what the other shares against them. Once you have established safety, allow yourselves to be open by stating directly what you experience, what you want, and the reasons for it.

Set Appropriate Boundaries

As in the case of the ‘mature romance’ couple described above, well-intentioned family members and friends may be tempted to influence your process. However, you and your fiancé (not your parents, kids, or best friend) are the sole partners in charge of deciding what goes into your prenup and who is allowed to have an opinion. Communicating your expectations to others who may wish to involve themselves in your prenup can be tricky; this part can go awry if you’re not skillful. Perhaps you are willing to hear family members’ concerns and suggestions, but not necessarily open to sharing the details of your agreements. Any decision in this extremely personal arena is your prerogative. Approaching a discussion with empathy and letting the other party(ies) know how important they are to you will enable you to protect your privacy in as kind, understandable, and non-alienating a way as possible. For more on that, check out HelloPrenup’s article on [boundary setting with your in-laws](#). It applies to anyone who attempts to insert themselves into your prenup process.

This story ends happily for the three couples described in the beginning of this chapter.

The trust fund fiancé and her partner talked about how to make one another feel secure in the dialogue, and she

was able to safely disclose the private details behind the establishment of the family trust. Their open discussion prevented hurt feelings and with further communication, the couple was able to reach an agreement with which they both were satisfied.

Ms. fiancé was courageous and vulnerable enough to speak up about what she felt was an unspoken penalty for Mr. fiancé's prior misstep. She clearly articulated what she wanted and gained his understanding as a result. They were able to arrive at an agreement, sharing some assets and keeping others separate.

The mature couple and their respective sets of kids and grandkids sat down and had a loving and frank discussion about the prenu, and the boundaries of family involvement in the process, then the kids were able to relax. Their euphoric new mom and new dad are drafting their prenu from a sailboat in Tahiti as we speak. Thankfully, they have wifi and can plug into helloworld.com!

The process of thoughtfully arranging a prenu is a gift you give to your future selves because it helps you learn how to tackle difficult subjects together with grit, equanimity, mindfulness, and respect, thereby setting the pattern for a lifetime of good communication habits. And when signed, place your prenu in the drawer and forget about it!

If you are feeling slightly hesitant or think a few ideas in your prenu might require tweaking or clarification, you may wish to consult Susan Scherman, Esq., Personal Strategy Consultant, either separately or together. Susan can help you craft a win/win arrangement, then take you over the finish line!

Related: Listen to Susan's podcast episode, "[How to Negotiate Your Prenup.](#)"

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Susan Scherman is a Personal Strategy Consultant that helps engaged individuals and couples get to the bottom of their concerns, then empowers them to discover alternative solutions. Susan has extensive experience as an attorney and trailblazer in family law and mediation. Her wealth of experience includes wisdom regarding how couples can navigate the prenup process lovingly without compromising their needs.